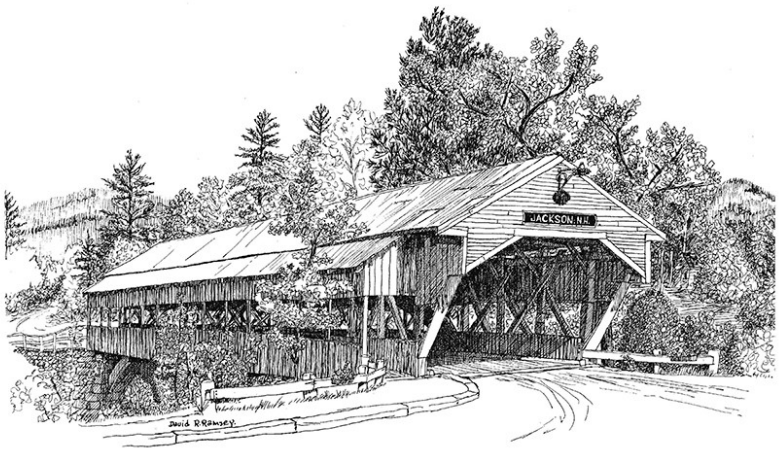
TOWN OF JACKSON
NEW HAMPSHIRE



ZONING ORDINANCE
2023

TOWN OF JACKSON
NEW HAMPSHIRE

ZONING ORDINANCE

Originally adopted on November 16, 1971 and amended on the following dates:

March 6, 1973
December 13, 1974
March 13, 1979
June 26, 1979
June 10, 1980
November 2, 1982
April 26, 1983
March 12, 1985
March 11, 1986
March 10, 1987
March 8, 1988
recodified March 13, 1990
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March 12, 1996
March 10, 1999
March 13, 2001
March 12, 2002
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March 9, 2004
March 8, 2005
March 14, 2006
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March 9, 2010
March 13, 2012
March 10, 2015
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March 8, 2022
March 14, 2023

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SECTION 1: AUTHORITY AND PURPOSE

1.1 Authority

This ordinance is adopted pursuant to the authority granted by Chapter 674 et seq., New Hampshire Revised Statutes Annotated, as amended.

1.2 Purpose (amended 3/8/2005)

This zoning ordinance and the districts created hereunder are being enacted in order to i) preserve and promote the health, safety and general welfare of the Town of Jackson; ii) maintain and enhance the economic health of the Town; and iii) provide adequate social and municipal services for the townspeople; all in a manner consistent with preserving the cultural heritage and the rural village character of the Town, while managing land use and regulating development to ensure wise stewardship of the Town's natural resources. Their purpose is to implement the goals of the Master Plan of the Town of Jackson, adopted August 14, 2003, and future revisions of the Master Plan as the needs of the Town dictate.

SECTION 2: APPLICATION OF REGULATIONS and NON-CONFORMING USES, BUILDINGS AND STRUCTURES (amended 3/13/2001, 3/11/2003).

2.1 Application of Regulations

Subsequent to the passage of this ordinance (November 16, 1971) all land, buildings, or structures shall hereafter be used, constructed, altered, or enlarged only in conformity with the regulations specified herein for the zoning district in which it is located unless it is a lawful Non-Conforming Use.

2.2 Non-Conforming Uses, Buildings and Structures

2.2.1 A pre-existing lawful use of land, buildings, or structures may be continued although such use does not conform to the provisions of this ordinance. If such Non-Conforming Use is discontinued and/or abandoned for more than six years then any subsequent use of the land, buildings, or structures shall only be a conforming use.

2.2.2 A Non-Conforming Use may be changed only to a use permitted in the district in which it is located. When such use is changed to a conforming use, no land, buildings, or structures shall be permitted to revert to a Non-Conforming Use.

2.2.3 A Non-Conforming Structure or Building may be moved, enlarged, altered, restored or replaced within the boundaries of the lot it occupied at the time this ordinance took effect, providing that the change does not make the structure more non-conforming in any way.

2.2.4 A Non-Conforming Use may be enlarged within the boundaries of the lot it occupied at the time this ordinance took effect, providing that the expansion conforms with all other aspects of the zoning ordinance. (added 3/13/2001)

2.3 Non-Conforming Lots

A Non-Conforming Lot, as defined herein, which does not satisfy the requirements of Section 6 of the Zoning Ordinance, relative to Minimum Lot Size by Soil Type, but which has received approval from the State of New Hampshire (DES) for a sub-surface septic system and leach field, shall be limited to the construction of a Dwelling Unit not to exceed two (2) bedrooms, provided that, with the exception of Sections 4.3.1.3 and 4.3.2.3, all the other requirements of Section 4 of this Zoning Ordinance are met. (added 3/14/2006)

SECTION 3: DEFINITIONS

3.1 "Accessory Apartment (also known as Accessory Dwelling Unit or ADU)" means an attached or detached room or rooms which meets the definition of a Dwelling Unit and which is accessory to a principal Dwelling Unit on the same lot.

3.2 "Accessory Use"/ "Accessory Structure" means a use or structure customarily incidental and subordinate to an existing principal use and located on the same lot as the principal use. (amended 3/11/2008)

3.3 "Aircraft" means any rotary-wing, fixed-wing, or ultralight craft capable of takeoff and landing.
3.4 "Alteration" means any structural change to a building and change of present design or use where compatible and consistent with the existing uses.
3.5 "Cluster Single-Family Development or Subdivision" means an entirely single-family residential subdivision where instead of the entire tract being subdivided into house lots of conventional size, a number of housing units or lots of reduced dimensions are scattered or clustered around and within areas of Open Space.
3.6 "Commercial Use" means any use involving in part or in whole the sale of merchandise, materials or services, but not including Customary Home Occupations (as defined elsewhere in this Section).
3.7 "Common Land" means land in a Cluster Single-Family Development or Multi-Family Residential Development that is created by reducing individual lot sizes, or on parcels with attached units, all land not occupied by units, roadways and other allowed structures, to which access is provided for the residents of the Subdivision and, possibly, for the citizens of the Town or the public at large, and which is owned by either a homeowner's association, a municipal body, or a private non-profit agency for the purpose of preserving the Open Space.
3.8 "Condominium" means a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.
3.9 "Customary Home Occupation" means an industry or occupation carried on exclusively by a resident of the premises, entirely within the building and employing not more than three (3) people, providing such use is secondary to the use of the premises for dwelling purposes, and also providing that such use does not constitute a public hazard or nuisance.
3.10 "Driveway" means an area located on a lot, tract or parcel of land, and built for access to a garage or off-street parking space, serving not more than two Dwelling Units, except in the case of Cluster Single-Family Development or Subdivision and Multi-Family Residential Developments in which up to four Dwelling Units may be served by a Driveway. (amended 3/11/1986)
3.11 "Dwelling Unit" means a room or rooms, with its own sanitary and kitchen facilities forming a habitable unit for one family, used or intended to be used for living, sleeping, cooking, eating and sanitation.
3.12 "Enlargement" means the increase in size of any structure or enhancement of use as to land.
3.13 "Erosion" means the wearing away of the ground surface as a result of the action or effect of wind, water, ice, snow and/ or land disturbance activities.
3.14 "Farm" means parcels of land used for husbandry, agricultural, forestry and all horticultural uses, including related facilities and including greenhouses, horse stables, nurseries and/or roadside stands for sale of farm products.
3.15 "Frontage" means the width of a lot measured along its common boundary with a Class V or better public road or Planning Board approved Private Road right-of-way.
3.16 "Height, Building or Structure" means that the height of all new buildings or structures, and all Alterations and/or Enlargements of buildings or structures, shall neither be more than thirty-five (35) feet from the Natural Ground Surface at any point nor more than thirty-five feet from the finished "as built" grade at any point. (These measurements shall be made vertically.) Chimneys and decorative, un-lit, non-structural, non-functional attachments may be excluded from this provision. (amended 3/11/2003, 3/8/2005)
3.17 "Hotel/Motel" means a facility offering transient lodging accommodations to the general public and may provide additional services such as restaurants, meeting rooms, and recreational facilities.
3.18 "Land Development" means the process of changing the character of the land from its existing condition by any construction or grading activities including but not limited to placement of a building or structure on the land.
3.19 "Lodging House" means a facility in which rental sleeping accommodations are provided and in

which meals also may be supplied as part of the fee.

3.20 "Master Plan" means a document entitled "Jackson Master Plan" which is composed of a report and proposals for land use and development designed to show as fully as possible and practical the planning board's recommendations for the desirable development of the territory legally and logically within its planning jurisdiction. The Master Plan was prepared and adopted pursuant to RSA 674:1.

3.21 "Minor Subdivision" – See "Subdivision, Minor"

3.22 "Motel" See Hotel.

3.23 "Multi-Family Residential Development" means a residential development of attached and detached Dwelling Units, such as single-family homes on individual lots, Condominiums, townhouses, Time Sharing units or apartments.

3.24 "Natural Ground Surface" means the contour and surface of the ground prior to addition of fill or soils, blasting of rock, or any other disturbance, as determined by town records or by a registered soil engineer. (3/11/2003)

3.25 "Non-Conforming Lot" means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

3.26 "Non-Conforming Structure or Building" means a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

3.27 "Non-Conforming Use" means a use or activity that was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

3.28 "Open Space" means an area of dedicated land excluding roads, parking areas and buildings except for accessory buildings or structures and improvements as are necessary for recreational or common purposes of residents or the public and shall include the commercial recreational uses existing and operating at the time of the passage of this Section, as may be recommended by the Planning Board and approved by the Board of Selectmen. (amended 3/11/2008)

3.29 "Overlay District" means a zoned district that is superimposed over another previously existing zoned district.

3.30 "Premises" means one or more buildings and the tract of land where located.

3.31 "Private Road**"** means a traveled way not open to public use as a matter of right for vehicular travel, the maintenance and repair of which shall be borne by the subdivider or landowners using the Private Road. (3/12/1985, 3/12/2019)

3.32 "Recreational Vehicle" means a vehicle which is i) built on a single chassis; ii) 400 square feet or less when measured at the largest horizontal projection; iii) designed to be self-propelled or permanently towable by a light truck; and iv) designed primarily not for use as a permanent Dwelling Unit but as temporary living quarters for recreational, camping, travel or seasonal use. (3/8/1994)

3.33 "Riparian Land" means land that is traversed or bounded by a natural watercourse.

3.34 "Sedimentation" means the deposition of sediment resulting from Erosion or construction-vehicle tracking.

3.35 "Short Term Rental" means a dwelling unit where transient lodging is provided for compensation for stays of between one and 30 consecutive nights, and where the dwelling unit would normally be considered a residential living unit not associated with regulated commercial activities such as a hotel, motel or bed-and-breakfast. (added 3/10/2020)

3.36 "Site Disturbance" means any human activity associated with Land Development that removes the Vegetative Cover from the land surface.

3.37 "Street/Road" means a state highway, or a town highway, street, road, avenue, land and/or other way including a Private Roadway, which exists for vehicular travel, exclusive of a Driveway serving not

more than two adjacent lots or sites, except as provided in the above definition of Driveway. The term "Street/Road" shall include the entire right-of-way. (3/11/1986)

3.38 "Subdivided/ Subdivided Land" means the lots, tracts or parcels of land that are created by a subdivision of land.

3.39 "Subdivision" means:

i) The division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, Condominium conveyance or Building Development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

ii) The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a Subdivision. (11/2/1982)

iii) Note: The grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unmanned structure which is less than 200 square feet, shall not be construed as a Subdivision under this definition, and shall not be deemed to create any new Subdivision of land for any other purpose.

3.40 "Subdivision, Minor" means those proposals involving three (3) lots or fewer with no potential for re-subdivision and fronting on an existing Street; or minor lot line adjustments or boundary agreements that do not create buildable lots, and that require no new roads, utilities or other municipal improvements.

3.41 "Substantial Improvement/ Substantially Improved" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either i) before the improvement or repair is started, or ii) if the structure has been damaged and is being restored, before the damage occurred.

3.42 "Time Sharing/ Time Sharing Interest" means the exclusive right to occupy one or more units for less than 60 days each year for a period of more than 5 years from the date of execution of an instrument for the disposition of such right, regardless of whether such right is accompanied by a fee simple interest or a leasehold interest, or neither of them, in a Condominium interest. Time Sharing Interest shall include "interval ownership interest," "vacation license," or any other similar term. (11/2/1982)

3.43 "Vegetative Cover" means grasses, shrubs, trees, and other vegetation that hold and stabilize soils.

SECTION 4: DISTRICTS & DISTRICT REGULATIONS

4.1 Town-Wide Regulations

4.1.1 **Aircraft** (added 3/9/2004)

Takeoffs and landings of Aircraft are prohibited in all zoning districts within the Town of Jackson, except as follows:

4.1.1.1 A helicopter pilot with a valid license, or an ultralight pilot, who owns or leases from an owner prior to November 10, 2003, property with an existing principal use in Jackson and containing an established landing area as an Accessory Use, and who has made takeoffs and landings from that landing area as pilot in command prior to November 10, 2003, may continue to use that landing area as an Accessory Use for as long as that ownership or rental agreement remains in effect. (amended 3/14/2006)

4.1.1.2 The exception in Sec. 4.1.1.1 above applies only to the pilot eligible for the exception and to the specific landing site where the landings and takeoffs qualifying for the exception have been made; this right is not transferable.

4.1.1.3 Properly licensed helicopters may be used on a short-term basis i) to transport construction materials to a site in the Town of Jackson where no other practical

method is available, ii) to provide medical and related evacuation services and emergency services essential to the public health and safety, or iii) for short-term special events, with prior written approval from the Board of Selectmen.

4.1.2 **Minimum Lot Size**

Determined by soil type. See Section 6.

4.1.3 **Building Height**

35 foot maximum. See definition of Height.

4.1.4 **Septic System Leach Field**

Setback shall be 100 feet from the near bank of any year-round stream or body of water. If the leach field is installed in excessively drained soil, the setback shall be 150 feet from any year-round stream or body of water (excluding any fire ponds.)

4.1.5 **Driveways** (added 3/10/2003)

All Driveways must be constructed to comply with standards set by the State of New Hampshire and the Town of Jackson. (See definition of Driveway.)

4.1.5.1 The location and design of Driveways shall minimize traffic hazards and not unduly retard traffic flow in the public right of way.

4.1.5.2 Driveways serving more than one Dwelling Unit shall be designed to accommodate prospective traffic and to meet requirements of the Zoning Ordinance and any additional requirements of the Fire Department.

4.1.5.3 Construction of Driveways shall not result in excess sedimentation, erosion, or the creation of a watercourse where one did not previously exist on neighboring or town property. (Amended 3/11/2003)

4.1.6 **Site Disturbance** (added 3/10/2009; amended 3/10/2015)

Any Site Disturbance, Land Development, or activities that alter watercourses shall be designed and performed reasonably to prevent increased rate of run-off, soil loss, or Erosion from the site or lot.

4.1.6.1 Design guidelines which may be used by developers, individual landowners, engineers, and others planning Site Disturbance or Land Development activities will be available in the Town Offices for review and use in designing site work so as to minimize Erosion and Sedimentation.

4.1.6.2 All areas of Site Disturbance and Land Development still in progress at approach of winter shall be stabilized against Erosion and Sedimentation prior to November 15th, to minimize soil depletion and degradation over winter.

4.1.7 **Well Radius** (added 3/14/2006, amended 3/11/2021)

In order to protect water quality on all lots, the well radius for each lot must be located within the same lot that the well serves; if a well radius cannot be entirely located within the lot that the well serves, then it shall be located within the well radius of an abutting lot, or within land which is non-buildable under state and/or local regulations. In the event that the well radius does not fall entirely within the lot it serves, the landowner shall release and hold harmless the Town of Jackson from any obligation in connection with the protective well radius *or* shall obtain an easement from any abutting lot owner on whose land encroachment by the well radius will be necessary; *all* releases, hold harmless agreements, and easements shall be recorded at the Carroll County Registry of Deeds.

4.2 Division of Town into Districts

For the purpose of this Ordinance, the Town of Jackson is divided into the following districts:

4.2.1 **"Village District"** means that land within 500 feet on either side of the traveled center line of public Route 16 and 16A and all other land between said routes in the Town of Jackson, as shown on the Official Zoning Map.

4.2.2 **"Rural-Residential District"** means all land within the Town of Jackson not otherwise

designated as within the Village District, as shown on the Official Zoning Map.

4.2.3 **"River Conservation District"** is an Overlay District. See Section 5.

4.3 District Regulations

4.3.1 Rural-Residential District

A building or structure may be erected or used, and a lot may be used or occupied, only for the following purposes and in accordance with the following provisions:

4.3.1.1 Uses Permitted (amended 3/11/2008, 3/10/2015)

1) Single family residences, Multi-Family Residential Developments, and Cluster Single-Family Developments, the latter two categories being subject to prior approval by the Planning Board pursuant to Section 8 of this Zoning Ordinance, and Accessory Apartments pursuant to Section 9 of this Zoning Ordinance.
2) Farms
3) Forestry according to recognized soil conservation and best management practices
4) Parks, and conservation areas, with the exception of facilities or space primarily for tenting and trailers
5) Open space
6) Nature trails, and non-motorized recreational uses such as hiking, biking, snowshoeing, and cross-country ski trails
7) Municipal facilities and areas
8) Customary Home Occupations
9) Jackson Historical Society and/or Jackson Historical Museum. (added 3/12/1996)
10) Solar Energy Systems in compliance with Section 17

4.3.1.2 Setbacks (amended 3/8/2005, 3/10/2015, 3/8/2016)

No building, structure, porch, or portion thereof shall be located on a lot nearer any lot line, year-round stream or body of water than the minimum setback set forth below:

1) From the center line of the traveled way of any public or Private Road: Fifty (50) feet.
2) From any abutter property line, or sideline of any public or private road that does not provide access to the lot: Twenty Five (25) feet.
3) From the near bank of any year-round stream or body of water: Fifty (50) feet.

4.3.1.3 Frontage

Each lot shall have Frontage on a State or Town highway with a Class I, II, III, IV or V classification, or Private Road constructed to Town standards as required by the Planning Board. The minimum distance for Frontage shall be no less than 200 feet except where a road cul-de-sac dictates a shorter Frontage of not less than 100 feet and satisfactory to the Planning Board.(3/12/2019)

4.3.1.4 Number of Dwelling Units Per Lot

Only one Dwelling Unit may be built on a single lot, except in the case of a single family residence having an Accessory Apartment, as an Accessory Use, approved under Section 9, in which case two Dwelling Units per lot may be permitted; and except for Multi-Family Residential Developments approved under Section 8, in which case multiple Dwelling Units per lot may be permitted. (3/11/2008)

4.3.2. Village District

A building or structure may be erected or used, and a lot may be used or occupied, only for the following purposes and in accordance with the following provisions:

4.3.2.1 Uses Permitted (amended 3/10/2015)

1) All uses permitted in the Rural-Residential District and, in addition,
2) Restaurants
3) Professional and/or commercial businesses except for

i) Businesses whose inventory for resale or lease includes petroleum products, self-propelled motorized vehicles, Manufactured or travel trailers
ii) Businesses primarily engaged in sale or lease of prepared foods primarily for consumption outside the building
iii) Businesses of facilities that contain more than three (3) coin, ticket, or token-operated games (11/2/1982)
iv) Casino gambling (11/2/1982)
v) Amusement parks or arcades (11/2/1982)
vi) Water slides, other commercial slides, or other similar entertainment (11/2/1982)
vii) Hazardous waste and radioactive dump sites (11/2/1982)

4) Hotels
5) Motels
6) Private and/or charitable facilities
7) Lodging House
8) Non-profit educational facilities for preschool age children

4.3.2.2 Setbacks (amended 3/8/2005, 3/10/2015, 3/8/2016)

No building, structure, porch, or portion thereof shall be located on a lot nearer any lot line, year-round stream or body of water than the minimum setbacks set forth below:

1) From the center line of the traveled way of any public or Private Road: Fifty (50) feet.
2) From Route 16A with motor vehicle parking between structure and right-of-way: Fifty (50) feet.
3) From Route 16A without motor vehicle parking between structure and right-of-way: Twenty Five (25) feet.
4) From abutter property line: Twenty Five (25) feet.
5) From the near bank of any year-round stream or body of water which is a property boundary: Fifty (50) feet.

4.3.2.3 Frontage

Each lot shall have a Frontage no less than 150 feet on a public or Private Road right-of-way.

SECTION 4.4: SHORT TERM RENTALS (added 3/10/2020, amended 5/15/2021, 3/10/2022)

4.4.1. Definition

"Short Term Rental" means a dwelling unit where transient lodging is provided for compensation for stays of between one and 30 consecutive nights, and where the dwelling unit would normally be considered a residential living unit not associated with regulated commercial activities such as a hotel, motel or bed-and-breakfast.

4.4.2 Purpose

4.4.2.1 To preserve the traditional character of residential neighborhoods that can be negatively impacted by this type of use.

4.4.2.2 To help preserve the quality and quantity of the housing stock for year-round residential use.

4.4.2.3 To ensure the safety of Short Term Rental occupants.

4.4.3 Application Procedure

4.4.3.1 Short Term Rentals are permitted in all zoning districts by a Conditional Use Permit (authorized by RSA 674:21, I(i)), pursuant to the following guidelines and requirements.

4.4.3.2 The owner of the Short Term Rental property shall file a Conditional Use Permit application to operate a Short Term Rental (with a $150 application fee) with the Town's Board of Selectmen prior to operating a Short Term Rental. Owners of Short Term Rental units at the time of adoption of this ordinance are also required to apply for a Conditional Use Permit.

4.4.3.3 Upon receipt of an application for a Short Term Rental Conditional Use Permit, the Board of Selectmen shall forward the application to the Jackson Planning Board, who shall place the application on the agenda for their next meeting. The Planning Board shall review the application and shall provide the Board of Selectmen with written comments on the application. The Planning Board is not required to hold a public hearing.

4.4.3.4 Upon receipt of the Planning Board's written comments, the Board of Selectmen will place the application on the agenda for their next meeting and either approve or deny the application. The Selectmen are not required to hold a public hearing. If the Selectmen do not incorporate the Planning Board's comments directly into their decision, then they shall set forth their findings and decisions on the Planning Board's comments pursuant to RSA 674:21, II.

4.4.3.5 Within 30 days of the date of the Selectmen's decision to approve or deny an application for a Short Term Rental Conditional Use Permit, an aggrieved party may file an appeal in writing with the Board of Selectmen, requesting that the Selectmen reconsider their decision and setting forth the reasons why reconsideration would be appropriate. If such an appeal is timely filed by an aggrieved party, the Selectmen shall schedule the appeal for a public hearing within 45 days upon receipt pursuant to RSA Chapter 43.

4.4.3.6 The application will be approved or denied by the Board of Selectmen using the following criteria:

a. The owner of a proposed Short Term Rental unit shall provide the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal proceeding brought against the owner of the property.

b. As part of the application process the owner of the Short Term Rental unit must sign an Affidavit which shall certify the following:

i. Smoke/CO detectors are installed in areas defined by the NH State Fire Code and NH State Building Code and are functioning.

ii. Windows and/or doors designated for emergency egress are maintained and in operational order.

iii. No basement space shall be used as a sleeping area unless there are properly sized egress windows and/or doors conforming to the NH State Fire Code and NH State Building Code.

iv. A functional fire extinguisher is visibly installed in any kitchen area.

v. The maximum number of people that the dwelling unit can be advertised for in any published listing or other form of marketing, shall be two (2) people for each bedroom listed on the town issued building permit plus two (2) additional people.

vi. All vehicles shall be parked on the property and in designated parking areas.

c. The owner of a Short Term Rental unit shall provide proof of a current NH Rooms and Meals Tax license number.

d. Although a Conditional Use Permit runs with the property, if the property transfers ownership, within 60 days of the closing the new owner will be required to provide the Town with their contact information, a new affidavit agreeing to the conditions of the permit, and all applicable fees (added 3/10/2022).

4.4.4 <u>Responsibilities of Short Term Rental Owner</u>

4.4.4.1 Removal of trash.

4.4.4.2 Ensuring that all parking of vehicles is on site;

4.4.4.3 Ensuring that occupancy limits are not exceeded;

4.4.4.4 Any other site-specific conditions imposed as part of the approval.

4.4.5 <u>Rural Residential District</u>

4.4.5.1 In the Rural Residential District only, Short Term Rentals are limited to 30 rentals per dwelling unit annually unless the unit or another unit on the same property is occupied by at

least one full time resident. Short Term Rentals in existence in the Rural Residential District at the time of adoption of this ordinance at the March 12, 2020, Annual Town Meeting shall be exempt from the restriction on the number of annual rentals.

4.4.6 Revocation of Conditional Use Permit; Fines and Penalties

4.4.6.1 Approvals may be revoked for failure to comply with this Ordinance or with any conditions of approval imposed as part of the Conditional Use Permit. The first violation of this Ordinance (or a Condition of Approval) may result in a warning; the second violation may result in a civil penalty of $275; and the third violation will result in a revocation of the Conditional Use Permit. If a revocation occurs, the owner may not apply for reinstatement for a period of three months.

4.4.6.2 Using a dwelling unit for Short Term Rentals without a valid Conditional Use Permit will subject the property owner to fines and penalties outlined in RSA 676:17.

4.4.7 Reports of Nuisances or Other Dangers to the Public Health

4.4.7.1 Nuisances or any other dangers to the public health reported by lodgers or abutters may require an inspection pursuant to RSA 147:3.

SECTION 5: RIVER CONSERVATION DISTRICT (amended 3/10/1987, 3/13/2001, 3/11/2003, 3/13/2012).

5.1 Purpose and Intent

The purpose of this district is to promote and protect the health, safety and general welfare of the people of the Town of Jackson by providing reasonable regulations governing development and use of the flood plains, including riparian wetlands, of the Town of Jackson. Within this District, new structures and other Alterations of existing land uses will be regulated in order to:

5.1.1 Protect and maintain existing and potential public water supplies, including aquifers, aquifer recharge areas and surface sources within the Town for the health and safety of the public.

5.1.2 Prevent pollution of surface water and groundwater caused by erosion, sedimentation, nutrient and pesticide runoff, and siting of waste disposal facilities in very poorly drained or highly permeable soils.

5.1.3 Prevent destruction or significant alteration of the natural flow pattern of water courses and to natural flood plains and riparian wetlands that provide flood protection for persons and property.

5.1.4 Prevent unnecessary or excessive expenditures of municipal funds to provide and/or maintain additional services and utilities that might be required as a result of improper development of lands within the District.

5.1.5 Preserve wildlife habitat and maintain ecological balances within the Riparian Land of the Town.

5.1.6 Protect the unique and unusual aesthetic features associated with streams and Riparian Land in the Town of Jackson that are vital to the economic and environmental wellbeing of the Town.

5.1.7 Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in flood plains and Riparian Land.

5.2 District Boundaries

5.2.1 The River Conservation District shall encompass those areas designated as Zone A and AE on the Flood Insurance Rate Map (FIRM) and accompanying Flood Insurance Study, as adopted by the Town of Jackson in Section 12, Areas of Special Flood Hazard, in this Zoning Ordinance. The FIRM Map, and Flood Insurance Study are hereby made a part of this ordinance and the Municipal Zoning Map. These maps are on file in the office of the Board of Selectmen.

5.2.2 The FIRM Map, along with the Flood Insurance Study provide important baseline topographic information essential to accurately determine and document floodplain locations,

boundaries, and elevations adjacent to major water course within the Town of Jackson. While these published materials can serve as a useful reference for Town officials and citizens, the precise establishment of 100-year flood/River Conservation District boundaries must, where required, be determined through the development of a topographic survey; such survey to be undertaken by a registered surveyor/engineer who will rely on the inclusion and interpretation of the above-mentioned references as a basis for locating and illustrating such boundaries.

5.2.3 The bodies of water specifically defined in this District are the Wildcat River, the Great Brook from the bridge on Route 16B at the junction of Black Mountain Road and Moody Farm Road to the Wildcat River, the Ellis River and the East Branch of the Saco River. Where the floodplain has not been delineated on the FIRM maps or where the delineation is less than 75 feet from the nearest bank of a stream or body of water, the River Conservation District shall be defined as that area within 75 feet of a body of water. The 75 feet shall be measured horizontally from the nearest bank of such stream or water body. In any specific situation, the greater limit shall apply. In situations where, authorized or unauthorized filling has occurred within the 100-year floodplain subsequent to the issuance of the 1979 FIRM of Jackson, and such filling has been sufficient to raise ground elevations above those which determine the 100-year flood for the area in which it has occurred, such areas shall remain within the boundaries of the River Conservation District and subject to the provisions of this Section.

5.2.4 In situations where, subsequent to the issuance of the 1979 FIRM of Jackson, excavation has occurred for any purpose outside of and adjacent to the boundaries of the 100-year floodplain, and such excavation has been sufficient to lower ground elevations to levels that are equal to or below those that designate the 100-year flood (Zone A and A1-99) for the area in which it has occurred, such areas shall remain outside the RCD boundaries and not subject to the provision of this ordinance. Furthermore, any building constructed adjacent to the 100-year floodplain with a basement which, through excavation, resides at an elevation that is equal to or below that of the 100-year floodplain shall not be included within the RCD.

5.2.5 Compliance with Section 12 of this Zoning Ordinance is required.

5.3 Disputed Boundaries

In cases where planned alterations to topography and terrain by filling or excavating are sufficient to influence the location of the 100-year floodplain/RCD boundaries, it shall be incumbent on the landowner, prior and subsequent to any planned site work or construction activities, to provide the Town with both pre-construction and "as-built" topographic surveys prepared by a registered surveyor/engineer that indicate pre-existing RCD boundaries as well as designate physical and horizontally-based points of reference sufficient to accurately determine and illustrate RCD boundaries. The Board of Adjustment shall be responsible for a final determination on the boundary, based on onsite investigations and other suitable studies conducted by a qualified, registered surveyor, soil scientist or engineer. A report or analysis shall be submitted to the Jackson Conservation Commission and the Board of Selectmen for review and recommendation prior to issuance of permits.

5.4 Use Regulations

The River Conservation District shall be an Overlay District. Where the provisions of the River Conservation District conflict with the underlying use zoning district, the more restrictive regulations shall apply.

5.4.1 Uses Permitted

The following uses shall be permitted within the River Conservation District provided that the proposed use will not alter the natural surface configuration of the land by the addition of fill or by dredging or does not require the erection or construction of any structure or building unless otherwise permitted in this Section. No use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system, nor shall any use in the floodway raise the level of the 100

year flood waters at any point.

5.4.1.1 Agricultural/ Farm uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, sod farming and wild crop harvesting.

5.4.1.2 Forestry according to recognized soil conservation practices and consistent with the purpose and intent of this Section.

5.4.1.3 Residential accessory uses such as lawns, gardens and play areas.

5.4.1.4 Parks, conservation areas, nature trails and recreation uses consistent with the purpose and intent of this ordinance.

5.4.1.5 Sealed water supplies.

5.4.1.6 Temporary non-residential structures used in connection with growing, harvesting, storage or sale of crops raised on the premises.

5.4.1.7 Uses or structures accessory to public open space such as signs, shelters, picnic facilities, walkways and the like.

5.4.1.8 Private Roads, Driveways, bridges and utility rights-of-way if essential to the use of land not located within the River Conservation District, and if so located and constructed as to minimize any detrimental impact upon the District.

5.4.1.9 Improvements to existing municipal, school district, and church facilities.

5.4.1.10 Agricultural buildings that do not require septic systems.

5.4.1.11 Construction and maintenance of Farm, forest or recreational service roads. No de-icing chemicals or other potential pollutants shall be stockpiled or stored within the River Conservation District.

5.4.1.12 River or floodway maintenance, subject to any required state or federal permits.

5.4.1.13 Replacement septic systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

5.4.2. **Special Provisions**

5.4.2.1 Non-Conforming Uses, which existed on the effective date of this Section (3/10/1987), shall be permitted to continue as specified in this Zoning Ordinance. See Section 2.

5.4.2.2 Lots that are partially or entirely within the River Conservation District and qualified as building lots designated on a plan approved by the Planning Board and recorded in the Carroll County Registry of Deeds, or separately owned, at the time this Section takes effect and which cannot practicably be enlarged to comply with the regulations of this District may be used for any purpose permitted by the underlying use district. Such uses shall, to the maximum extent possible, conform to the spirit and intent of this Section.

SECTION 6: MINIMUM LOT SIZE (3/10/1987; amended 3/10/2015, 3/14/2017)

6.1 The minimum lot size for all subdivisions, and the corresponding maximum number of bedrooms for residential uses and maximum discharge of sewage for all septic system designs**,** shall be based on the following.

6.1.1 For the determination of the actual soil type(s) present, the applicant shall submit for all subdivisions a site specific soil map prepared in accordance with "Site-Specific Soil Mapping Standards For New Hampshire and Vermont", SSSNNE Special Publication No. 3, Version 4.0, February 2011 (as amended). Soil Maps shall be prepared by field examination and stamped by a soil scientist certified by the State of New Hampshire Board of Natural Scientists (RSA 310-A).

6.1.2 The soils information contained in the USDA Natural Resource Conservation Service

(NRCS) Web Soil Survey may be used, instead of a Site Specific Soil Map, to determine the soils present in the parcel proposed for some or all of the lots created by a subdivision, provided that none of the soil map units on the property is a complex of soils with dramatically different characteristics, as demonstrated by a representative number of detailed soil profile descriptions that characterize the variations in each soil map unit.

6.1.3 Except as modified by 6.1.5, the minimum lot size for all subdivisions shall meet the area requirements specified for a four-bedroom dwelling in the minimum lot size by site-specific soil map types table contained in "Soil Based Lot Sizing: Environmental Planning for Onsite Wastewater Treatment in New Hampshire", Society of Soil Scientists of Northern New England Special Publication No. 4, Version I, September, 2003 (as amended). When more than one soil type is present in a parcel proposed for subdivision, the maximum number of lots to be permitted on that parcel will be determined by summing the number of lots permitted for each type of soil present in the parcel. The number of lots permitted for a single type of soil is determined by dividing the area (in square feet) covered by the soil type by its minimum lot size obtained from the site-specific soil map tables.

$$\text{Maximum \# of Lots Permitted} = \frac{\text{Area (in sq. ft.) of Soil Type A}}{\text{Minimum Lot Size permitted for Soil Type A from Table}} + \frac{\text{Area (in sq. ft.) of Soil Type B}}{\text{Minimum Lot Size permitted for Soil Type B from Table}} + \text{etc.}$$

6.1.4 For a single family Dwelling Unit with more than four bedrooms or a principal Dwelling Unit with an Accessory Apartment, the minimum lot size allowed shall be determined by applying the formula in Section 6.1.5.

6.1.5 For Cluster Single-Family Development and Multi-Family Residential Development, the minimum lot size per Dwelling Unit permitted shall be adjusted according to the Dwelling Unit size as listed by the following formulas:

Dwelling Units with one or two bedrooms:

Minimum Lot Size (in sq. ft.) = (Lot Size from Site-Specific Soil Map Table) X 0.60

Dwelling Units with three bedrooms:

Minimum Lot Size (in sq.f t.) = (Lot Size from Site-Specific Soil Map Table) X 0.83

Dwelling Units with four bedrooms:

Minimum Lot Size (in sq.ft.) = (Lot Size from Site-Specific Soil Map Table) X 1.0

Dwelling Units with more than four bedrooms:

Minimum Lot Size (in sq.ft.) = (Lot Size from Site-Specific Soil Map Table) X (# of bedrooms)/4

For example, if the analysis of the soils on a given parcel indicated the maximum number of lots permitted was 3.4, then 2 four-bedroom homes each with an Accessory Apartment could be built.

6.1.6 For Commercial Uses and/or industrial uses, the lot size shall be the greater of the Lot Size from the Site-Specific Soil Map Tables or the Lot Size determined by the formula:

$$\text{Minimum Lot Size (sq. ft.)} = \frac{\text{Estimated Daily Discharge of Sewage in Gallons}}{\text{600 g.p.d.}} \times \text{Lot Size from Site-Specific Soil Map Tables}$$

(Formula based on N.H Code of Administrative Rules Env-Wq 1005.04)

6.1.7 For proposed septic system designs for buildings on existing lots, the proposed number of bedrooms for residential uses and maximum discharge of sewage for commercial uses shall be limited to that which maintains compliance with the minimum lot size requirement specified in this Section 6. In the case of septic system designs for proposed two or three-bedroom

dwellings on lots of record, they shall be considered according to 6.1.5.

SECTION 7: PARKING (3/12/1985)

7.1 All new altered and/or enlarged structures or land uses shall provide adequate parking facilities for motor vehicles using the following design guidelines in their building permit applications. In calculating parking spaces: round down if 0.5 or less; round up if 0.6 or greater.

USE	**PARKING GUIDELINE**
Dwelling Units	2 spaces per Dwelling Unit
Public accommodation - Hotels, Motels, Lodging House	1.1 per lodging unit + 1 space per 3 employees
Professional offices, business services, health clinics	1 per every 250 square feet of gross floor area
Retail businesses, personal service establishments and shopping centers	1 per every 200 square feet of gross floor area
Eating and drinking establishments	1 per every 2 seats
Auditorium, theater, convention hall, church or similar place of public gathering	1 per 4 seats in principal assembly room
Nursery schools	1 per staff member plus 1 per 10 children
Elementary and junior high	2 per classroom + additional spaces as per the requirement for places of public gathering
Private clubs or lodges	1 per 4 members
Hospitals, nursing and convalescent homes	1 per 3 beds + 1 for each employee on day shift
Industrial	1 per each 1.2 employees, based on the highest expected employee occupancy

7.2 Minimum parking space shall be 10 feet by 20 feet and minimum aisle width in parking lots, where applicable, shall be 18 feet for one-way traffic and 24 feet for two-way traffic.

7.3 Minimum off-street loading facilities required of new or Substantially Improved or reconstructed buildings shall be required as deemed necessary in the interest of public health and safety and of aesthetic considerations.

SECTION 8: CLUSTER SINGLE-FAMILY DEVELOPMENT AND MULTI-FAMILY RESIDENTIAL DEVELOPMENT (amended 3/12/1985, 3/10/1987, 3/11/2008, 3/10/2015, 3/12/2019)

8.1 Purpose

The purpose of this Section is to encourage flexibility and variety in residential development in order to promote more efficient use of land in harmony with its natural features; to make more economical the provision of roads, water, septic disposal and other services; to promote designs which enhance the privacy, safety and enjoyment of residents; to provide for a diversified housing stock; and to preserve Open Space. (3/12/2019)

8.2 General Requirements

8.2.1 Cluster Single-Family Developments and Multi-Family Residential Developments are allowed in the Village and Rural-Residential Districts. Each development must be reviewed and approved by the Jackson Planning Board in compliance with the Subdivision and any other Regulations that may apply.

8.2.2 Accessory Uses and structures otherwise allowed in the specific district are permitted as

well as buildings, structures or facilities incidental to the use of Common Land for conservation, preservation or recreational uses.

8.2.3. The maximum number of Dwelling Units in either Cluster Single-Family Developments or Multi-Family Residential Developments shall be determined by the requirements in Section 6.

8.2.4 Public or Private Road right-of-ways within a development (internal Streets) must be at least 50 feet in width.

8.2.5 The developer must provide for* safe and adequate water and sewerage disposal, including connections to town services where available. (* "for" added 3/10/1987)

8.2.6 Open Space in developments approved under this Section shall be Common Land amounting to a minimum of fifty (50) percent of the total area of the lot or parcel being developed. Developments creating Affordable or Workforce Housing units in compliance with Section 10 are only required to set aside a minimum of twenty-five (25) percent of the parcel as Common Land. (3/12/2019)

8.3 Areas and Dimensions

8.3.1 The parcel to be Subdivided shall have at least 200 feet of Frontage along a public or Private Road right-of-way.

8.3.2 There shall be no internal setback requirements for attached or detached residential units within the parcel to be Subdivided. However, the existing setback requirements described in Sections 4 and 5 of this Zoning ordinance shall apply to the entire parcel.

8.3.3 There shall be no minimum lot size for single-family lots in either a Cluster Single-Family Development or Multi-Family Residential Development. However, the maximum number of lots shall be determined by the requirements in Section 6.

SECTION 9: ACCESSORY APARTMENTS (also known as Accessory Dwelling Units (ADUs)) (added 3/11/2008; amended 3/10/2015, 3/14/2017)

A single family residence constituting a principal Dwelling Unit may also include not more than one Accessory Apartment, as an Accessory Use, either integral, attached or detached, provided all of the following conditions are met:

9.1 There is only one Dwelling Unit on the lot at the time the Accessory Apartment is proposed to be added.

9.2 The applicant for an Accessory Apartment shall comply with RSA 485-A:38 "Approval to Increase Load on a Sewage Disposal System."

9.3 The minimum lot size for a Dwelling Unit with an Accessory Apartment shall be determined by the requirements of Section 6.1.4.

9.4 The Accessory Apartment shall not exceed 1,000 square feet of enclosed space. The minimum size of the Accessory Apartment shall not be less than 350 square feet of enclosed space. Floor space with sloping ceilings providing less than 4 feet of clearance to the floor shall not be included in the square footage.

9.5 An interior door shall be provided between the principal Dwelling Unit and an attached Accessory Apartment, but is not required to be locked or unlocked.

9.6 No Accessory Apartment shall have more than two bedrooms.

9.7 No Accessory Apartment shall have more than one occupant per 250 square feet of space.

9.8 The principal Dwelling Unit and the Accessory Apartment shall comply with the requirements of RSA 48 A:14 ("Housing Standards", "Minimum Standards Established") and all other applicable codes and ordinances including without limitation, building codes, fire codes, the Life Safety Code and the Jackson Zoning Ordinance. Without limiting requirements under any applicable code or ordinance, the Accessory Apartment shall be equipped with a hard-wired fire and smoke alarm system. If the principal Dwelling Unit and the Accessory Apartment are contained within the same building, both shall

be equipped with a hard-wired fire and smoke alarm system such that alarms sound throughout both units in the event of an emergency in either unit.

9.9 Without limiting requirements under any applicable code or ordinance, adequate off-street parking and access which meet the provisions of Section 7 and Section 3.10 "Driveway" of this Zoning Ordinance shall be provided to serve the combined needs of the principal Dwelling Unit and the Accessory Apartment.

9.10 One or more State approved septic system designs sufficient to serve both the principal Dwelling Unit and the Accessory Apartment shall be provided before any construction or renovation is begun to add an Accessory Apartment.

9.11 Irrespective of the dollar amount of the work and materials involved, a building permit approved by the Board of Selectmen is obtained before beginning the conversion of any existing single family building or other structure into one containing an Accessory Apartment or the construction of a detached Accessory Apartment.

9.12 Irrespective of the dollar amount of the work and materials involved, a building permit approved by the Board of Selectmen is obtained before beginning the structural alteration of an existing Accessory Apartment, in which case all of the provisions of this Section 9 must be met.

9.13 A Certificate of Occupancy must be obtained before any newly created or structurally altered Accessory Apartment may be occupied.

9.14 No Accessory Apartment lawfully established pursuant to this Ordinance shall be deemed to create or allow any subdivision of the property into separate fee estates by deed, use or otherwise, except by express approval by the Planning Board of a subdivision under the then applicable Land Subdivision Regulations of the Town of Jackson.

SECTION 10: AFFORDABLE OR WORKFORCE HOUSING (added 3/9/2010, amended 3/12/2019)

10.1 Authority and Purpose

This Section is enacted in accordance with the provisions of RSAs 674:58-61 and 674:21 which authorize municipalities to provide reasonable and realistic opportunities for the development of workforce housing, and to establish inclusionary zoning designed to produce Affordable Housing by offering incentives for the production of such housing. Providing incentives to encourage creation of Workforce Housing will permit the Town of Jackson to preserve and foster a diverse community. This Section recognizes three special features of the Town of Jackson: i) a large percentage of land within the Town of Jackson is permanently protected from development, intensifying development pressures and increasing land costs; ii) the Town's location attracts tourism, necessitating employment of service workers who must live within a reasonable distance of their employment; iii) an increasing elderly population may require low-cost housing in the future. Because Jackson has a small year-round population, incentives for provision of low-cost housing shall include those shown in Section 9, Accessory Apartments. In addition, the number of Dwelling Units approved under this Section shall be limited to avoid over-burdening town services within any one year period.

The purposes of this Section are to:

i) Provide a realistic opportunity for Low and Moderate Income individuals and families to obtain Affordable or Workforce Housing in the Town of Jackson,

ii) Provide appropriate incentives to encourage the production of such housing, without creating a hardship for provision of town services.

10.2 Definitions

The following words are specifically defined for purposes of this Section of the Zoning Ordinance:

10.2.1 "Affordable or Workforce Housing": Any housing unit created in this category shall be "affordable" within the meaning of NH RSA 674:58, as may be revised from time to time.

10.2.2 "Eligible Elderly Household": An individual or couple in which the individual or at least one person of the couple is 60 years of age or older and who by income qualifies as a Low or Moderate income Household as defined in this Section.

10.2.3 "Low and/or Moderate Income Household": A person or family which has a household income meeting a particular percent of the median income, adjusted for family size, of Carroll County as published annually by the US Department of Housing and Urban Development; Low is up to 80 percent, and Moderate is up to 100 percent, of the above-cited median income level.

10.3 Procedures

The Planning Board is authorized to review and approve plans for creation of Affordable or Workforce Housing in two ways.(3/12/2019)

10.3.1 Creation of Affordable or Workforce Housing as part of a Cluster Single-Family Development or Multi-Family Residential Development in the same manner specified in Section 8 of this Ordinance, as applicable, except as modified in this Section. (3/12/2019)

10.3.2 Creation of Affordable or Workforce Housing through the creation of new individual lots. (3/12/2019)

10.4 Affordable Or Workforce Housing Criteria (3/12/2019)

The Planning Board will authorize incentives to encourage development of Affordable or Workforce Housing units, providing the following Affordable or Workforce Housing development characteristics are met.

10.4.1 The Dwelling Units designed to be Affordable or Workforce Housing units shall be restricted as follows:

10.4.1.1 Approvals shall require that a one-bedroom unit may not exceed 900 square feet of heated space, a two-bedroom unit may not exceed 1,100 square feet of heated space, and a three-bedroom unit may not exceed 1,300 square feet of heated space;

10.4.1.2 Deed restrictions shall be placed on each Affordable or Workforce Housing unit that:

a. prohibit an increase of more than 10 percent of the total heated space of the unit or other improvements having a value in excess of 10 percent of the purchase price of the unit;

b. prohibit a sale of an owner-occupied unit to any person or family which does not meet the Low or Moderate Income Household requirements of this Section;

c. limit, in the case of rental units, any annual rent increases to the annual percentage increase in the Carroll County median income published annually by the U.S. Department of Housing and Urban Development; and

d. require that each Affordable or Workforce Housing unit be occupied as a primary residence by those meeting the definition of Low or Moderate Income Household or Eligible Elderly Household.

10.4.1.3 Deed restrictions related to an affordable or Workforce Housing unit established under this Section must be approved by the attorney for the Town of Jackson and documented on all plans filed with the Planning board and with the Carroll County Registry of Deeds.

10.4.2. Minimum Number of Affordable Units created within a Cluster Single-Family Development or Multi-Family Residential Development in compliance with Section 8 of this Ordinance: For every four Dwelling Units being constructed in accordance with this Section, at least one of those four shall be built to be "affordable" to an individual or family meeting the definition of Low or Moderate Income Household as specified in 10.2.3. In the first four units, one must be available to a Low Income Household at under 80% of the Median Income Index for Carroll County; in the next four units, one must be available to a Moderate Income Household

at under 100% of the Medium Income Index for Carroll County; additional units shall be made available in the same pattern.

10.4.3 No more than 20 percent of the Affordable or Workforce Housing units may be one bedroom or studio units, or be restricted to occupancy by Eligible Elderly Households. No more than 25 percent of the Affordable or Workforce Housing units may be three or more bedroom units.

10.5 Certification Of Income Levels

To ensure that only Low and/or Moderate Income Household persons or families occupy the designated Affordable or Workforce Housing units, the candidate for occupancy must comply with regulations set by the NH Housing Finance Authority. Paperwork necessary to comply with those regulations shall be submitted to the Board of Selectmen or their designee at least 30 days prior to the transfer of title or execution of lease agreement.

10.6 Affordable Housing Incentives For This Section (3/12/2019)

The Planning Board is authorized to permit the following incentives provided that the criteria in Section 10.5 are met:

10.6.1 The Planning Board may reduce application costs for development proposals considered within this Section.

10.6.2 **Site Development:** All structures may be placed on the cluster development site in a manner to minimize environmental impact providing the structures comply with the dimensional requirements in Section 8 of this Ordinance unless modified with Planning Board approvals according to Sections 10.6.3 or Section 10.6.4.

10.6.3 **Areas and Dimensions:**

10.6.3.1 The Planning Board is authorized to permit the following incentives for Cluster Single-Family Development or Multi-Family Residential Development provided that the criteria in Section 10.5 are met, except that, as an incentive to develop Affordable or Workforce Housing units, the cluster parcel may have as little as 150 feet of frontage along a State or Town highway with a classification of I, II, III, IV, or V or public or Private Road.

10.6.3.2 A single lot created for an Affordable or Workforce Housing unit may have as little as 125 feet of frontage along a public or Private Road.

10.6.4 **Water and Sewer Requirements:** As an incentive to develop Affordable or Workforce Housing units, the minimum size of the individual lot or the maximum number of lots permitted in a Cluster Development shall be determined by utilizing current NH Department of Environmental Services standards for the quantity of land necessary to provide a proper and adequate water supply and septic disposal system for each development containing Affordable or Workforce Housing units.

10.7 Maximum Units Created Within This Section

To avoid placing an undue burden on town services, no more than a total of 12 Dwelling Units (3 of which are Affordable or Workforce Housing units) receiving incentives through this Section shall receive approval in any single year.

10. 8. Administration

This Section shall be administered by the Board of Selectmen.

10. 8.1 **Certificate of Occupancy.** No certificate of occupancy shall be issued for an Affordable or Workforce housing unit without written confirmation, from the Board of Selectmen or their designee, of the income eligibility of the tenant or buyer of the unit and confirmation of the rent or price of the unit as documented by an executed lease or purchase and sale agreement.

10. 8.2 **Monitoring.** Ongoing responsibility for maintaining the compliance with rental restrictions on Affordable or Workforce Housing units for rent shall entail an annual report certifying that the gross rents of such units and the household income of the tenants of such units

have been maintained in accordance with and comply with the requirements of this Section. Such reports shall be filed on May 1st of each year with the Board of Selectmen or their designee and shall list the contract rent and tenant income of all units for the calendar year.

10.8.3 In the event that a tenant's household income exceeds 135 percent of the median income for that family size, the unit must be made available to an income-eligible tenant within one year.

10.9 Appeals

Appeals under this Section shall be governed by the provisions of RSA 674:61.

SECTION 11: TRAILER AND MANUFACTURED HOME PARKS

No trailer or Manufactured home park shall be located or maintained within the Town of Jackson; and which, for purposes thereof, shall be deemed to mean a parcel of land where two or more trailers or Manufactured homes are parked. Nothing hereunder shall be construed to prohibit individual trailers or Manufactured homes located on individual lots so long as such lot otherwise meets the minimum lot size requirements and setbacks (amended 3/10/1987) under the Ordinances of the Town of Jackson.

SECTION 12: AREAS OF SPECIAL FLOOD HAZARD (amended 3/12/2002, 3/13/2012)

The following provisions shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the Town of Jackson, N.H.", together with the associated Flood Insurance Rate Maps of the Town of Jackson, dated July 2, 1979, which are declared to be part of this Ordinance and are hereby incorporated by reference, including any additions, amendments or revisions thereto. This Section was adopted pursuant to the authority of RSA 674:16. The Regulations in this Section shall overlay and supplement other regulations in this Zoning Ordinance. If any provision of this Section differs or appears to conflict with any other provision of this Zoning Ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

12.1 Definitions

The following definitions shall apply to this Section. (3/12/1996, 3/12/2002)

12.1.1 "Area Of Special Flood Hazard" means the land in the floodplain within the Town of Jackson subject to a one percent (1%) or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.

12.1.2 "Base Flood" means the Flood having a one-percent possibility of being equaled or exceeded in any given year.

12.1.3 "Basement" means any area of a building having its floor subgrade on all sides.

12.1.4 "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation or storage of equipment and materials.

12.1.5 "FEMA" means the Federal Emergency Management Agency.

12.1.6 "FIRM" means the Flood Insurance Rate Map.

12.1.7 "Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

12.1.8 "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

i) the overflow of inland waters, or

ii) the unusual and rapid accumulation or runoff of surface waters from any source.

12.1.9 "Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

12.1.10 "Flood Insurance Rate Map" (FIRM) means the official map incorporated with this

Ordinance, on which FEMA has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the Town of Jackson.

12.1.11 "Floodplain" means any land susceptible to being inundated by water from any source.

12.1.12 "Flood Proofing" means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate Flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

12.1.13 "Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

12.1.14 "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12.1.15 "Historic Structure" (added 3/9/2010) means any structure that is:

i) Listed individually in the National Register of Historic Places or preliminarily determined as meeting the requirements for individual listing on the National Register;
ii) Certified or preliminarily determined as contributing to the historical significance of a registered historic district;
iii) Individually listed on a state inventory of historic places; or
iv) Individually listed on a local inventory of historic places.

12.1.16 "Lowest Floor" means the lowest floor of the lowest enclosed area (including Basement). An unfinished or Flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a Basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

12.1.17 "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than one hundred eighty (180) days. This includes manufactured homes located in a manufactured home park or subdivision.

12.1.18 "Manufactured Home Park Or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

12.1.19 "Mean Sea Level" means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

12.1.20 "New Construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

12.1.21 "Recreational Vehicle" is defined as: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel and seasonal use.

12.1.22 "Regulatory Floodway" means the channel of a river or other watercourse and the

adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

12.1.23 "Special Flood Hazard Area" means an area having Flood, mudslide, and/or Flood-related erosion hazards, and shown on an FHBM or FIRM as zones A1 through A30.

12.1.24 "Structure", for Floodplain management purposes, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

12.1.25 "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

12.1.26 "Substantial Improvement" means any combination of repairs, reconstruction, Alteration, or improvements to a Structure in which the cumulative cost equals or exceeds fifty percent of the market value of the Structure. The market value of the Structure should equal: i) the appraised value prior to the start of the initial repair or improvement, or ii) in the case of damage, the value of the Structure prior to the damage occurring. For the purposes of this definition, "Substantial Improvement" is considered to occur when the first Alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that Alteration affects the external dimensions the Structure. This term includes Structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a Structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any Alteration of a "historic structure", provided that the Alteration will not preclude the structure's continued designation as a "historic structure."

12.1.27 "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

12.1.28 "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains.

12.2 All proposed Development, including the placement of manufactured homes, in any Special Flood Hazard Area shall require a permit.

12.3 Where new and replacement water and sewer systems (including on-site systems) are proposed, the applicant shall provide the Board of Selectmen with assurance that the systems are located, designed and will be constructed to minimize infiltration and avoid impairment by Flooding.

12.4 The Board of Selectmen shall review all building permit applications for new construction or Substantial Improvements to determine whether the proposed building will be reasonably safe from Flooding. If a proposed building site is in a location that has a Flood hazard, any proposed new construction or Substantial Improvement (including prefabricated and Manufactured Homes) must

i) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure,
ii) use construction materials and utility equipment that are resistant to Flood damage,
iii) use construction methods and practices that will minimize Flood damage, and
iv) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of Flooding. (iv) added 3/12/1996)

12.5 The Board of Selectmen shall maintain for public inspection and furnish upon request, for the determination of applicable Flood insurance risk premium rates within all areas having Flood hazards identified on a Flood Insurance Rate Map, any certification of Flood Proofing, and information on the elevation (in relation to mean sea level) of the level of the Lowest Floor (including Basement) of all new or Substantially Improved Structures, and include whether or not such Structures contain a Basement,

and if the Structure has been Flood Proofed, the elevation (in relation to mean sea level) to which the structure was Flood Proofed. This information must be furnished by the applicant.

12.6 The Board of Selectmen shall review proposed developments to assure that all necessary permits have been applied for and/or received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Board of Selectmen.

12.7 In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Board of Selectmen and the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Zoning Board of Adjustment, in addition to the copies required by RSA 482-A:3. Further the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau and the Zoning Board of Adjustment.

12.8 The following requirements shall apply in specific zones designated on the Flood Insurance Rate Maps.

12.8.1 In "A" zones, the Board of Selectmen shall obtain, review, and reasonably utilize any Base Flood elevation data available from a Federal, State, or other source, until such other data has been provided by the Administrator, as criteria for requiring that:

i) all new construction and Substantial Improvements of residential structures have the Lowest Floor (including Basement) elevated to or above the Base Flood level, and

ii) that all new construction and Substantial Improvement of non-residential structures have the Lowest Floor (including Basement) elevated or Flood Proofed to or above the Base Flood level.

12.8.2 In zones "AE", for new construction and Substantial Improvements, the Board of Selectmen shall require that:

i) Residential Structures have the Lowest Floor (including Basement) elevated to or above the Base Flood level.

ii) Non-residential Structures have the Lowest Floor (including Basement) elevated to or above the Base Flood level; or together with attendant utility and sanitary facilities, be designed so that below the Base Flood level the Structure is water tight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

12.8.3 In zones "A" and "AE", where Flood Proofing of all new construction or substantial improvements of non-residential structures is used in lieu of elevation, a registered professional engineer or architect shall certify to the Board of Selectmen that the Flood Proofing methods used are adequate to withstand the Flood depths, pressures, velocities impact and uplift forces and other factors associated with the Base Flood.

12.8.4 In zones "AE" for Manufactured home placement, the Board of Selectmen shall require that:

i) Stands or lots are elevated on compacted fill or on pilings so that the Lowest Floor of the Manufactured home will be at or above the Base Flood level.

ii) Adequate surface drainage and access for a hauler are provided.

iii) In the instance of elevation on pilings: i) lots are large enough to permit steps, ii) piling foundations are placed in stable soil and are no more than ten feet apart, and iii) reinforcement is provided for pilings that extend more than six feet above the ground level.

12.8.5 In zones "A and AE" Manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific

requirements shall be that i) over-the-top ties be provided at each of the four corners with two additional ties per side at intermediate locations and Manufactured Homes less than 50 feet long shall require one additional tie per side; ii) frame ties be provided at each corner with five additional ties per side at intermediate points and Manufactured Homes less than 50 feet long shall require four additional ties per side; iii) all components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and iv) any additions to the Manufactured Home shall be similarly anchored.

12.8.6 Along watercourses with a designated Regulatory Floodway:

i) The placement of manufactured homes is prohibited within the designated Regulatory Floodway.

ii) Within the Regulatory Floodway any Development or encroachment (including fill) which would result in any increase in Flood levels during the Base Flood discharge is prohibited.

iii) Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

12.9 Recreational vehicles placed on sites with Zones A and AE, shall either i) be on the site for fewer than 180 consecutive days, ii) be fully licensed and ready for highway use, iii) meet all standards of Section 60.3 (b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (C)(6) of Section 60.3. (3/8/1994). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

12.10 For all new construction and Substantial Improvement in areas of Special Flood Hazard below the 100 year Flood elevation, fully enclosed areas below the Lowest Floor that are subject to Flooding are permitted provided they meet the following requirements:

12.10.1 The enclosed area is unfinished or Flood resistant, usable solely for the parking of vehicles, building access or storage,

12.10.2 The enclosed area is not a Basement,

12.10.3 The enclosed area is designed to automatically equalize hydrostatic Flood forces on exterior walls by allowing for the entry and exit of Flood water. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to Flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater. (3/12/1996)

12.11 <u>Variances and Appeals</u> (3/12/1996)

12.11.1 Any order, requirement, decision or determination made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

12.11.2 If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, l (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law: i) that the variance will not result in increased Flood heights, additional threats to public safety, or extraordinary public expense; ii) that if the requested variance is for activity within a designated Regulatory Floodway, no increase in Flood levels during the Base Flood discharge will result, and iii) that the variance is the minimum necessary, considering the Flood hazard, to afford relief.

12.11.3 The Zoning Board of Adjustment shall notify the applicant in writing that: i) the

issuance of a variance to construct below the Base Flood level will result in increased premium rates for Flood insurance up to amounts as high as $25 for $100 of insurance coverage and ii) such construction below the Base Flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

SECTION 13: SIGNS (added 3/13/1979, amended 3/12/1996)

The following provisions shall apply to the location, erection and maintenance of signs on any property within the Town of Jackson.

13.1. All signs shall be located so as not to create a hazard or danger to the public.

13.2 On-premises sign

Any new or replacement signs shall meet the following conditions:

13.2.1. Be no larger than 32 square feet exclusive of supports and shall not exceed 12 feet above natural ground level or center of the traveled way.

13.2.2 Not be neon lighted or have flashing lights, and

13.2.3 Be substantially of wood construction, except for its support.

13.3 Off-premises signs shall be limited to:

13.3.1 Directory type signs that may include a map and listing of businesses in the Town of Jackson. Not more than two directory type signs will be permitted. The total area of the sign, exclusive of supports, shall not exceed 64 square feet. The height of the sign shall not exceed 12 feet above the natural ground level or the center of the traveled way. The locations will be recommended by the Planning Board and approved by the Board of Selectmen.

13.3.2 Directional signs for local businesses will be permitted attached to town-owned Street or road signs and they shall not exceed 8 inches high by 48 inches long and must be approved by the Board of Selectmen.

13.3.3 Off premises directional signs for ski areas and the ski touring foundation located in the Town of Jackson shall be permitted. The total area of the sign, exclusive of supports, shall not exceed 64 square feet. The height of the sign shall not exceed 12 feet above natural ground level or the center of the traveled way. The locations will be recommended by the Planning Board and approved by the Board of Selectmen.

13.3.4 Signs not conforming with these conditions shall be removed within three (3) years from the date of enactment of this Section, save that nothing herein shall be deemed to prohibit Town or State Highway signs.

SECTION 14: COMMUNICATIONS TOWERS AND ANTENNAS (added 3/10/1999, amended 3/13/2001, 3/12/2002).

14.1 Purpose and Intent

This ordinance is enacted in order to permit the siting of Communications Towers and Antennas, including Personal Wireless Service Facilities, in the Town of Jackson consistent with the following:

14.1.1 Avoid and mitigate adverse impacts such facilities may create, including, but not limited to the following impacts: visual, auditory, environmental, historical, flight corridors, health, safety and prosperity.

14.1.2 Promote co-location for facilities when such co-location minimizes the adverse impacts described in 14.1.1 above through an assessment of technology, current locational options, future available locations, Innovative Siting Techniques, and siting possibilities beyond the political jurisdiction of the Town.

14.1.3 Permit the siting of facilities on new ground mounted structures only where all other reasonable siting opportunities have been exhausted, and encourage the siting of facilities, whether on new structures or existing, in a way that minimizes the adverse impacts of the facilities.

14.1.4 Give preference to siting on designated Town-owned property permitting facilities in other designated areas.

14.1.5 Require that facilities be constructed and maintained safely.

14.1.6 Provide for the removal of abandoned facilities, including a mechanism for the Town to remove these abandoned facilities at the facility owner's expense to protect the citizens from imminent harm and danger.

14.2 Definitions

The following definitions shall apply to this Section.

14.2.1 "Antenna" means any apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any frequency or bandwidth.

14.2.2 "Communications Antennas"/ "Communications Towers and/or Antennas" means all types of sending and receiving Antennas and the supporting towers.

14.2.3 "Equipment Shelter" means an enclosed structure, cabinet, shed, vault, or box near the base of a Communications Antenna within which are housed equipment for those facilities such as battery and electrical equipment.

14.2.4 "Fall Zone" means the area on the ground within a prescribed radius from the base of a Tower or other support structure. The Fall Zone is the area within which there is a potential hazard from falling debris (such as ice), collapsing material or the collapse of the Tower itself.

14.2.5 "Height" means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the Tower or other structure, even if said highest point is an Antenna.

14.2.6 "Innovative Siting Techniques" means the mounting of Antennas on the roof, or side of a structure, including but not limited to man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of the Antennas.

14.2.7 "Personal Wireless Service Facilities" means any facility that provides commercial mobile wireless services, unlicensed wireless services and common carrier wireless exchange access services, as described by Section 332 of the Telecommunications Act of 1996.

14.2.8 "Preexisting Towers and Antennas" means any Tower or Antenna lawfully constructed or permitted prior to the adoption of this Ordinance, or lawfully constructed in accordance with this Ordinance.

14.2.9 "Support Structure" means any structure to which any type of sending and receiving Antenna is attached.

14.2.10 "Tower" means any structure that is designed and constructed primarily for but not limited to the purpose of supporting one or more Antennas, including self-supporting lattice Towers, guyed Towers, "stealth tree" Towers, or monopole Towers.

14.3. Exemptions

This Section shall not apply to amateur facilities.

14.4 Permit required

All Communications Towers and Antennas shall require a building permit issued by the Board of Selectmen.

14.5 Regulations

All Communications Towers and Antennas shall comply with the following requirements. These requirements shall supersede any and all other applicable standards found elsewhere in the Jackson Zoning Ordinances and Regulations that are less strict.

14.5.1. **Height**. New Communications Antennas, media Antennas, and Personal Wireless Service Facilities located on any existing structures shall not increase the Height of the existing structure more than 20 feet. No Communications Tower or Antenna shall project higher than 20

feet above the average surrounding tree canopy height.

14.5.2 **Setbacks.** All Communications Towers and Antennas and equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located.

14.5.3 **Fall Zone.** In order to ensure public safety, the minimum distance from the ground mount of a communications Tower or Support Structure to any property line, road, habitable dwelling, business or institutional use or public recreational area shall be 125% of the Height of the facility, including any Antennas or other appurtenances. This setback is considered the "Fall Zone."

14.5.4 **Visual Impact and Lighting**. In order to preserve the character of the existing developed and natural environments within the Town of Jackson, and to minimize any detrimental visual impact that Communications Towers and Antennas might have, all such facilities will adhere to the following requirements.

14.5.4.1 The design of the Towers, ground mounts, Antennas, buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the Tower facilities with the natural setting and built environment.

14.5.4.2 If an Antenna is installed on a structure other than a Tower, the Antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible. Facilities shall not be artificially lighted, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Board of Selectmen may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

14.5.4.3 Towers shall be located on sites where the grade/slope and tree cover of the site and surrounding land can be used to decrease any adverse visual impacts.

14.5.4.4 Towers or ground-mounted facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the facilities from adjacent properties and public roads. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the Tower compound. Natural vegetation is preferred.

14.5.4.5 Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

14.5.4.6 Towers shall not contain any permanent or temporary signs, writing, symbols or other graphic representation of any kind, except as may be allowed or required by the Board of Selectmen in the interests of public safety.

14.5.5 **Fencing.** Towers shall be enclosed by security fencing located inside the landscaped buffer. The fencing shall be at least 6 feet in height and equipped with appropriate anti-climbing devices. The Planning Board may waive the requirement for fencing if the Tower is designed in a way that makes climbing it impossible.

14.5.6 **Building Codes**. To ensure the safety and structural integrity of Communications Towers and Antennas, the owner of a facility shall certify that it is constructed and maintained in compliance with standards contained in applicable local building codes and the applicable standards for Communications Towers, support structures, and Antennas that are published by the Electronic Industries Association, as amended from time to time. The owner of the facility shall initially provide proof of structural integrity by report of a structural engineer licensed in New Hampshire and thereafter shall provide certifying reports to the town every five years. All facilities shall be designed and operated in a manner that minimizes the risk of igniting a fire or intensifying one that otherwise occurs. If, upon inspection, the Town concludes that a facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the facility, the owner shall have 30 days to

bring such facility into compliance with such standards. If the owner fails to bring such facility into compliance within 30 days such action shall constitute grounds for the removal of the facility in accordance with Section 14.9 at the owner's expense through execution of the posted security required by Section 14.8.

14.5.7 **Federal Requirements**. All Communications Towers and Antennas must meet or exceed current standards and regulations of the FAA, the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate facilities and Antennas. If such standards and regulations are changed, then the owners of the facilities governed by this ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with such revised standards and regulations shall constitute grounds for the removal, in accordance with Section 14.9 of the facilities, at the owner's expense through the execution of the posted security required by Section 14.8.

14.5.8 A full written disclosure of all materials in the sealed transmitter's shelter or vault located at the base of the Tower must be submitted. The applicant must pay for any training required in handling any potential problem created by any hazardous materials in the transmitter.

14.5.9 Access for motorized vehicles to sites where communications facilities are located shall conform to the Town requirements relating to Driveways.

14.6 Application Procedure

14.6.1 Application to erect Communications Towers and Antennas in Jackson shall be made to the Board of Selectmen of the Town of Jackson. The application will be reviewed by the Planning Board, who will make recommendations to the Board of Selectmen. The Board of Selectmen will have the authority to approve or deny the application, and issue the building permit.

14.6.2 The application shall contain a scaled plan including a scaled elevation view, surrounding topography, surrounding tree cover and natural vegetation, radio frequency coverage, setbacks, Fall Zone, design of the facility and construction materials, design characteristics that will avoid visual obtrusiveness, landscaping, fencing, parking, access roads, adjacent uses, and any other information deemed necessary by the Board of Selectmen to assess compliance with this ordinance. In addition, the applicant shall provide the following information.

14.6.2.1 The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.

14.6.2.2 The applicant shall submit written proof of legal authority to use the proposed site.

14.6.2.3 The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirement of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board of Selectmen prior to the beginning of the federal 30-day comment period and the Town process, shall become part of the application requirements.

14.6.2.4 Each applicant for a facility shall provide to the Board of Selectmen an inventory of its existing facilities that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, Height, design of each facility, as well as economic and technological feasibility for co-location on the inventoried facilities. The Board of Selectmen may share such information with other applicants applying for approvals or conditional use permits under this ordinance or other organizations seeking to locate Antennas within the jurisdiction of the governing

authority, provided however that the Board of Selectmen is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

14.6.2.5 Each applicant for a facility shall provide a list of any additional Towers which may be required in Jackson for completion of their planned wireless coverage.

14.6.3 In its consideration of an application to erect Communications Towers and Antennas, the Board of Selectmen shall adhere to the following prioritization.

14.6.3.1 Preference will be given to the siting of Communications Towers and Antennas on existing facilities including preexisting Towers and Antennas, where such co-location can exist while preserving the character and integrity of the existing structure and without other adverse impacts.

14.6.3.2 To the extent that there are no existing facilities which meet the requirements of the applicant, preference will be given to locating facilities on existing structures of other kinds, such as a water tower or utility poles where such co-location preserves the character and integrity of the existing structure, and does not create other adverse impacts.

14.6.3.3 To the extent that facilities under Paragraphs 14.6.3.1 and 14.6.3.2 are not available, preference will be given to siting a facility within the designated Telecommunications Overlay Zone, which shall consist of an area within 200 feet on either side of the traveled center line of NH Route 16 within the Jackson town limits.

14.6.4 Burden of Proof on Applicant Regarding Siting Priority. The burden of proof that there are no existing structures upon which the applicant may locate its Antennas and facilities and transmit or receive radio signals shall include, at a minimum:

14.6.4.1 The applicant shall submit a list of all owner contacts made with regard to the availability of co-location for the Antenna. If the Board of Selectmen or Town staff finds additional existing buildings and structures that may be satisfactory, the applicant shall contact the property owners.

14.6.4.2 The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "return receipt requested" forms from the US Post Office shall be provided for each owner of existing structure that was contacted.

14.6.4.3 If the applicant claims that a structure is not structurally capable of supporting a Communications Antenna or facility, this claim must be certified by a registered, professional engineer licensed in the State of New Hampshire. This certification shall at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the facility.

14.6.5 If the applicant is proposing to build a new Tower or other ground-mounted support structure, the applicant shall submit written evidence demonstrating why no existing structure can accommodate the applicant's proposed facility. This evidence must be substantial and can address such issues as location within required geographic area, required Height, electromagnetic interference, unreasonable financial requirements, etc.

14.6.6 The applicant proposing to build a Tower or ground mounted structure shall submit an agreement with the Town that allows for the co-location of additional facilities upon the new structure by a future applicant to the extent such co-location can exist while minimizing adverse impacts noted in Section 14.1.1. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of Jackson, and is grounds for a denial.

14.6.7 The applicant shall submit the engineering information detailing the size and coverage

required for the facility location. The Board of Selectmen may have any submitted information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations, or any other matter required by the application. Cost for this review shall be borne by the applicant.

14.6.8 Prior to construction, the applicant shall submit the following:

i) A radio frequency (RF) background survey (wide spectrum-lf-3xf) to establish a zero point for future evaluation. Cost for this survey shall be borne by the applicant.

ii) A clear method of communication for concerns or complaints: contact name and address, telephone number.

14.6.9 At any time before, during, or after the construction of a communications facility, the applicant shall provide to the Board of Selectmen information about intentions to sell, assign, lease or sub-lease any part of the facility. Such notice shall be given in writing prior to execution of any sale, assignment, or lease agreement. Any owner, assignee, lessee or sub-lessee shall be bound by all of the regulations of this Ordinance.

14.7 Waivers

14.7.1 Where the Zoning Board of Adjustment finds that extraordinary hardships, or practical difficulties would result from strict compliance with the terms of Section 14.5, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to these regulations. The Zoning Board of Adjustment shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply: (3/13/2001)

14.7.1.1 The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.

14.7.1.2 The waiver will not, in any manner, be inconsistent with the provisions of the Jackson Zoning Ordinance or the Jackson Master Plan.

14.7.1.3 Such waiver(s) will substantially secure the objectives, standards, and requirements of these regulations.

14.7.1.4 A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver.

14.7.2 In approving waivers, the Zoning Board of Adjustment may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

14.7.3 A petition for any such waiver shall be submitted in writing by the applicant with the application for Zoning Board of Adjustment review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant. Failure to submit petition in writing shall require automatic denial.

14.8 Bonding, Security and Insurance

Recognizing the extremely hazardous situation presented by inadequately maintained or abandoned and unmonitored facilities, the Board of Selectmen shall set the form and amount of security that represents the cost for removal and disposal of abandoned facilities in the event that the facility is abandoned or inadequately maintained and the facility owner is incapable and unwilling to remove or maintain it. The applicant shall bear the cost of the demolition. Furthermore, the Board of Selectmen shall require annual submission of proof of adequate liability insurance covering accident or damage.

14.9 Removal of Abandoned Antennas and Facilities

Any Antenna or facility that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the facility.

If the abandoned facility is not removed within 90 days the Town may execute the security and have the facility removed. If there are two or more users of a single facility, this provision shall not become effective until all users cease using the facility.

SECTION 15: LIGHTING (added 3/12/2002)

15.1 Purpose

The purposes of the outdoor lighting regulations are to protect dark skies, to prevent Light Pollution by minimizing the spillover of light onto adjacent properties, and to protect the public safety by preventing glare from outdoor lighting sources.

15.2 Definitions

15.2.1 "Direct Light" means light emitted directly from the Lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a Luminaire.

15.2.2 "Fixture" means the assembly that houses the Lamp(s) and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a Lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

15.2.3 "Lamp" means the component of a Luminaire that produces the actual light.

15.2.4 "Light Pollution" means light emitted from a Luminaire that illuminates more than the object or area it was intended to.

15.2.5 "Luminaire" means a complete lighting system, including a Lamp(s) and a Fixture.

15.3 Regulations

15.3.1 All nonexempt outdoor lighting Fixtures shall be shielded in such a way that Direct Light emitted by the installed Fixture will be at an angle of twenty (20) degrees or more below the horizontal plane of the bottom of the Fixture.

15.3.2 Post-top lighting is permitted, to a maximum of 150 watts per Luminaire.

15.3.3 Mercury vapor Lamps are not permitted.

15.4 Exemptions

The following types of lighting are exempted from these requirements:

15.4.1 Lighting installed or used by public authorities or emergency crews.

15.4.2 Lighting required by the FAA or FCC.

15.4.3 Security lighting controlled by sensors set to provide illumination for a maximum of fifteen (15) minutes.

15.4.4 Lighting lawfully installed prior to the effective date of this ordinance. However, in the event that a grandfathered lighting Fixture must be moved or replaced, it is encouraged that the new or moved Fixture comply with the Regulations of this Ordinance.

15.4.5 Lighting of non-commercial flags expressing constitutionally protected speech.

15.4.6 Decorative holiday lighting for a temporary period, provided that the amount of holiday lighting at any one property does not create a public nuisance.

SECTION 16: GROUND WATER PROTECTION DISTRICT REGULATIONS (added 3/10/2022)

16.1 Authority

The Town of Jackson hereby adopts this ordinance pursuant to the authority granted under RSA674:16 as an Innovative Land Use Control pursuant to RSA 674:21.

16.2 Purpose

The purpose of this ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater. The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

16.3 Definitions

16.3.1 “Aquifer” means a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

16.3.2 “Petroleum bulk plant or terminal” means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

16.3.3 “Groundwater” means subsurface water that occurs beneath the water table in soils and geologic formations.

16.3.4 “Gasoline station” means that portion of a property where petroleum products are received by tank vessel pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of petroleum products.

16.3.5 “Impervious” means not readily permitting the infiltration of water.

16.3.6 “Impervious surface” means a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

16.3.7 “Junkyard” means a place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel or other old or scrap ferrous or non-ferrous material, or for the maintenance or operation of an automotive recycling yard.The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

16.3.8 “Outdoor storage” means storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

16.3.9 “Positive limiting barrier (PLB)” is a depression (e.g., groove) in the surface of an otherwise level impervious area designed to impede the flow and contain spilled substances within the perimeter of theimpervious area. PLBs are typically constructed and maintained to contain small spills or releases (five to fifteen gallons).

16.3.10 “Public water system” is a system for the provision to the public of piped water for human consumption,which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

16.3.11 “Regulated substance’ is petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or wastewater at department approved facilities.

16.3.12 “Sanitary protective radius” is the area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems) or Env-Dw 405.14 and 406.12 (for other public water systems).

16.3.13 “Seasonal high-water table” is the depth from the mineral soil surface to the upper most soil horizon that contains 2 percent or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils
Scientist, Wetlands Scientist, Civil or Environmental Engineer or other qualified professional approved by the Planning Board, or the shallowest depth measured from ground surface to free water that stands in an unlined or screened borehole for at least a period of seven consecutive

days.

16.3.14 “Secondary containment” is a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110 percent of the volume of the largest regulated-substances container that will be stored there.

16.3.15 “Snow dump” means for the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

16.3.16 “Source control plan” is a plan designed to 1) minimize the volume of stormwater coming into contact with regulated substances and 2) segregate relatively clean stormwater from stormwater with a higher concentration of pollutants. (For further details see NH DES Alteration of Terrain Rule Env-Wq 1504.08.)

16.3.17 “Stratified-drift aquifer” is a geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains
sufficient saturated permeable material to yield significant quantities of water to wells.

16.3.18 “Surface water” means streams, lakes, ponds and tidal waters, including marshes, watercourses and other bodies of water, natural or artificial.

16.3.19 “Wellhead protection area” is the surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield, as determined in Env-Dw 302.10 and Env-Dw 405

16.4 Groundwater Protection District

The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries,1) all of the Wellhead Protection Areas for public water supply wells as defined under Section 16.3.10 and 2) the Stratified Drift Aquifer(s). These are shown on the map entitled, Town of Jackson Groundwater Protection District.

16.5 Applicability

This Ordinance applies to all uses in the Groundwater Protection District.

16.6 Permitted Uses

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Section 16.10.

16.7 Performance Standards for Permitted Uses

16.7.1 Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets,and Food, (June 2011) and any subsequent revisions.

16.7.2 All regulated substances stored in containers with a capacity of five gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.

16.7.3 All transfers of petroleum from delivery trucks and storage containers over five gallons in capacityshall be conducted over an impervious surface having a positive limiting barrier at its perimeter following the Best Management Practices in Env-Wq 401.

16.7.4 Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed inaccordance with We 604 of the New Hampshire Water Well Board Rules.

16.7.5 Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from

surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems.

16.7.6 Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in thecontainment area and contact between precipitation and storage container(s).

16.7.7 Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.

16.7.8 Facilities where regulated substances are stored must be secured against unauthorized entry bymeans of a door and/or gate that is locked when authorized personnel are not present and must beinspected weekly by the facility owner.

16.8 Existing Non-Conforming Uses

Existing non-conforming uses may continue without expanding or changing to another non-conforming use but must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices Rules.

16.9 Prohibited Uses

The following uses are prohibited in the Groundwater Protection District.

16.9.1 The development or operation of a solid waste landfill.

16.9.2 The outdoor storage of road salt or other deicing chemicals in bulk.

16.9.3 The development or operation of a junkyard.

16.9.4 The development or operation of a snow dump.

16.9.5 The development or operation of a wastewater or septage lagoon.

16.9.6 The development or operation of a petroleum bulk plant or terminal.

16.9.7 The development or operation of gasoline stations.

16.10 Exemptions

The following uses are exempt from the specified provisions of this ordinance as long as they are incompliance with all applicable local, state, and federal requirements:

16.10.1 The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI is exempt from all provisions of this ordinance but must comply with all state and federal regulations.

16.10.2 Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under 16.14.2 of this ordinance.

16.10.3 Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondarycontainment in place, is exempt from Performance Standard 16.7.8;

16.10.4 The following are exempt from Performance standards 16.7.5 through 16.7.8:

16.10.4.1 Any business, facility or private residence where regulated substances are stored in containers with a capacity of less than five gallons.

16.10.4.2 Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle.

16.10.4.3 Storage and use of office supplies.

16.10.4.4 T emporary storage of construction materials on a site where they are to be used, if incorporated within the site development project within six months of their deposit on the site;

16.10.5 Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b).

16.11 Conditional Uses

16.11.1 The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted in the underlying district, if the permitted use is involved in one or more of the following:

16.11.1.1 Storage, handling, and use of regulated substances in quantities exceeding 55 gallons or 660 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan is approved by the Health Inspector, or qualified professional appointed by the Board of Selectmen.

16.11.1.2 Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.

16.11.1.3 Any activities that involve blasting of bedrock.

16.11.2 In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use (as listed in 16.9 of this Ordinance) and will be in compliance with the Performance Standards in 16.7 as well as all applicable local, state and federal requirements.

16.11.3 The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

16.12 Performance Standards for Conditional Uses

16.12.1 The following Performance Standards apply to all three conditional uses defined under 16.11.

16.12.2 Conditional uses shall require stormwater management and pollution prevention plans and include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (US EPA, Feb 2009) The plan shall demonstrate that the use will:

16.12.2.1 Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as found within the Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent (Post- Construction) Stormwater Management, (NHDES, 2008 or later edition).

16.12.2.2 Minimize the release of regulated substances into stormwater through a source control plan that identifies pollution prevention measures.

16.12.2.3 Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).

16.12.2.4 Maintain a minimum of four feet vertical separation between the bottom of a stormwater facility that infiltrates, or filters stormwater and the average seasonal high-water table as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.

16.12.3 Storage, handling, and use of regulated substances in quantities exceeding 55 gallons or 660 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan is approved by the Health Inspector, or qualified professional appointed by the Board of Selectmen.

The Health Inspector, or qualified professional appointed by the Board of Selectmen, shall determine whether the (SPCC) plan will prevent, contain, and minimize releases from ordinary

or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. The SPCC plan shall include:

16.12.3.1 A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.

16.12.3.2 Contact list and phone numbers for the current facility response coordinator(s), cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.

16.12.3 3 A list of all regulated substances in use and locations of use and storage.

16.12.3.4 A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.

16.12.3.5 A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

16.12.3.6 List of positions within the facility that require training to respond to spills of regulated substances.

16.12.3.7 Prevention protocols that are to be followed after an event to limit future large releases of any regulated substance.

16.12.4 Any use that will render impervious more than 15 percent or more than 2,500 square feet of any lot, whichever is greater, requires a stormwater management plan to be prepared which is consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Services.

16.12.5 Any activities that involve blasting of bedrock shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells, following the Best Management Practices of RSA 155.

16.13 Relationship Between State and Local Requirements

Where both the State and the municipality have existing requirements the more stringent shall govern.

16.14 Maintenance and Inspection

16.14.1 For uses requiring planning board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Carroll County. The description so prepared shall comply with the requirements of RSA 478:4-a.

16.14.2 Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Health Inspector, or qualified professional appointed by the Board of Selectmen, at reasonable times with prior notice to the landowner.

16.14.3 All properties in the Groundwater Protection District known to the Health Inspector, or qualified professional appointed by the Board of Selectmen, as using or storing regulated substances in containers with a capacity of five gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section 16.10, shall be subject to inspections under this Article.

16.14.4 The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided
for in RSA 41-9:a.

16.15 Enforcement Procedures and Penalties

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676 or RSA 485-C.

16.16 Effective Date
This ordinance shall be effective upon adoption by the legislative body. Approved March 2022

Section 17: SOLAR ENERGY SYSTEMS (added March 14, 2023)
All Solar Energy Systems installed in the Town of Jackson after the effective date of this ordinance shall comply with the following regulations.

17.1 Authority and Purpose
This Solar Energy System ordinance is enacted in accordance with RSA 674:17(I)(j) and the purposes outlined in RSA 672:1-III-a as amended. The purpose of this ordinance is to accommodate Solar Energy Systems and distributed generation resources in appropriate locations, while protecting the public's health, safety, and welfare. To help accomplish this purpose, only Roof-mounted Solar Energy Systems, Ground-mounted Solar Energy Systems and Community-scale Solar Energy Systems all of which are Accessory Uses and have Solar Land Coverage of no more than 1 acre are permitted.

17.2 Definitions
17.2.1 *Solar Energy System:* A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.
17.2.2 *Solar Photovoltaic System:* A Solar Energy System that converts solar energy directly into electricity, the primary components of which are but not limited to solar panels, mounting devices, inverters, and wiring.
17.2.3 *Grid-connected Solar Energy System*: A Solar Photovoltaic System that is connected to an electric circuit served by an electric utility company.
17.2.4 *Roof-mounted Solar Energy System (Accessory Use)*: A Solar Photovoltaic System mounted on a rack that is ballasted on, or is attached to, the roof of a building or structure.
17.2.5 *Ground-mounted Solar Energy System (Accessory Use)*: A Solar Photovoltaic System mounted on a rack or pole that is ballasted on, or is attached to, the ground including but not limited to fixed, passive, or active tracking racking systems.
17.2.6 *Solar Land Coverage*: Land area that encompasses all components of a Ground-mounted Solar Energy System including but not limited to mounting equipment, panels, and ancillary components of the system.
17.2.7 *Community-scale Solar Energy System (Accessory Use)*: A Roof-mounted Solar Energy System or a Ground-mounted Solar Energy System that has a Solar Land Coverage of no more than 1 acre, and whose ownership and electric bill credits are shared by two or more owners of residences or businesses in Jackson.
17.2.8 *Accessory Use (as applied to Roof-mounted or Ground-mounted Solar Energy Systems):* Notwithstanding Section 3.2, for purposes of this section, a Roof-mounted or Ground-mounted Solar Energy System is an Accessory Use if the Solar Energy System provides, annually, no more than 150% of the calculated annual electrical demand of the primary use.

17.3 General Regulations
17.3.1 Solar Energy System installations and modifications of existing Solar Energy Systems require a building permit prior to installation or modification.
17.3.2 The application for a building permit for a Solar Energy System installation or modification shall include:
17.3.2.1 A drawing showing the location of the proposed Solar Energy System.
17.3.2.2 The plan for screening a proposed Ground-mounted Solar Energy System from abutting properties and adjacent rights of way.

17.3.2.3 Information indicating that the glare factor of the installation meets current industry standards used to minimize glare.

17.3.3 During construction, all pertinent building permit instructions shall be followed.

17.3.4 The Solar Energy System will not materially endanger public health or safety.

17.3.5 Solar Energy Systems shall comply with all current building, electric, fire and other safety codes, state and federal laws and regulations, local noise and other ordinances, and performance standards of this ordinance.

17.3.6 Solar Energy System components must have UL certifications or equivalent listings.

17.3.7 Grid-connected Solar Energy Systems shall comply with the interconnection requirements of the local electric utility.

17.3.8 Reasonable measures to minimize glare as viewed from adjacent properties and roads shall be taken.

17.3.9 All Solar Energy Systems for governmental use are exempt from land use regulations pursuant to NH RSA 674:54

17.3.10 Solar Energy Systems shall be deemed to be abandoned if operations have been discontinued for more than 6 months. An abandoned Solar Energy System shall be removed, the solar panels safely and appropriately disposed of, and the site of Ground-mounted Solar Energy Systems restored within 6 months of abandonment.

17.4 <u>Roof-mounted Solar Energy Systems (Accessory Use)</u>

Roof-mounted Solar Energy Systems are permitted as an Accessory Use within all zoning districts, subject to the following development standards.

17.4.1 Height:

17.4.1.1 On a flat roof the Solar Energy System may exceed the zoning district height limits by up to 10 feet.

17.4.1.2 On a pitched/sloped roof the Solar Energy System may not extend above the highest point of the roof.

17.4.2 Emergency Access: Roof-mounted Solar Energy Systems shall comply with applicable state and local fire codes to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide areas for smoke ventilation, and provide emergency egress from the roof.

17.5 <u>Ground-mounted Solar Energy Systems (Accessory Use)</u>

Ground-mounted Solar Energy Systems are permitted as an Accessory Use within all zoning districts, when accessory to one or more permitted primary and/or accessory structures, subject to the following development standards.

17.5.1 Ground-mounted Solar Energy Systems shall not exceed 20 feet in height when the panels are oriented at maximum design tilt (highest point of the Solar Energy System).

17.5.2 All equipment locations of Ground-mounted Solar Energy Systems, except for utility connections, shall comply with the setback requirements of the zoning district in which they are installed. Tracking Systems shall have the setback measured from the point and time where the array is closest to the lot line. No portion of a Solar Energy System may cross into the setback.

17.5.3 Ground-mounted Solar Energy Systems shall have reasonably effective visual screening from public ways and neighboring commercial/residential uses based on the viewsheds, contours of the land and abutting land uses.

17.5.4 To the maximum extent practical, all wiring associated with the utility connection shall be underground.

17.5.5 Ground-mounted Solar Energy Systems are exempt from lot coverage and impervious surface requirements if the area under the System contains a pervious or vegetative ground cover.

17.5.6 Land clearing shall be limited to what is necessary for the installation and operation of the Solar Energy System and to insure sufficient all-season access to the solar resource given the topography of the land.

17.5.7 Erosion control measures shall be used during construction.

17.5.8 Fencing shall be installed if required by the electric code or the utility. Additional security or fencing may be required if the location of the Solar Energy System presents a safety concern for abutting uses.

17.5.9 Following construction, cleared land areas must be restored with vegetative ground cover.

17.5.10 Noise levels at the property line shall be at reasonable levels given the location of the facility with due consideration to the surrounding land uses.

17.5.11 Onsite lighting shall be minimal and limited to access and safety requirements only. All lighting shall be downcast and shielded from abutting properties.

SECTION 18: ADMINISTRATION AND ENFORCEMENT

18.1 Duty of Board of Selectmen

It shall be the duty of the Board of Selectmen to enforce and administer the provisions of this Ordinance. The Board of Selectmen or an appointed Building Inspector shall administer the Zoning Ordinance literally and shall not have the power to permit any use of land or buildings that are not in conformance with this Ordinance. Variances and Special Exceptions must be approved by the Zoning Board of Adjustment.

18.2 Requirement of Building Permit (amended 3/10/1987, 3/13/2001).

18.2.1 A building permit shall be obtained before a building or structure is constructed, extended, removed or altered. This requirement also applies to swimming pools, Manufactured homes, modular homes and exterior signs. Alterations to an existing building or structure within the existing footprint that do not exceed $10,000 in estimated value shall not require a permit.

18.2.2 A building permit application shall be on a form provided by the Town, and shall furnish all requested information, and be accompanied by a permit fee, based on a fee schedule established by the Board of Selectmen.

18.2.3 The Board of Selectmen or Building Inspector shall act upon any application within 30 days after it has been received. In the event that 30 days is determined by the Board of Selectmen to be insufficient, the time period may be extended by the Board of Selectmen for an additional 30 days. If a permit is denied, the reason for denial shall be clearly stated in writing. The Zoning Board of Adjustment may, upon appeal, special exception or variance, direct the issuance of a permit. (3/13/2001)

18.2.4 Any permit issued shall become invalid if the authorized work is not commenced within 12 months after issuance of the permit, or if authorized work is suspended or abandoned for a period of six months after the time of commencing the work.

18.2.5 A true copy of the building permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of same.

18.2.6 No permit shall be transferred to a subsequent owner.

18.2.7 The Board of Selectmen may appoint a Building Inspector, prescribe his duties, and fix his compensation.

18.2.8 In the discharge of duties, the Board of Selectmen, Building Inspector, Fire Chief, or authorized representative shall have the authority to enter at any reasonable hour, with the

permission of the leaseholder or, if there is no leaseholder, the owner (provided prior notice is offered the leaseholder, or, if there is no leaseholder, the owner), any building, structure or premises in the Town to enforce the provisions of this ordinance. (3/13/2001).

18.2.9 The Board of Selectmen, Building Inspector, Fire Chief or authorized representative shall not be personally liable while performing duties in administration of this Ordinance. No oversight or neglect of duty of these officials in administering this ordinance shall legalize any work that fails to conform to this ordinance nor relieve the applicant therefrom.

18.2.10 Upon notice from the Board of Selectmen or the Building Inspector that work on any building or structure is being prosecuted contrary to the provisions of this Ordinance or in an unsafe or dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Any person who shall continue to do any work in or about the structure after having been served with the stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition(s), shall be subject to fines as provided for in Section 17.3 of this Ordinance.

18.2.11 A building or structure, with the exception of detached single family residences, hereafter erected shall not be used or occupied in whole or in part until the certificate of use and occupancy shall have been issued by the Board of Selectmen or the Building Inspector. A building or structure, hereafter enlarged, extended or altered for change from one use to another, whether in whole or in part, shall not be occupied or used for the change in use until the certificate of use and occupancy has been issued. Any use not discontinued during the Alterations shall be discontinued within 60 days after the work is completed, if the certificate of use and occupancy has not been issued.

18.3 Enforcement and Penalty

18.3.1 If any violation of this Ordinance occurs, the Board of Selectmen shall institute in the name of the Town of Jackson, any appropriate action, injunction, or other proceeding to prevent, restrain, correct or abate such violation.

18.3.2 A violation of this ordinance shall be punished by a fine of not more than the maximum set by state law, with each day that such violation continues to be deemed a separate offense.

SECTION 19: ZONING BOARD OF ADJUSTMENT

19.1 A Zoning Board of Adjustment shall be appointed by the Board of Selectmen consisting of five (5) members. The Board membership, including length of term, alternates and vacancies, and its organization, shall be consistent with the state law (RSA 672 and 673.) The Board shall have the duties and powers as provided by RSA 674:33.

19.2 Specifically, the Zoning Board of Adjustment is authorized to:

19.2.1 Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Board of Selectmen or the Building Inspector in enforcement of this Ordinance;

19.2.2 Hear and decide Special Exceptions to the terms of this Ordinance upon which the Board of Adjustment is required to pass as provided herein; and

19.2.3 Hear and authorize, upon appeal in specific cases, a variance from the terms of this Zoning Ordinance, if the Board finds that the criteria set forth in RSA 674:33(I)(b), as amended from time to time, are met.

19.2.4 Determine an Equitable Waiver of Dimensional Requirement (added 3/9/2004)

Waivers shall be granted only from physical layout, mathematical or dimensional requirements. An equitable waiver shall not be construed as a Non-Conforming Use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with

the Zoning Ordinance. This Section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them.

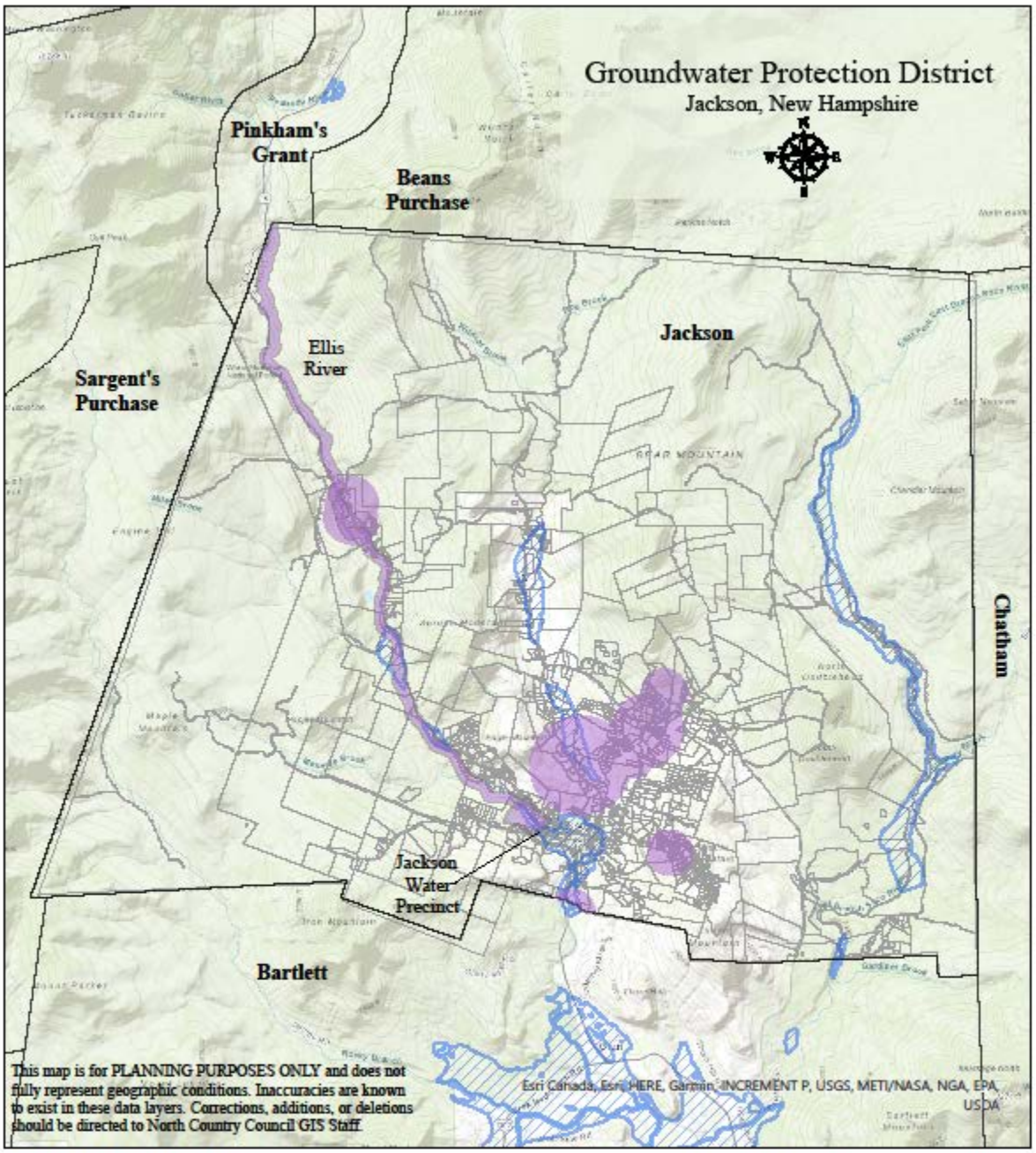
SECTION 20: EFFECTIVE DATE, CONFLICT AND SEVERABILITY

20.1 These provisions shall take effect upon their passage.

20.2 Where any provision of this Ordinance is in conflict with state law or any other local ordinances, the more stringent provision shall apply. (amended 3/8/2005)

20.3 If any provision of this ordinance is for any reason declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the specific provision so declared to be unconstitutional or invalid. (amended 3/8/2005)

Zoning Map
Jackson, NH
CUTTS GRANT
SARGENTS PURCHASE
PINKHAM'S GRANT
BEANS PURCHASE
BARTLETT
CHATHAM
Village District & Rte.16 Commercial Zone
River, Stream or Pond
Roads
100-foot Contours
White Mtn National Forest
0 0.5 1 2 Miles
N
Maple Mountain
Papple Mountain
Green Hill
Thorn Mountain
Middle Mountain
Tin Mountain
Eagle Mountain
Iron Mountain
The Knoll
Wildcat River
North Doublehead
South Doublehead
Clarendet Mountain
East Branch Saco River
16
16A
The Village District is defined as 500 feet on either side of Routes 16 and 16A and all the land between them. The rest of the town is defined as Rural-Residential. Road data from NHDOT, last revised 2000. Original scale 1:24000/1:25000. Map created by Whitley Frost, 2003. The author does not make claim as to the reliability or implied uses of the data.


Groundwater Protection District
Jackson, New Hampshire
Pinkham's Grant
Beans Purchase
Sargent's Purchase
Ellis River
Jackson
Chatham
Bartlett
Jackson Water Precinct
This map is for PLANNING PURPOSES ONLY and does not fully represent geographic conditions. Inaccuracies are known to exist in these data layers. Corrections, additions, or deletions should be directed to North Country Council GIS Staff.
Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, NGA, EPA, USDA
Wellhead Protection Areas
Jackson Water Precinct Protected Area
Stratified Drift Aquifer
Tax Parcels
Jackson Town Boundary
Neighboring Towns
Roads
0 0.75 1.5 3
Miles