

Jackson Land Use Ordinance

March 20, 1999

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Jackson Land Use Ordinance

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GENERAL PROVISIONS

SECTION I

Section I. General Provisions

1. Title

This Ordinance shall be known and cited as the Jackson Land Use Ordinance and will be referred to as “this Ordinance.”

2. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section I of the Maine Constitution, the provisions of Title 30-A MRSA, Section 3001 (*Home Rule*), Title 30-A MRSA, Sections 4311 et seq. (*Comprehensive Plan and Land Use Regulation, or "Growth Management" Act*), Title 30-A MRSA, Sections 4401 et seq. (*Subdivision Law*), and Title 38 MRSA, Sections 435 et seq. (*Mandatory Shoreland Zoning Act*), This Ordinance is founded upon and pursuant to Jackson's Comprehensive Plan as adopted on March 15, 1997.

3. Purposes

The purpose of this Ordinance is to fulfill the policies expressed within Jackson’s 1997 Comprehensive Plan, specifically:

- A. to protect the health, safety and welfare of Jackson’s residents by establishing an orderly system for managing land development;
- B. to present a cohesive and user-friendly document that represents the wishes of the townspeople regarding land use regulation;
- C. to preserve private property rights, minimize regulation of traditional land use activities and support positive neighbor relations;
- D. to rely on education and the honor system as primary means of guiding land development, with clearly stated bottom lines which can be readily enforced if necessary;
- E. to foster a climate of trust and collective spirit among townspeople;
- F. to maintain Jackson’s small-town, wooded rural character;
- G. to protect the town’s natural resources and road system;
- H. to discourage large-scale development;
- I. to protect the form and function of the Moosehead Trail;
- J. to discourage year-round development on non-maintained roads;
- K. to ensure that any new Town roads are built to engineered standards;
- L. to keep demand for community services to a minimum; and
- M. in watershed and shore land areas, to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shore land areas.

4. Applicability

The provisions of this Ordinance shall govern all land, structures and activities as specified herein within the boundaries of the Town of Jackson.

5. Incorporation of Jackson Land Use Map

The Jackson Land Use Map is hereby incorporated as an integral portion of this Ordinance.

6. Repeal of Redundant Ordinances

By enactment of this Ordinance, the Town repeals the following formerly enacted ordinances and incorporates their essential provisions within the *Jackson Land Use Ordinance*.

- A. Jackson Addressing Ordinance (as enacted on November 21, 1995)
- B. Minimum Lot Size Ordinance (as enacted on March 16, 1996)
- C. Shoreland Zoning Ordinance (as enacted on March 15, 1997)

7. Conflicts with Other Ordinances, Laws and Regulation

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute from any jurisdiction, the more restrictive provision shall control.

8. Validity and Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

9. Effective Date

This ordinance shall become effective upon the date of its passage: March 20, 1999. As detailed under subsection 1-12, non-conformance will be judged based upon effective dates that applicable portions of this Ordinance were first enacted.

10. Availability

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during Town Office hours. Copies shall be made available to the public at reasonable cost to be charged to the person making the request. Notice of the availability of this Ordinance shall be posted in the Town Office.

11. Amendments

A. An amendment to this ordinance may be initiated by:

- 1) the Planning Board, provided a majority of the Board has so voted;
- 2) request of the municipal officers; or
- 3) written petition of at least 25 voters registered to vote in Jackson.

B. The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least ten (10) days prior to the hearing.

- C. If a zoning amendment is proposed which changes land regulation within 500 feet of a common town border, the Town Clerk shall forward notice to the Selectmen and Planning Board of adjacent communities at least ten days in advance of the public hearing. The adjacent community may provide verbal or written testimony.
- D. An amendment to this ordinance may be adopted by a majority vote of the Town Meeting. For amendments involving the Shoreland Zoning provisions of this Ordinance, copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. If the Commissioner fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
- E. At any time this ordinance is amended, the Town Clerk is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.

12. Non-Conformance

A. General Requirements:

1) Purpose

It is the intent of the provisions within the Jackson Land Use Ordinance to promote land use conformities, except that non-conforming conditions that legally existed as of the effective date of this Ordinance, its predecessors, or any amendment thereto shall be allowed to continue, subject to the requirements set forth in this section.

2) Effective Dates of Previously Enacted Ordinance Sections

- a) Dimensional Standards: March 16, 1996
- b) Shoreland Zoning: March 14, 1992
- c) Subdivisions: March 18, 1989
- d) Mobile Home Parks: March 19, 1990

3) Transfer of Ownership

Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

4) Repair and Maintenance

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures.

B. Non-Conforming Structures:

1) Expansions

A non-conforming structure may be added to or expanded, if such addition or expansion does not increase the non-conformity of the structure. (For example, a building located closer than 75' from the centerline of the road may expand to the side or rear but not closer toward the road.)

2) Relocation

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest extent as determined by the Planning Board, and provided the applicant demonstrates that the present subsurface sewage disposal systems meets all requirements of State Law and the *State of Maine Subsurface Wastewater Disposal Rules* or that a new system can be installed in compliance of the law and said *Rules*. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building meets the setback or other dimensional requirements to the greatest practical extent, the planning board shall base its decision on the size of the lot, the slope of the land, the location of other structures on the property, the potential for soil, the location of the septic system and other on-site soil suitable for septic systems, the location of water wells, and the type and amount of vegetation to be removed to accomplish the relocation.

3) Reconstruction or Replacement

- a) If a non-conforming structure is destroyed by fire or act of God, it may be rebuilt provided the construction is commenced within one year of the date of destruction. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.
- b) Any non-conforming structure, which is damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place without a permit.

C. Non Conforming uses:

1) Expansions

Non-conforming uses, that legally exists as of March 20, 1999 (March 14, 1992 in the Shoreland Zone) may expand in the same location, subject to all applicable performance standards of this Ordinance.

2) Resumption Prohibited

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the planning board may, for good cause shown by the applicant, grant up to a one year extension to that time period.. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding 5 year period.

3) Change of Use

An existing non-conforming use may be changed to another non-conforming use provided that the Planning Board finds, after receiving a written application, that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and that the proposed use will have no greater adverse impact on adjacent properties than the former use.

The determination of appropriateness shall be based on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this Ordinance shall apply to such requests to establish new non-conforming uses.

- D. Non-Conforming Lots: Outside of the Shoreland Zone, a non-conforming lot of record as of March 16, 1996 may be built upon, provided that applicable performance standards and the requirements of the *State of Maine Subsurface Wastewater Disposal Rules* are met. The use of the lot must be one that is allowed in the district(s) in which it is located. Within the Shoreland Zone, a non-conforming lot must have been recorded as of March 14, 1992.
- E. Vested Rights: Non-conforming use rights do not arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required State permits and approvals. Such rights may arise when actual substantial construction has begun, or, in the case of pending applications, when the substantive review process to determine compliance with substantive performance standards on a complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both state and local.

ADMINISTRATIVE PROVISIONS

SECTION II

Section II. Administrative Provisions

1. Administering Bodies and Agents

The following boards and agents hold responsibility for administering the Town's land use ordinances. Further detail may be found in the *Planning Board Ordinance* and the *Board of Appeals Ordinance* for the organization and authority of those two bodies. These ordinances may be found in the Appendix of this Ordinance.

- A. Planning Board: The municipal Planning Board shall be responsible for reviewing and acting upon applications for appropriate land use permits, development permits, road permits and subdivision approvals as directed by the *Planning Board Ordinance* or State statute. Beyond provisions contained in this Ordinance and specific land use ordinances, the Board shall issue permits in accordance with its own administrative ordinance and bylaws. In the event that the Code Enforcement Officer position is vacant, the Planning Board shall also issue those permits normally assigned to the CEO.
- B. Board of Selectmen: The Board of Selectmen shall appoint an Addressing Officer, a Code Enforcement Officer (CEO) and a Licensed Plumbing Inspector (LPI) by May 1st of each year. The Board shall appoint members of the Planning Board and Board of Appeals in accordance with the provisions of the administrative ordinances governing those bodies. The Board shall provide assistance as necessary to promote the healthy functioning of the Town's administrative bodies.

The Board of Selectmen shall receive complaints of alleged violations of this Ordinance and assign the Code Enforcement Officer to investigate and prosecute violations as appropriate. The Board shall provide the necessary authorization and support for the CEO in enforcing the provisions of this Ordinance, including the retention of an attorney if necessary to assist in the prosecution of a serious violation.

The Board of Selectmen shall issue junkyard permits in accordance with Title 30-A, §3751 et seq. (*Junkyard and Automobile Graveyard Law -- see Appendix*).

- C. Code Enforcement Officer: The Board of Selectmen shall appoint a Code Enforcement Officer annually by May 1st. The CEO's job description shall be annually reviewed and approved by the Board.

The Code Enforcement Officer shall, upon request by the Board of Selectmen, investigate complaints and reported violations of the *Jackson Land Use Ordinance*. The CEO shall follow guidelines for enforcement procedures developed by the State's CEO Training and Certification Program. The CEO shall also administer permit applications as authorized in this Ordinance.

- D. Licensed Plumbing Inspector: The Board of Selectmen shall appoint a Licensed Plumbing Inspector (LPI) by May 1st of each year to administer the State's plumbing and subsurface wastewater disposal regulations in Jackson.

- E. Town Clerk: The Town Clerk or deputy shall receive permit applications and fees and shall transmit applications received to the appropriate permitting officer or board.

The Town Clerk shall keep an attested copy of the *Jackson Land Use Ordinance*, including the *Jackson Land Use Map*, as well as any future amendments, on file for the official Town record.

- F. Addressing Officer: The Addressing Officer shall be appointed by the Board of Selectmen by May 1st of each year. In the absence of an Addressing Officer, the entire Board of Selectmen shall serve in that capacity. The Addressing Officer shall administer the Address Registration portion of the Ordinance.
- G. Road Commissioner: The Road commissioner shall administer the driveway and road construction permit provisions of this Ordinance.
- H. Board of Appeals: The municipal Board of Appeals shall be responsible for hearing and deciding advisory, administrative and variance appeals according to the procedures outlined in the *Board of Appeals Ordinance*.

2. Registrations and Permits Required

After the effective date of this Ordinance, no person shall engage in any land use activity requiring registration or a permit without first obtaining such authorization. The procedure for registrations and permit applications varies. Please refer to the section of this Ordinance listed specifics of each registration or permits as follows:

- A. Lot Registration (see Section IV.)
- B. Address Registration (See Section III and IV.)
- C. Driveway Permit (See Section V.)
- D. Managed Access Permit (See Section V.)
- E. Borrow Pit Registration (See Section VI.)
- F. Shore Land Zoning Permit (See Section X.)
- G. Subdivision Approval (See Section VIII.)
- H. Medium-Impact Development Permit (See Section IX.)
- I. High-Impact Developed Permit (See Section VIII and IX.)

3. Registration and Application Forms

- A. Registration and Application: The Town shall provide a written form for accepting registrations and permit applications. The Planning Board, in consultation with the Town officials associated with each type of registration or permits, shall assist the town office staff in designing appropriate forms.
- B. Authorization to Conduct Proposed Land Use Activity on Property: All registrations and applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the registration or application is complete and correct. If the person signing the registration or application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
- C. Date: All registrations and applications shall be dated, and the Town Clerk or designee shall note upon each application the date and time of its receipt. It is policy of the Town to review applications as expeditiously as possible while allowing adequate time for proper and thorough review.
- D. Subsurface Wastewater Disposal Permit: A valid Subsurface Wastewater Disposal Permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed activity would require the installation of a subsurface wastewater disposal.

4. Table of Regulated Land Uses

The following land uses in Jackson are subject to provisions of this Ordinance. Some require registration, some require a permit, and others are allowed without a permit but are subject to the performance standards of this Ordinance.

Table of Regulated Land Uses <i>(In addition, see Section X.5 for Table of Regulated Shoreland Zone Land Uses)</i>		
Use	Process	Location
Single family home (up to 2 units allowed per lot)	Address registration at town office	Townwide
Driveway or private road (not part of subdivision) accessing Town road	Driveway or road permit from road commissioner	Access to Town roads (all but private roads & Route 7)
Create new lot (other than through subdivision)	Lot registration at town office	Townwide
Garage, outbuilding, addition	None; honor system	Townwide
Septic system	Wastewater disposal (septic) permit from plumbing inspector	Townwide
Low-impact development	Address registration	Townwide
Medium-impact development	Medium-impact development permit from Planning Board	Townwide
High-impact development	High-impact development permit from Planning Board	Managed Development Area unless natural resource based (e.g. farms, sawmills), which may be townwide
Subdivisions, including mobile home parks	Subdivision approval from Planning Board	Townwide
Gravel pit of over 1 acre in extent	Notification at town office	Townwide
Junkyard/auto graveyard (3 or more unserviceable vehicles on property)	Annual Junkyard Permit from Selectmen	Townwide
Junk stored outside	None; honor system	Townwide
Regulated activities in Shore land Zone	See table in Section X.5.	Shore land Zone

5. Fees

- A. Policy and Authorization to Set Fees: It is the policy of the Town of Jackson to keep fees for traditional land uses at zero or as low as possible to minimize hardship and encourage compliance. However, land use activities requiring extensive review, public notification and/or field work by Code Enforcement Officer incur costs to the Town which it seeks to recover through reasonable application fees. The Board of Selectmen are hereby authorized and instructed to establish a reasonable schedule of application fees, in the form of a set amount and/or reimbursement for actual town expenses as the Board shall deem fit, revised if necessary to meet the intentions expressed above. The Planning Board shall advise the Selectmen in this area.
- B. Waiver provisions for Excess Fees: When a single activity requires more than one type of permit, the Planning Board may waive a portion of the fees assessed if the total is deemed to be inappropriate relative to the cost of review. In such cases, the applicant shall remit all fees with each applicant to begin the process; any decision to waive a portion of fees will be done after all work on the Town's part has been completed

6. Independent Review

- A. Right Reserved: In its duty to review any land use activity subject to authorization provisions of this Ordinance, the Town reserves the right to require an independent review by one or more professional(s) of its choice of any proposed plans, specifications, surveys, improvements or environmental impact reports submitted by the applicant, as well as to examine any impacts that may cause by the proposed activity that relate to findings of fact needed to render a fair and responsible decision.
- B. Procedures: If the Town feels such an analysis is necessary, the permitting Board or official shall choose the professional(s), obtain an estimate for the work, and notify the applicant that the amount of the estimate must be paid to the Town of Jackson before any further consideration is given to the applicant. No work will be initiated until the applicant pays the estimated amount to the Town. Following the completion of the work, the applicant will be billed for any cost incurred over the estimate or will be refunded any remaining balance from the estimate. Refusal of payment will result in automatic denial of the application. If the applicant feels that the review and/or cost is unreasonable, the applicant may file an appeal with the Board of Appeals.

7. Timing of Actions

The permitting officer or Board, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 30 days of a public hearing, or if no public hearing is held, within 30 days of the date of acceptance of the application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 30 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 30 days of the public hearing, if one is held or following acceptance of the completed application, if no hearing is held

8. Condition for approval

Permits shall be approved if the proposed use is found to be in conformance with the purpose and provisions of this Ordinance. Permits may be made subject to reasonable conditions to ensure conformity with the purpose and provisions of this Ordinance, the permittee shall comply with such conditions. If a permit is either denied or approved with conditions the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other ordinance or regulation or any State Law which the municipality is responsible for enforcing.

9. Burden of Proof

The applicant shall have the burden of proving that the land use activity is in conformity with the purpose and provisions of the Ordinance.

10. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in use of the property within one year of the date of the permit, the permit shall lapse and become void.

11. Installation of Public Utility Service

No utility company of any kind may install services to any new structure unless written authorization attesting to the validity and currency of all local registrations and permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

12. Enforcement

A. Nuisance: Any violation of this Ordinance shall be deemed to be a nuisance.

B. Enforcement Procedure:

- 1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary' to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to both the municipal officers and Planning Board and be maintained as a permanent record.
- 2) The Code Enforcement Officer shall conduct onsite inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- 3) The Code Enforcement Officer shall keep a complete record of all essential transactions, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
- 4) On a biannual basis, the Code Enforcement Officer shall submit a summary of the record of such transactions with in the Shoreland Zone to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

C. Legal Actions: When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into Administrative consent agreements for the purpose of the eliminating violations of this Ordinance and recording fines without court action. Such agreements shall not allow an illegal structure of the use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will pose a threat or hazard to the public health and safety or will result in substantial environmental damage.

D. Fines: Any person, including but not limited to a land owner, a land owner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A MRSA Section 4452, except for the specific provisions of Section III of this Ordinance relating to the failure to display address numbers (for which specific penalties are prescribed). All fines, together with recovery of legal, professional and administrative costs related to the prosecution of the violation, shall be paid to the Town of Jackson.

13. Appeals

- A. Types of Appeals: An applicant or other aggrieved party may request that the Board of Appeals hear any of the following types of appeal.
- 1) An advisory ruling to interpret any unclear ordinance provision;
 - 2) An appeal of any decision of any administrative office or board related to this Ordinance, including but not limited to: the Code Enforcement Officer, Selectmen, Addressing Officer, Road Commissioner or Planning Board;
 - 3) An appeal for variance from the provisions in this ordinance, including Disability Variance as defined below.
- B. Disability Variance: The Board of Appeals may grant a variance to the owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the property" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- C. Procedure: The procedure for filing and processing appeals is outlined with the *Board of Appeals Ordinance* (see Appendix)
- D. Shore line Zoning Variances: A copy of all variances granted by the Board of Appeals within the Shore Land Zoning Overlay District shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

ADDRESSING STANDARDS

SECTION III

Section III. Addressing Standards

1. Purpose

The purpose of this section is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery, and business delivery.

2. Administration

The Board of Selectmen shall be responsible for assigning new road names. The Board shall appoint an Addressing Officer to as outlined in Section II to assign new addresses. The Board shall see that the following official records are maintained and provided to the State Emergency Services Communications Bureau or designee as required to participate in the Enhanced 911 system.

- A. Jackson map for official use showing road names and numbers;
- B. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers and telephone numbers when available; and
- C. An alphabetical list of all roads with property owners listed in order of their assigned numbers, with telephone numbers listed when available.
- D. Other relevant information, including but not limited to tax map and lot number, may also be included in this listing, as long as it does not detract from its readability during an emergency.

3. Road Naming System

New road names, including subdivision roads as outlined in Section 7, shall be approved by a majority vote of the Board of Selectmen, who shall deny proposed names that the Board feels violate the provisions outlined below. All roads in Jackson that serve three or more addresses shall be named regardless of whether the ownership is public or private. Roads serving less than three addresses may be named at the discretion of the Board of Selectmen. A road name assigned by the Town shall neither constitute nor imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- A. Similar Names: No two roads shall be given the same or similar-sounding (e.g. Beech and Peach, Pine Road and Pine Lane) names.
- B. Consistency: Each road shall have the same name throughout its entire length, except in unusual cases where the naming authority finds that this procedure may hinder emergency response (such as when one road is partially or seasonally impassable and emergency access must be clearly sought from the proper end of the road). The addressing authority may treat through roads which contain impassable sections as separate dead-end roads for purposes of emergency service addressing.
- C. Route 7 Bisect: Roads which intersect Route 7 shall be considered to begin at that intersection and extend either eastward or westward there from. Cross roads extending east and west from Route 7 shall not be considered to be the same road and shall have different names.
- D. Road Signs: It shall be the duty of the Board of Selectmen to procure and install road signs for all roads.

4. Address Numbering System

Numbers have been designed at an appropriate scale to accommodate foreseeable development along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. The following criteria govern the numbering system:

- A. Through Roads: All East-West number origins shall begin from Route 7. All South-North number origins shall begin from the South.
- B. Dead-end Roads: For dead-end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead-end.
- C. Number Assigned: The number assigned to each structure shall be that of the numbered interval falling closest to the front door or driveway of said structure.
- D. Multiple Structures/Uses: Every structure with more than one principal use or occupancy shall have a separate number for each of its use or occupancy (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt. 2). Accessory structures such as barns, sheds and garages shall not be assigned a separate number except in unusual circumstances such as when they are the sole structure on a lot, are served by a different driveway than the principal structure, or have a different business telephone number.

5. Address Assignment

- A. Principal Structures: Prior to building a new principal structure, a person must be assigned an address from the Addressing Officer. The Address Registration system is outlined in Section IV.
- B. Subdivisions: Any prospective subdivider shall show a proposed road name and a lot numbering system on the Preliminary Plan Application to the Planning Board. Approval of the proposed road name by the Board of Selectmen and lot numbering system by the Addressing Officer shall be conditions of subdivision approval by the Planning Board. On the final plan showing proposed roads, the applicant shall mark lines or dots on the plan, in the center of the roads every 50 feet so as to aid in assignment of numbers to structures subsequently constructed. Subdivision approval shall not exempt a lot owner from receiving an official address from the Addressing Officer prior to construction, as the ultimate address number assigned will relate to the specific location of the structure on the lot.

6. Display for Emergency Locations

Once construction has commenced, the owner of the structure shall display and maintain in a conspicuous place the assigned number in the following manner:

- A. Number Displayed at the Road Line: Each property owner shall display the assigned number on a post, fence, wall, mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure. Numbers shall be visible from both directions and displayed in a color and size approved for use by the Board of Selectmen.
- B. Other Numbers Removed: Every person whose duty it is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the numbers assigned in conformance with this Ordinance.

- C. Interior Location: All residents and other occupants are encouraged to post the assigned number and road name adjacent to their telephone for emergency reference

7. Enforcement and Penalties

- A. Enforcement Authorities: Compliance with Subsection 6 may be enforced by either the Code Enforcement Officer or the Board of Selectmen.

- B. Penalties:

- 1. Owner-occupied Structures: As the purpose of this ordinance is for the life safety and public service of residents and users of structures, no penalty for non-compliance shall be levied upon the owner of an owner-occupied structure. Any penalty shall presume to be self-imposed with the assumption of greater risk and inconvenience.
- 2. Leased Structures: Penalties of \$10 per day of non-compliance may be levied upon owners of structures leased to tenants when such owners refuse, after warning, to display and maintain proper numbering as outlined in Section 6 of this Ordinance. Once 60 days have passed from the effective date of required compliance (*as defined in Section 8.D above), if the Town finds that a violation exists, the Code Enforcement Officer or Board of Selectmen shall issue a warning letter by certified mail to the property owner. Unless the violation is corrected, penalties shall begin to accrue on the 31st day following receipt of the warning letter.
- 3. Violator Responsible for Cost of Prosecution: In the event that court action is necessary, the violator shall be responsible for all costs incurred by the Town in prosecuting the violation, including but not limited to court costs, time spent by the Town personnel and reasonable attorneys' fees.

DIMENSIONAL STANDARDS

SECTION IV

Section IV. Dimensional Standards

1. Purpose

The purpose of this section is to protect the health, safety and welfare of Jackson's residents by:

- A. Establishing minimum dimensional standards for building lots to allow for privacy, fire safety, groundwater protection, density control and respect for neighboring property owners;
- B. Ensuring that proper subsurface wastewater disposal systems are installed in new structures;
- C. Avoiding circumstances in which lots that do not meet minimum building requirements are sold as building lots;
- D. Informing current and future landowners of the Town's road maintenance obligations for property before it is sold or developed to avoid conflicts and unanticipated costs to any party;
- E. Encouraging the availability of affordable housing by keeping requirements to a minimum and allowing up to two homes to be located on a single lot; and
- F. Minimizing the administrative burden on Jackson's taxpayers by enlisting the cooperation of public utilities in enforcing the Town's standards.

2. Applicability

The provisions of this section pertain to:

- A. The creation of a new lot other than through subdivision; and
- B. The construction or location of a new principal structure.

3. Minimum Building Lot Requirements

- A. Dimensional Requirements: A lot upon which a principal structure may be built or placed must meet the following dimensional requirements, unless the lot was legally established prior to March 16, 1996.

Dimensional Standard	Minimum Allowed
Lot Area	2 acres
Lot Width at Front of Principal Structure Location	200 ft
Front Structure Setback from Road Centerline	75 ft
Side/Rear Structure Setback from Property Boundary	15 ft
Distance between Principal Structures	30 ft

- B. Principal Structures per Lot:

- 1) Residential Structures:

- a) Up to two residential structures may be placed on a single lot (unless approved as a subdivision).
- b) Residential structures on a single lot may not be separated for future sale in place unless each is located on an individual lot which meets the requirements for a building lot at the time the sale occurs.
- c) Before a second residential structure is added to a lot, the plumbing inspector must inspect and approve the septic design(s) and installation(s) that will serve the structures, regardless of whether the existing system is to be shared or a new one installed.

- 2) Commercial, Industrial, Civic and Accessory Structures: Unless qualifying for either Subdivision or Development Review, in which case an overall development plan must be approved, there is no limit on the number of commercial, industrial, civic and/or accessory structures built or placed on a lot, either separately or along with one or two residences.
- 3) Waivers for Special Application: Lots that provide no other purpose than to house a substation or other such specialized utility-related purpose may be granted a waiver from the minimum lot size and width requirements by the Planning Board. Only the installation applied for in the waiver may be built on the lot, as long as it remains non-conforming.

4. Procedure for New Lot Creation

- A. Lot registration: Prior to creating a new lot by deed, transfer or other means, a landowner must register the new lot with the Town Office. The new lot shall be sketched in on a copy of the Town Tax Map (available at the Town Office), with the total area and lot width of both the new lot and remaining portion of the original lot delineated. The maintenance status of the road servicing the lot will be clearly marked on the map and pointed out by the Town Official taking the registration. The registrant will be provided with a copy of this Ordinance section and notified if any of the property falls within the shoreland zone. The registrant will sign a statement that : (a) the information provided is correct to the best of his/her knowledge; (b) that he/she understands the maintenance status of the access road; and (c) that he/she has been provided with a copy of this Ordinance section and understands the requirements for the building on the lot.
- B. Town Certification:
 - 1) Conforming Lots: If the lot being registered is of at least 2 acres in area and 200 feet in width, the Town Official taking the registration will provide the registrant with a certification that the lot meets the minimum building lot requirements of the Town of Jackson and advise the registrant that a copy of the certification (which may be made at the Town Office) should be attached to any deed recorded at the Waldo County Registry of Deeds. A copy of the certification shall be kept at the Town Office.
 - 2) Non-conforming Lots: If the lot being registered does not meet either the minimum area or width requirements for a building lot, the registrant will be asked to sign a statement acknowledging that as of that date, no principal structure could be built or placed on that lot. The signature will be witnessed by the Town Official issuing the certification, who will make sure the registrant understands the limitations on allowed uses of the parcel. The Town Official will copy the certification and advise the registrant regarding the attachment of the certification to any deed recorded at the Registry.

5. Procedure for Address Registration

- A. Registrant Information for Town: A person wishing to build or place a principal structure shall register with the Addressing Officer prior to beginning construction. To register, the person shall make out a sketch of the lot and the approximate location of the proposed structure(s) and driveway, including distances from the road centerline and side/rear property boundaries. The registrant shall also present a copy of a subsurface wastewater disposal system for the structure that has been approved by the local plumbing inspector.

- B. Town Information for Registrant: Upon receipt of registration information, the Addressing Officer will:
- 1) assign the most appropriate address for the new structure;
 - 2) explain the building lot and setback requirements of this ordinance, and provide a copy of this section to the registrant;
 - 3) interpret the maintenance status of the access road to the lot and explain it to the applicant;
 - 4) determine whether any of the proposed construction falls within the shoreland zone, and inform the applicant of any resulting restrictions; and
 - 5) if on a Town road, inform the registrant of the need to contact the road commissioner prior to driveway construction.
- C. Certification of Understanding: The Addressing Officer will prepare a statement with all relevant information from the registration. The registrant will sign a statement that: (1) the information provided is correct to the best of his/her knowledge; (2) he/she has been assigned with an official address; (3) that he/she understands the maintenance status of the access road; (4) that he/she has been provided with a copy of this ordinance section, understands the requirements for building on the lot and intends to comply with these requirements; (5) that he/she understands that a copy of the registration will need to be provided to telephone and electric utilities prior to hook-up; and (6) that he/she understands the need to contact the road commissioner prior to constructing a driveway accessing a Town road. The signature will be witnessed by the town official issuing the certification, who will provide the registrant with 3 copies of the registration.

6. Utility Service

No new electric or telephone service shall be installed at a building site unless an Address Registration has been filed at the town office. The Board of Selectmen shall notify area utilities to inform them of this policy.

ACCESS MANAGEMENT STANDARDS

SECTION V

Section V. Access Management Standards

1. Purpose

The purpose of these access management standards is to:

- A. Protect the public safety;
- B. Protect the public road network;
- C. Maintain the arterial function of Moosehead Trail by creating a Managed Access Area; and
- D. Preserve Jackson's rural character, especially the wooded appearance of the Moosehead Trail.

2. Applicability

The access management standards within Section V. apply to the following activities, for which a permit must be obtained prior to beginning construction:

- A. Installing a driveway or road that will access the Town road network;
- B. Installing a driveway or road that will access the State road network (Moosehead Trail). *Note: The Town's Managed Access Permit will be required in addition to the MDOT Entrance Permit.*

3. Administration

The Road Commissioner or authorized designee is responsible for administering driveway and road permits. The Planning Board will review driveways and roads associated with projects undergoing Subdivision or Development Review, as well as Managed Access permits, in cooperation with the Road Commissioner. The Planning Board shall maintain records on file with the town clerk if at any time the position of Road Commissioner is vacant, the Board of Selectmen will be responsible for covering those duties assigned to the Road Commissioner.

4. Permanent Access ways to Town Roads

- A. Procedure: The Road Commissioner shall approve the access location for a new driveway on a Town road prior to Address Registration. The Road Commissioner will take a tax map out when meeting with the landowner at the site and will discuss the best practical site for the driveway. When the landowner and the Road Commissioner have agreed on a site, the location will be marked on the map and initialed by both parties. The landowner will bring the initialed map to the addressing officer, who will assign the physical address. The road commissioner will also determine whether a culvert will need to be purchased and installed by the applicant, and if so, its size, type and depth of installation.
- B. Standards for approval: The Road Commissioner shall approve a driveway or road permit for Town road access if the following standards are met to his or her satisfaction:
 - 1) the proposed access has adequate visibility (sight distance) such that the road commissioner finds that the driveway will not create a hazard to the traveling public: (Note: The Road Commissioner may, as a condition of approval, require the applicant to remove trees, brush, rocks or other physical obstacles in order to achieve safe visibility and/or require that the applicant reimburse the Town for installation of a "blind drive" warning sign if warranted.)
 - 2) the applicant agrees to design the driveway so that it will not drain onto the public road; and
 - 3) the applicant agrees to purchase and install an adequate culvert if and as so directed by the road commissioner as well as maintain the integrity of the road shoulder and drainage system.

5. Temporary Access Ways (7 months or less) to Town Roads

- A. Procedure: Prior to installing wood haul roads and other temporary access ways to the Towns road system, including roads that are abandoned or closed to winter maintenance, the Road Commissioner must issue a Temporary Access Permit. Upon being contacted by the applicant the Road Commissioner will meet the applicant at the site to discuss how the access should be constructed.

- B. Standards for Approval: The Road Commissioner shall issue a Temporary Access Permit, good for 7 months, if the following conditions are met:
 - 1) Use of access way will not create a hazard to the traveling public.
 - 2) The applicant agrees to maintain the integrity of road shoulder and drainage system.
 - 3) If necessary, a culvert will be installed in the ditch to insure that the flow of drainage water will not be interrupted and to protect the shoulder of the public road to the satisfaction of the Road Commissioner.
 - 4) If after completion of the operation, the culvert is removed, the ground will be restored to its original state.
 - 5) The applicant agrees not to conduct yarding and loading operations within the public right-of-way.
 - 6) The applicant agrees that yarding operations are conducted within eyesight of a public road, all slash and debris remaining after such operations shall be removed from public view and ground stabilized

- C. Extensions: Temporary Access Permits may be extended for an additional 7 months upon request. To continue use after that period, the access must meet the requirements of a permanent Access Permit. The Road Commissioner shall keep dated permits on file with the Town Clerk.

6. Manage Access Permits to Moosehead Trail (Route 7)

A. Procedure:

Applicants for the new access ways onto Route 7 must obtain a Managed Access Permit from the Town as well as an Entrance Permit from Maine Department of Transportation. Managed Access Permits shall be issued jointly by the road commissioner and the Planning Board. Upon receipt of a request for Managed Access permit, the Road Commissioner shall schedule a site visit with the applicant. The Road Commissioner shall notify the Planning Board chair of the application and of the date and time of the site visit. The Chair shall notify the members of the planning Board and hold a meeting to consider the applicant within 30 days; Planning Board members are encouraged to attend the site visit if possible. The Road Commissioner and applicant shall attend the meeting of the Planning board. The Road Commissioner shall make a recommendation as to whether the permit should be granted. The Road Commissioner and Planning Board shall jointly approve a Managed Access Permit if the following standards will be met.

- B. Standards: The following standards shall guide issuance of Management Access Permits:
- 1) Each lot of record as of the effective date of the Ordinance shall be allowed one access to Route 7, except that properties with more than 1000 feet of road frontage on the same side of Route 7 as of the effective date of this Ordinance may have one access point per 1000 feet. Access rights shall be specified with any future lot divisions.
 - 2) A wooded buffer is required that will effectively shield at least 75% of structures or other land use activities from public roadsides view when leaves are in full bloom. Single family development areas cleared as of the effective date of this Ordinance are except from this requirement. Newly planted buffers around commercial developments shall be designed to achieve the desired 75% effective screening standard within 5 years.
 - 3) Subdivisions shall be designed with only one common access to Route 7.
 - 4) Access widths will be limited to the minimum necessary to provide safe travel into and out of the property for all anticipated traffic. No wide aprons lacking clear paths will be allowed.
 - 5) Adequate area will be provided onto the property beyond the buffer area to allow for all anticipated vehicles to turn around so that they are not backing out onto Route 7.
 - 6) Commercial driveway standards with adequate parking, to be located behind the buffer, shall be required of Developed Permit applications.
- C. Transfer of Access Rights Permits:
- 1) Procedure: An applicant may apply for a Transfer of Access Rights Permits from the Planning Board. Such applications shall include a written petition signed by all involved land owners making the request to transfer access rights within (shifting among 1000') or between parcels. Resulting lot dimensions and access points shall be graphically represented and drafted as a deed restriction on the donating property. Once approved by the Planning Board, the permit and deed restriction must be recorded at the Waldo County Registry of Deeds within 30 days or the permit will become void.
 - 2) Standard for Approval: The Planning Board shall approve a Transfer of Access Rights Permit application if:
 - a) the resulting number of potential access ways is no greater than what would otherwise be possible;
 - b) the planned location of access ways is no less safe than would otherwise occur;
 - c) no lot becomes landlocked without access as a result of the transfer (access may be provided by easement rights across another lot);
 - d) sufficient documentation is presented to ensure that the transfer has been legitimately secured from a willing donor; and
 - e) the applicant provides satisfactory deed restrictions that will alert a future buyer of the limits on access and agrees to record them at the Registry of Deeds within 30 days of permit approval.

**GENERAL AND SPECIFIC USER
PERFORMANCE STANDARDS**

SECTION VI

Section VI. General and Specific Use Performance Standards

1. Purpose

The purpose of this section is to establish reasonable performance standards for all land use activities in Jackson to prevent environmental degradation, preserve both natural and designed surface water drainage systems, maintain Jackson's rural character and protect neighboring properties.

2. Applicability

The general performance standards in Subsection VI.4 apply to all land use activities in Jackson. The specific use performance standards in Subsection VI.5 apply to roadside timber harvesting and borrow pit operations of an acre or greater in extent.

3. Procedure

With the exception of borrow pit registration; there is no procedure or permit required for undertaking the land use activities governed in this section. Prior to opening or reopening a borrow pit, the operator must register at the town office and sign that he or she has received a copy of the regulations in Subsection VI.5.B below. For other activities listed below, everyone is on the honor system. Anyone concerned about a violation may contact the Board of Selectmen, who will refer valid complaints to the code enforcement officer for resolution.

4. General Use Performance Standards

- A. Erosion Control and Storm Water Management: Any use of land shall be done in such a manner as to responsibly divert storm water runoff and minimize soil erosion. Runoff should be designed to be filtered and absorbed on-site. Natural systems may not be disrupted so as to cause damage to others' property.
- B. Parking: Any activity other than a temporary event must provide adequate off-road parking for all anticipated residents, employees, customers and guests. Parking must be designed so that vehicles may turn around and not back out into the road to exit.
- C. Noise, Odor, Glare, Dust, Electrical Disturbance or Other Nuisance: Impacts of any ongoing activity must be contained within the property boundary unless a Development Permit it has been obtained from the Planning Board (see Section IX). Excluded from these regulations are noises related to livestock, emergency equipment, construction, agricultural production, yard care, non-commercial recreation, religious celebrations, timber harvesting and wood processing, as well as any noise of a temporary nature. Also excluded from these regulations are odors and other nuisances generated by agricultural operations if they are in compliance with Best Management Practices and the Nutrient Management Rules of the Maine Department of Agriculture, Food and Rural Resources.
- D. Groundwater Protection: No one may endanger the groundwater supply by disposing of or leaving a pollutant in such a manner that it might be washed into the ground or surface water.

D. Signs: The following guidelines shall govern signs other than those within the Shoreline Zone or associated with the medium or high impact developments. (See sign definition for exclusions.)

- 1) Up to two commercial signs relating to goods and other services sold on the premises may be displayed. Commercial signs advertising goods or services procured elsewhere are prohibited.
- 2) No freestanding sign shall extend higher than twenty (20) feet above the ground.
- 3) No sign may be placed so as to block visibility of traffic or other sign from view.
- 4) Sign lighting must be designed to avoid glare and/or lighting the night sky.
- 5) Portable signs may be displayed for up to 90 days in each calendar year.
- 6) Lighted commercial signs must be turned off at the close of business.
- 7) Signs associated with developments qualifying for a Development Permit have additional lighting and design requirements (see Development Review Standards).
- 8) Signs located within the Shore Line Overlay District have additional size and lighting limitations (see Shore Line Zone Standards).

E. Junk:

- 1) Storage: Discarded or unused appliances and materials may not be stored for longer than six months other than as provided below. Both landowners and tenants shall be held liable for violations.
 - a) Junk must be stored at least 15 feet from any property boundary;
 - b) Junk stored within 50 feet of any property boundary must be covered; and
 - c) Junk must be stored so as that it is not visible from any public way.
- 2) The discharge of any motor vehicle fluid or other permeable pollutant into or onto the ground is prohibited.
- 3) Title 30-A, Section 3751 et seq., the State Law related to junkyards and Automobile Grave Yards, is hereby incorporated by reference as an ordinance of the Town of Jackson. Any fines imposed for non-compliance shall be payable to the Town of Jackson. *Note: This Law is reprinted in the appendix of this Ordinance. It requires that an annual permit be obtained from the Selectmen by anyone operating a junkyard or automobile graveyard (defined as 3 or more unserviceable vehicles on the property)*

5. Specific Use Performance Standards

- A. Roadside Timber Harvesting: Unless clearing for a change of use, timber harvesting within 75' of the centerline of any public road shall be accomplished utilizing selective cutting.
- B. Borrowed Pits (gravel, clay, etc.): Prior to opening or reopening a borrowed pit of an acre or greater in extent, the operator must register at the Town Office and sign that he/she has received a copy of the following regulations:
 - 1) 75' setback of excavation from the road centerline (same as structures) with existing vegetation left between pit and road (except on access roads) to provide natural screening to extent available.
 - 2) 25' setback of excavation from side and rear property boundaries OR 15' setback (same as structures) with evergreen screening achieving effective 75% screening on a year round basis.
 - 3) There shall be no net change in the surface water drainage to or from the property.
 - 4) The State standards for stabilization and control within borrowed pits of under five acres outlined in Title 38 MRSA 490-M

ROAD STANDARDS

SECTION VII

Section VII. Road Standards

1. Purpose

The purposes of this section are to protect the public safety, ensure that public and private road investments are prudent and efficient, protect future subdivision lot owners from poor road construction techniques and protect Jackson's taxpayers by ensuring that any new road accepted by the Town meets minimum construction standards.

2. Applicability

The standards within this section apply to new subdivision roads and roads that might be dedicated for Town acceptance.

3. Driveway and Road Classifications

JACKSON DRIVEWAY AND ROAD CLASSIFICATIONS

Driveway/Road Classification	Use Standard	Minimum Right-of-Way Width	Minimum Travel Surface Width	Minimum Shoulders Required	Minimum Base and Surface Requirements
Driveway	1-2 structures	none	none	none	none
Private Road not part of subdivision	3+ structures	none	none	none	none
Minor Private Subdivision Road	3-4 structures	50 feet	14 feet	none	12" base gravel, 4" surface gravel
Major Private Subdivision Road	5 or more structures	66 feet*	20 feet	3 feet	18" base gravel, 4" surface gravel
Private	one way	18 feet	14 feet	none	12" base gravel, 2" paving
Mobile Home Park Road	Two way	23 feet	20 feet	none	18" base gravel, 2" paving
Minor Public Road	3-4 structures	50 feet	18 feet	2 feet	18 feet 2 feet 18" base gravel, 6" surface gravel, 2" paving
Major Public Road	5 or more structures	66 feet	20 feet	4 feet	18" base gravel, 6" surface gravel, 2 1/2" paving

*May be reduced to 50 feet if recorded on subdivision plan that road will remain privately owned.

4. Subdivision Road Standards

A. Private Road:

- 1) Private roads in Minor Subdivisions: Private roads in minor subdivisions need not be designed by a Professional Engineer, but shall meet the construction and design standards of this Ordinance.
- 2) All major private subdivision roads shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to accepted engineering standards.

B. Public Roads: All roads which are to be offered for acceptance to the Town shall meet the minimum standards outlined in Subsection VII.6 below.

C. Traffic Impact analysis: A traffic impact analysis, completed by a Registered Engineer registered by the State of Maine, shall be required if a development will generate more than 400 vehicular trips per day.

D. Access and Circulation:

- 1) Overall Plan: The layout and general development plan for roads within developments, together with the location and dimensions of access junctions with existing public roads and right of ways shall be approved by the Board.
- 2) Through traffic: Minor roads shall be designed to discourage through traffic.
- 3) Intersection Safety Standards: New roads and access streets that intersect with public roads shall meet the following standards:
 - a) The desired angle of intersection be 90 degrees. The minimum angle of intersection shall be 75 degrees.
 - b) The maximum permissible grade within 75 feet of the intersection 2%.
 - c) The minimum sight distance (in feet) shall be 10 times the posted speed limit (in MPH) on the existing public road. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or the edge of the shoulder line with the height of the eye 3.5 feet above the pavement and height of the object 4.25 feet. Where necessary, the land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.
 - d) The centerline of any road intersecting an existing road shall be at least 1000 feet from the centerline of the closest intersection.
- 4) Access to Lots within Subdivisions:
 - a) Town Wide:

Where a subdivision abuts or contains an existing public road, no residential lot may have vehicular access directly onto that road. This requirement shall be noted on the Plan and deed of any lot with frontage on existing public road.
 - b) Managed Access Area:

Within the management Access Area (along Route 7), subdivision shall be designed to minimize the number of access points to the arterial road.

5. Maintenance of Subdivision Roads

- A. Private Roads: Where the proposed roads are to be privately-owned, the following words shall appear on the recorded plan and in the deed of every lot within the subdivision: "All roads shall remain private roads to be maintained by the road association which shall be funded by an equal annual assessment to each lot owner."
- B. Public Road: When the proposed roads are to be offered to the Town for acceptance, the subdivision approval by the Planning Board shall not be deemed to constitute or be evidence of any acceptance of the municipality of the road. Final acceptance of the proposed public road shall be by an affirmative vote of a Town Meeting following the procedures outlines in Section IV. In such cases, the following words shall appear on the recorded plan and in the deed of every lot within the subdivision: "Until such time as the Town of Jackson votes at a legally called Town meeting to accept the subdivision road(s) in accordance with the provisions of this ordinance, all roads shall remain private roads to be maintained by a road association which shall be funded by an equal annual assessment to each lot owner."

6. Town Acceptance Procedure

A. Petition Procedure:

- 1) Petition Procedure Outline: The procedure for reviewing a petition for Town acceptance of a road is as follows:

Submittal of Town Road Acceptance Petition to the Road Commissioner and Planning board

Site visited by road commissioner

Planning Board review of application

Provisional Town Road Construction Permit granted

Road constructed, Inspected (2-year waiting period for existing roads)

Engineering Certification (if applicable)

Certificate of Compliance by Road Commissioner & Planning Board

Town Road Acceptance Petition to Board of Selectmen

Town Meeting vote on Petition

- 2) Review by Road Commissioner and Planning Board: The petitioner begins by submitting a Town Road Acceptance Petition to the Road Commissioner and Planning Board. The Town Road Acceptance Petition must describe, in a form acceptable to the Town Attorney, the property that the owner intends to dedicate to the town for highway purposes, and state that the owner waives any claimed damages. If within a subdivision, the dedication must be recorded on the filed plan with the Registry of Deeds. The letter must indicate whether the dedication is for a full title or a public easement.

In order to be considered at the next meeting of the Planning Board, the Town Road Acceptance Petition must be filed at least 15 days prior to the meeting, or in accordance with Planning Board bylaws, whichever is stricter. The Road Commissioner will conduct a site visit and shall make a recommendation as to whether the proposed road plans appear to satisfy the requirements of this Ordinance for a road to be accepted by the Town. The Planning Board shall review the application for completeness. When the application is considered complete, the Road Commissioner and Planning Board shall jointly issue a Road Permit for construction of a new road or alternation of an existing way to meet the designated standards. If either party refuses to sign the Provisional Town Road Construction Permit, the permit shall be considered denied; the applicant may appeal the decision to the Jackson Board of Appeals.

- 3) Town Road Acceptance Petition Delivered to Board of Selectmen: After obtaining the Certificate of Compliance (see below), the petitioner shall file a Town Road Acceptance Petition with the Board of Selectmen. The procedure is otherwise as directed in Title 23 MSRA 3025. The requirements for the Petition, which must originally be filed with the Road Commissioner and Planning Board, are outlined in Subsection VII.6.B below.

After receiving a public dedication for a road that has been issued a Certificate of Compliance, the Selectmen shall prepare an appropriate warrant article for a town meeting asking whether the Town wishes to accept the dedication. The article will specify whether the dedication is for a public easement or for a town way.

The Selectmen may also initiate purchase and acceptance of a road they wish to lay out as a town way, requiring the authorization of funds in addition to acceptance at a Town Meeting.

- B. Town Road Acceptance Petition Application Requirements: The following information shall be submitted to the Road Commissioner and Planning Board as part of the Town Road Acceptance Petition:
 - 1) Name of applicant(s)
 - 2) Names of the owner of the record of the land.
 - 3) Any legal encumbrances on the land upon which the proposed road is located.
 - 4) Statement of who will own the road following construction, by what legal instrument, and who will be responsible for road maintenance.
 - 5) The estimated volume and type of traffic to use the road.
 - 6) The anticipated starting and completion dates of each phase of the road construction.
 - 7) A description of erosion and sedimentation control measures to be employed during and following construction.
 - 8) A description of storm water management and drainage way provisions, together with supporting assumptions and calculations.
 - 9) An illustrated plan showing: the scale; direction of magnetic North; the starting and ending point of the proposed road with relation to the established roads and any planned or anticipated future extensions; the boundary lines of all properties abutting the proposed road, including any new lots to be created; all natural waterways; the location and profile of all existing and proposed drainage structures; the design and profile of the 20 feet of the proposed road closest to any Town road intersections; if proposed to be over 300 feet in length, the design of the emergency vehicle turnaround; and the location of all existing and proposed overhead and underground utilities.
 - 10) Description of proposed road base and surface material.
 - 11) Description and location of all road safety and identification signs to be provided; and
 - 12) Description of how road will be maintained until the Town acceptance and following if the Town does not accept the dedication.

All road plans, profiles and cross-sections shall be prepared by a Professional Engineer, registered in the State of Maine.

C. Conditions for Certificate of Compliance:

- 1) All Private Subdivision Road Requirements plus the following:
- 2) Construction Standards (minimum requirements):

The following standards are minimum requirements. The applicant may request that the amount of road base gravel be reduced if the land under the road is stable. The Road Commissioner may authorize a reduction in gravel depth standard if he/she feels that it is unnecessary to adequately support the proposed road.

	Minor Roads	Major Roads
a) Width Right of Way	50'	66'
b) Width of Traveled Way	18'	20'
c) Width of Each Shoulder	2'	3'
d) Sub-base Gravel (unscreened bank run)	12"	12"
e) Road base gravel (maximum 6" stones)	18"	18"
f) Surface Gravel (maximum 2" stones)	6"	6"
g) Bituminous Paving (or equivalent)	2"	2 1/2"
h) Road Crown	1/4" - 1/2" / foot	1/4" - 1/2" / foot

i) Cuts: Eighteen inches of gravel plus a six inch surface shall be used in all cut sections of earth and ledge except that where existing material is a clean, well-draining sand or gravel, the base may be lessened to twelve inches. The bottom of ditch s shall be a minimum of 38" below the center line grade of the road.

j) Drainage

- i) Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrain and/or storm water drainage systems. Complete underground storm sewer systems shall be installed when required by the Planning Board and Road Commissioner. Culverts shall be no less than 15" in diameter. Catch basins shall be no less than 30" in diameter. All culverts shall be galvanized corrugated metal pipe or made of materials approved by the inspector. All culverts shall be designed to accommodate, at a minimum, the anticipated 25 year flood level.
- ii) Where bridge structures or reinforced concrete box culverts are required to cross major streams, detailed design plans provided by a certified Professional Engineer, registered in the State of Maine, shall be submitted with the application. All bridges and reinforced concrete box culverts shall be designed to accommodate, at a minimum, the anticipated 50 year flood level.
- iii) A corrugated metal perforated underdrain pipe, or one made of other materials approved by the inspector, of at least 6" inches diameter, shall be installed to properly drain all springs or areas where the ground water level is too high and could constitute a hazard to the stability of the road way base.

k) Signage: All safety and identification signs shall be supplied by the petitioner. Standards for signs shall be approved by the Road Commissioner and Planning Board.

- 1) Inspection During Construction: It is the responsibility of the petitioner to provide the Road Commissioner and Planning Board with a construction schedule. The Road Commissioner shall serve as the inspector and may call upon one or more members of the Board of Selectmen, Planning Board or other knowledgeable persons to serve on an inspection team. Each layer of road base, including the sub-base, base and surface gravel, as well as the surface pavement, must be inspected before the road can be considered acceptable according to the terms in this ordinance. There will be a fee assessed per inspection to cover costs incurred by the Town.
- 2) Engineer Certification: Once a road to be offered to the Town is completed, the petitioner shall submit a written certification signed by a Professional Engineer registered in the State of Maine stating that the road as built meets or exceeds the design and construction requirements of this ordinance.
- 3) Waiting Period for Roads Already Constructed: There will be a two year waiting period following a request to designate a road that was not inspected at the time of construction as a Town road. If the road appears to meet all criteria of this Ordinance following an inspection, the waiting will then begin. The road will be inspected at various intervals during and at the conclusion of the waiting period by the Road Commissioner and engineer of the Towns choosing, with costs borne by the applicant.
- 4) Two Year Guarantee Following Acceptance: The petitioner agrees to guarantee for two years following acceptance that the road was built in accordance with the construction standards of this Ordinance, and after receiving written notice from the Planning Board, agrees to reimburse the Town for repairs resulting from any designs or construction defects beyond the normal wear and tear from ordinary use. If any legal action is brought against the petitioner in the name of the Town in order to collect the costs for repairing the road, and the Town prevails, then the applicant shall be liable and responsible for the Towns legal fees and court costs and any other costs involved in bringing such suit or action.
- 5) Issuance of Certification of Compliance: The Road Commissioner and Planning Board must rule within 60 days of either (a) the receipt of an engineer's certification for a new road, or (b) the end of the two-year waiting period for an existing road, on whether or not the road meets the physical requirements of this Ordinance, The Road Commissioner shall make his/her determination of compliance and sign the Certificate of Compliance if the requirements of this Ordinance have been met. The Planning Board shall also vote on whether the road appears to meet the requirements of this Ordinance. If the majority votes in favor, the Chairman or Secretary shall also sign the Certificate of Compliance on behalf of the Board. If either party rejects the petition, the road may not be presented for acceptance at the Town Meeting. The petitioner may appeal the decision to the Board of Appeals.
- 6) Eligibility for the Town Road Acceptance Petition: Once the Certificate of Compliance is issued for the road, the petitioner may file a Town Road Acceptance Petition with the Board of Selectmen (as provided in Subsection VII.6.A.3).

SUBDIVISION REVIEW

SECTION VIII

Section VIII. Subdivision Review

1. Purpose

The purpose of this section is to provide a framework and set of standards for reviewing subdivisions which will fulfill the following objectives of the State statute and the *Jackson Comprehensive Plan*:

- A. To comply with and provide standards for the municipal review and approval of subdivisions required by Title 30-A MRSA Section 4401 et seq.
- B. To provide an additional level of municipal review for major subdivisions;
- C. To promote and protect the health, welfare and safety of residence of Jackson;
- D. To protect the taxpayers from unreasonable impacts on the costs of municipal services;
- E. To allow for relatively compact subdivision designs with protections from ground water quality, privacy, equitable financing shared services and community compatibility;
- F. To assure that subdivisions are designed and developed in a manner which assures that adequate provisions are made for traffic safety and access, emergency access, water supply, sewage disposal, management of storm water, erosion and sedimentation, protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historical and archaeological resources, minimize adverse effects on neighborhood properties on neighboring properties, and fitting the project harmoniously into the fabric of the community and;
- G. To implement performance standards consistent with the objectives of *Jackson Comprehensive Plan*.

2. Applicability

Any land use activity that qualifies as a subdivision of land or structure must be approved by the Jackson Planning Board in conformance with the procedures and standards of this section. Lots of 40 acres or more are considered lots for the purpose of the definition of a subdivision in Jackson and must undergo municipal review under this section.

3. Administration

- A. Fees: shall be established by the Board of Selectmen. There shall be no fee for a pre-application meeting. Subdivision application fees shall be paid to the town office staff with the submittal of the preliminary plan. No additional fee is required for final plan review. The fee is anticipated to cover the Town's administrative costs in performing subdivision review, including notification of the public and abutters as required within this section. If no preliminary plan is filed, the applicant shall reimburse the Town for any notification expenses incurred in lieu of paying a fee.
- B. Classification of Projects: Projects subject to subdivision review shall be divided into three classes, minor subdivisions, major subdivisions and high-density subdivisions. The Planning Board shall classify each project as a minor, major or high-density subdivision. If the applicant is uncertain as to the classification of the project, he/she may request a determination.
 - 1.) Minor subdivisions shall be those which consist of 3 or 4 lots and/or units.
 - 2.) Major subdivisions shall be those which consist of 5 or more lots and/or units.
 - 3.) High-density subdivisions shall be those major subdivisions in which dwelling units are situated at a density greater than one unit per acre (regardless of overall development density including all land associated with the subdivision). They shall include apartment buildings, condominiums, mobile home parks with lots less than one acre, clustered single-family home subdivisions, and any other form of residential development of 5 or more lots and/or units.

C. Application Procedure:

Application Procedure Outline

1. Pre-application Meeting
2. Site Inspection (within 30 days of #1)
3. Public hearing (within 30 days of #2)
4. Determination Submission Requirements (within 30 days of #3)
5. Submittal of Preliminary Plan, Including Fee (within 6 months of #1)
6. Submittal of Final Plan (within 6 months of #3)
7. Review of Application for Completeness (within 30 days of #6)
8. Submittal of any Missing Information (within 3 months of #7)
9. Determination of Complete Application (within 30 days of #8)
10. Decision of Application (within 30 days of #9)

D. Rights Vested: Neither the pre-application meeting, the submittal or review of the sketch plan and/or site inventory and analysis, nor the on-site inspection shall be considered the initiation of the review process for purposes of bringing the application under the protection of Title I MRSA §J02. E. Establishment of File: Following the pre-application meeting, the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application meeting and any application subsequently filed shall be maintained in the file.

E. Establishment of File: Following the pre-application meeting, the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application meeting and any application filed shall be maintained in the file.

F. Public Hearing: The Planning Board shall schedule a public hearing on any subdivision application. The required hearing shall be scheduled early in the process, prior to determining Preliminary Application Submission Requirements, in order to ensure that public input is fully considered. If deemed necessary the Board may schedule additional public hearings on either the Preliminary or Final Plan Applications once all information has been received from the applicant.

4. **Pre-Application Meeting**

A. Meeting Required: Applicants must meet with the Planning Board, prior to a formal submission for review, so as to discuss their plans and gain an understanding of the review procedures, requirements and standards. If in doubt as to whether the project qualifies as a major or minor subdivision, the applicant may request a determination from the Board. The additional meeting time required for any determination requested constitutes a portion of the pre-application sketch plan stage of subdivision review as outlined in 30-A MRSA §4403.2.A.

B. Submission Requirements:

- 1) Minor Subdivisions: Ten copies of a hand drawn sketch plan of the site and proposed subdivision, drawn as close as possible to scale, shall be submitted by the deadline prior to the meeting at which it will be considered. Significant existing conditions (e.g. roads, wetlands, streams, buildings) should be represented in the sketch, as well as proposed lot lines, roads, structures and other prominent features of the desired subdivision. The applicant shall also provide one copy of the applicable tax/zoning map(s), USGS topographic map(s) and Waldo County USDA Soil Survey Map(s) of the property, with the location of the site clearly marked on each.
- 2) Major (including High-Density) Subdivisions: For major subdivisions, ten copies of a site inventory and analysis must be submitted along with the sketch plan and maps required of minor subdivisions. The site inventory and analysis for major subdivisions is intended to provide both the applicant and the Planning Board with an understanding of the site and the opportunities and constraints to its use created by both the natural environment and the built environment. Therefore, the submission requirements provide that both basic information about the site and an analysis of that information be submitted.

Site Inventory and Analysis Components:

- a) The names and addresses of the owner(s) of record as well as of the applicant, if different;
- b) The names and addresses of all consultants working on the project;
- c) Ten copies of an accurate inventory plan of the parcel at a scale of not more than 100 feet to the inch showing at a minimum
 - i) The name of the subdivision, north arrow, date and scale;
 - ii) The boundaries of the parcel;
 - iii) The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site;
 - iv) Major natural features of the site including wetlands, streams, ponds, flood plains, groundwater aquifers, significant wildlife or endangered species habitats, fisheries, or other important natural features;
 - v) Historic and/or archaeological resources on the site;
 - vi) Existing restrictions or easements on the site;
 - vii) The location and size of existing utilities or improvements servicing the site;
 - viii) Soils information of at least medium intensity (e.g. USDA County Soil Survey).
- d) Ten copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
- e) Ten copies of the site analysis plan at the same scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine which portions of the site are unsuitable for subdivision or use, which portions of the site are unsuitable for on-site sewage disposal, which areas of the site have subdivision limitations (steep slopes, poor soils, wetlands, aquifers, wildlife habitat, scenic areas, flood plains, drainage, etc.) that must be addressed in the subdivision plan, areas where there may be off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.) and areas well suited to the proposed use.
- f) A summary narrative of the key constraints and opportunities of the site.

C. Planning Board Action:

- 1) Review of Pre-Application Submissions: The review of the site inventory and analysis and/or sketch plan shall be informational and shall not result in any formal approval or disapproval of the project by the Board. The Board shall review the submission to determine if the information provides a clear understanding of the characteristics of the site and the opportunities and the constraints those created for the use and subdivision of the site. If additional information or analysis is required, the Board shall advise the applicant of this in writing. The outcome of the review process shall be a determination by the Board of the issue and constraints that must be addressed in the formal preliminary plan application.
- 2) Initial Review of Preliminary Application Submission Requirements: The Board and the applicant will discuss the proposed project and review the list of submission requirements for the preliminary application. To the extent possible, the Board shall determine which submission requirements are relevant to the proposed project at the pre-application meeting. The Board shall identify requirements that will be determined based upon the site inspection and notify the applicant of any preparation that should be made (e.g. flagging) to facilitate the inspection. Usually the determination will not be finalized until the next regular meeting following the site inspection.
- 3) Site Inspection Scheduled: Site Inspection Scheduled: The Board and applicant will set a mutually agreeable time for the Board to inspect the site. The inspection shall be scheduled to be held within 30 days of the pre-application meeting unless rendered impractical due to seasonal conditions, although a later date is permissible if agreeable to both parties.
- 4) Public Hearing Scheduled: At the pre-application meeting, the Planning Board will schedule both a site inspection and the date of its next meeting, which shall serve as a public hearing and at which application requirements will be discussed. The Board will see that notice of both the site inspection and public hearing are published in either the *Waldo Independent* or *Republican Journal* at least 7 days prior to the site inspection, which shall precede the public hearing. The hearing will be conducted in accordance with the Planning Board bylaws.
- 5) Notice to Abutters: The Planning Board shall prepare a notice to abutting property owners and property owners within 500 feet of the subdivision boundary line which will offer a brief description of the proposed subdivision and notify recipients of the date, time and place of both the site inspection and the public hearing. The notice will be mailed to neighboring property owners by the town clerk or designee.

5. Site Inspection

Within 30 days of the pre-application meeting (unless hindered by weather or ground conditions or mutually agree otherwise), the Board shall hold a site inspection of the property. While the Board may make additional requirements at the Pre-application Meeting, the applicant shall minimally place flagging at the centerline and lot corners, prior to the site inspection. The Board shall not conduct site inspections when there is more than one foot of snow on the ground. The applicant or a representative thereof will accompany the Board to describe the project on site and answer questions.

6. Preliminary Subdivision Plan Application

- A. Determination of Submittal Requirements: Within 30 days of the Public hearing, the Board shall inform the applicant in writing of the following submission requirements for the Preliminary Application:
- 1) Contour Interval(s): The contour interval(s) on the Preliminary Plan will be set so as to provide meaningful information and may vary over different portions of the site, depending upon natural topography and proposed subdivision activity.
 - 2) Waived requirements: The Planning Board may modify or waive any of the submission requirements on this Ordinance if it determines that because of the size of the project or circumstances of the site requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modifications or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the Town. The reasoning supporting the granting of any waiver shall be substantiated in Board minutes and filed with the application.

The applicant may request waivers any time after the site inspection and prior to the preliminary application by filing the request at the Town Office in time for being placed on the agenda of a regularly scheduled planning Board Meeting. The granting of a waiver of a submission requirement does not, however, prevent the Board from requesting the information at a later stage of subdivision review if the Board finds that the information is, in fact, relevant to the proposed project.

- B. Submission Timeline: Preliminary plans for subdivision review shall be submitted on a application form provided by the Town. The complete application form, fee and the required plans and related information shall be submitted to the Town Clerk or designee within 6 months of the Pre-application Meeting. An applicant may request an extension of the 6 month deadline without submitting another pre-application. The board may approve such an extension if it feels that nothing substantial has changed during that period to require another pre-application meeting or site inspection.

- C. Normal Submission Requirements for all Subdivisions: The submission shall contain an original and nine copies of at least the following exhibits and information, unless waived by the Board. Maps or drawings shall be at a scale sufficient to allow review of the items listed in the approval criteria, but in no case be more than 100 feet to the inch for that portion of the tract of land being proposed for subdivision. All maps shall have a North arrow, graphic scale, and a date of preparation and shall bare the name and seal of the Land Surveyor, architect, engineer and/or similar professional who prepared the plan.
- 1) Application Form: A fully executed and signed original plus nine copies of the application form for preliminary plan review. The basic application form shall provide for the following information:
- a. name of owner of record, and address and applicant's name and address if different;
 - b. if the applicant is not an owner of the property, written certification signed by the owner(s) that the applicant is their duly authorized agent;
 - c. the name and brief description of the proposed subdivision, including whether it is only a division of land or will include development activity prior to sale;
 - d. names and addresses of all property owners within 500' of the edge of the property line;
 - e. Sketched map showing the general location of the site within the Town
 - f. a copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the owner;
 - g. tax map and lot number(s) of and number of acres contained in the parcel(s) being subdivided or developed;
 - h. information on any prior subdivision activity involving the property;
 - i. copies of any existing covenants or deed restrictions on the parcel(s);
 - j. copies of applicable State approvals and permits, provided however, that the Board may approve subdivision plans subject to the issuance of specific State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of subdivision review and ;
 - k. a schedule of construction, including anticipated beginning and completion dates.

- 2) Existing Conditions: One set of maps shall be designated to demonstrate existing conditions and shall include the following:
- a) Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
 - b) The Tax map and lot number of the parcel(s);
 - c) District classification(s) of the property and the locations of the district boundaries if the property is located in 2 or more zoning districts or abuts a different district;
 - d) The bearing and distance of all property lines to be developed and the source of this information;
 - e) Location and size of any existing culverts and drainage systems on the property to be developed, and of any that will serve the subdivision from abutting roads or land; if any neighboring land currently relies on the property for drainage, this shall be clearly noted;
 - f) Location, names, and present widths of existing roads and right-of-ways within or adjacent to the proposed subdivision;
 - g) The location, dimensions and ground floor elevations of all existing buildings on the site;
 - h) The location and dimensions of existing driveways, roads, parking and loading areas and walkways on the site;
 - i) Location and intersecting roads or driveways within 1000' of this site;
 - j) The location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained;
 - k) The direction of existing surface water drainage across the site;
 - l) The location and approximate depth of any wells on the property and within 500' of each property line that may be used for domestic water supply;
 - m) The location, front view and dimensions of existing signs;
 - n) Location and dimensions of any existing easements and;
 - o) If the subdivision, or any part of it, is in an area known to be prone to flooding, the sub divider shall determine the 100-year flood hazard boundaries within the subdivision. *Note: The Town of Jackson has not been mapped for flood hazards by FEMA and has no Floodplain Management Ordinance.*
- 3) Proposed Subdivision Activity: A second set of maps and drawings will be designed to show the proposed subdivision plan and shall include:
- a. The location of all building setbacks and buffers required by this Ordinance;
 - b. Addressing requirements outlined in Subsection III.5.B;
 - c. The location, dimensions, and ground floor elevations of all proposed buildings on the site;
 - d. The location and dimensions of proposed driveways. Parking and loading areas, and walkways;
 - e. The location and dimensions of all provisions for water supply and wastewater disposal, including location of proposed wells and dry hydrants
 - f. Location of test pits for subsurface wastewater disposal systems to coincide with Form HHE-200;
 - g. The direction of proposed surface water drainage across the site;
 - h. Location and dimensions of snow storage areas;
 - i. Location, front view, lighting and dimensions of proposed signs;
 - j. Location and type of exterior lighting;
 - k. Proposed landscaping and buffering, and indication of where clearing of existing vegetation will take place and;
 - l. Location and description of any open space and/or public dedication to be made

D. Additional Submission Requirements for Major Subdivisions:

- 1) Existing and proposed topography of the site at 2 foot contour intervals, or such other interval as the Planning Board may determine.
- 2) A storm water drainage and erosion control program showing, in addition to direction of flow:
 - a) The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
 - b) Engineering calculations used to determine drainage requirements based upon the 25-year 24 hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed and ;
 - c) Methods of controlling erosion and sedimentation during and after construction.
- 3) If the subdivision is a higher use of water, is located on a sensitive site, or is otherwise felt to pose a potential source of disruption to existing water supply and/or flowage, a groundwater impact analysis prepared by a Groundwater Hydrologist.
- 4) A utility plan showing,, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.
- 5) A planting schedule keyed to the site plan and indicating the general varieties and size of trees, shrubs, and other plants to be planted on the site.
- 6) An estimate of the amount and type of vehicle traffic, at peak hours and average daily levels.
- 7) If involving over 40 parking spaces or estimating over 400 vehicle trips per day, a traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent roads, together with any recommended road improvements.
- 8) The location, width, typical cross-section, grades and profiles of all proposed roads.
- 9) Construction drawings for roads and storm drainage systems designed and prepared by a professional engineer registered in the State of Maine.
- 10) The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the subdivision. In the case of any streets or other ways dedicated to public ownership, the developer shall submit in a signed statement that he/she will maintain such streets or ways year round until such a time as the Town may accept them as public ways.
- 11) A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restriction shall be referenced on the plan.
- 12) Written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in roads, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which open spaces, title to which open spaces, title to which is reserved by developer, are to be maintained.
- 13) Cost of the proposed subdivision and evidence of financially capacity to complete it.
- 14) A narrative and/or plan describing how the proposed subdivision scheme relates to the site inventory and analysis.

- E. Additional Submission Requirements of High-Density Subdivision:
- 1) If the subdivision is a condominium, cluster subdivision or any other design with any commonality held property, including land and/or facilities, evidence that all requirements relative to establishing of a home owners' association or condominium owners' association have been met. The submission shall include copies of the by-laws of any homeowners' or condominium association charged with maintain common spaces, lands, walkways, recreation areas, water supplies, wastewater disposal system, etc. Homeowners' association or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the subdivision after the developer has legally relinquished that responsibility and until such a time as the Town may accept them public ways. Maintenance agreements shall be enforceable by private action.
 - 2) A back-up approval subsurface wastewater disposal system design sufficient to serve the needs of the subdivision if the primary system should fail.
 - 3) A detailed landscaping plan demonstrating how the 75% year round screening standards shall be met between the area to be developed and the public view. If the proposed development will occur within 300 feet of existing residential uses, evidence of how the 75% year-round screening standard will be employed as a buffer towards those properties.
- F. Receipt and Notice: Upon receipt of an applicant for preliminary plan approval, the Town Clerk or designee shall:
- 1) Issued a dated receipt to the applicant and notify him/her of the date and time of the Planning Board meeting at which it will be considered.
 - 2) Notify the Clerk and Planning Board of any neighboring municipality whose area abuts or is including in any portion of the property of the proposed subdivision.
- G. Attendance Required: The applicant, or applicant, or a duly authorized representative, shall attend the meeting of the Board to present the preliminary plan application.
- H. Determination of Complete Application: Within 30 days of receipt of the preliminary plan application, the board shall determine whether the application is complete and notify the applicant in writing of its determination. If the applicant is not complete, the board shall notify the applicant of the specific additional information needed to complete the application.
- I. Dated Receipt: Upon determine that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant and shall schedule a public hearing on the preliminary plan application to be held within 30 days. The Board shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least 2 times, the date of the first publication to be at least 7 days prior to the hearing. A copy of the notice shall be mailed to the applicant.
- J. Timely Review: Within 30 days of the public hearing, or within another time limit as may be otherwise other-wise mutually agreed to by the Board and the applicant, the Board shall evaluate the application's compliance with the criteria outlined below, make findings of the fact on the application, and approve the conditions, or deny the preliminary plan application. The Board shall specify, in writing, its findings of fact and reasons for any conditions or denial.
- K. Conditions: When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
- 1) The specific changes which it will require in the final plan;
 - 2) The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety and general welfare and;

- 3) The construction items for which costs estimates and performance guarantees will be requested as required to approve of the final plan.

L. Preliminary Plan Approval: Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for the approval by the Board upon fulfillment of the requirements of these regulations and the conditions of the preliminary approval, if any. Prior to the approval of the final plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7. Statutory Requirements for Approval of Subdivisions

Before granting approval for any subdivisions, the Board must specifically find that both statutory requirements of Title 30-A MRSA 4404, as well as the Towns' standards as established in this Ordinance, are met. The statutory standards are listed below. *(Note: Lots of 40 acres or more are considered lots for the purpose of the definition of a subdivision and must undergo municipal review under this subsection.)*

- A. Pollution: The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall consider:
 - 1) The elevation of the land above sea level and its relation to the flood plans;
 - 2) The nature of soils and sub-soils and their ability to adequately support waste disposal;
 - 3) The slope of the land and its effect on effluents;
 - 4) The availability of streams for disposal of effluences and;
 - 5) The applicable State and local health and water resources rules and regulations.
- B. Sufficient water: The proposed subdivision has sufficient water for the reasonably foreseeable needs of the subdivision;
- C. Municipal water supply: The proposed subdivision will not cause an unreasonable burden on an existing water supply. If one is to be used;
- D. Erosion: The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- E. Traffic: The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;
- F. Sewage Disposal: The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- G. Municipal Solid Waste Disposal: The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste. if municipal services are to be utilized;
- H. Aesthetic Cultural and Natural Values: The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. Conformity with Local Ordinance and Comprehensive Plan: The proposed subdivision conforms with this Ordinance and with the Jackson Comprehensive Plan.
- J. Financial and Technical Capacity: The sub divider has adequate financial and technical capacity to meet these standards;
- K. Surface Waters: If located in the Drake or Hadley Pond watersheds, or within the shore land zone, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water. To avoid circumventing the intent of this provision. Whenever a proposed subdivision adjoins a shore land strip narrower than 250 feet which is not allotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore;

- L. Ground Water: the proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- M. Flood Areas: If the flood prone area, the proposed subdivision plan must include a deed restriction on a applicable properties requiring that principal structures in the subdivision will be constructed with their lowest floor, including basement, at least one foot above the 100-year flood elevation;
- N. Freshwater Wetlands: All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of the wetlands.
- O. River, Stream or Brook: Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application;
- P. Storm Water: The proposed subdivision will provide for adequate storm water management; and
- Q. Lake Phosphorus Concentration: The long-term cumulative impacts of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

8. Criteria and Standards for Subdivision Approval

The following criteria and standards shall be utilized by the Board in reviewing applications for subdivision approval. The standards are not intended to discourage creativity, invention or innovation. The Planning board may waive the criteria presented in this section upon a determination by the Planning board that the criteria are not applicable to the proposed action or upon a determination by the Planning Board that the application of these criteria are not necessary to carry out the Ordinance. The Planning Board shall approve the subdivision plan unless the plan does not meet the intent of one or more of the following criteria provided that the criteria were not waived by the Planning Board. The rational for all such waivers must be documented by the Planning Board.

A. Legal and Financial Standards:

1. Laws: Proposed subdivisions, developments and activities shall be in conformance with the requirements in the *Jackson Use Ordinance* and all other applicable Federal, State and local laws.
2. Applicant Authority: The applicant has effectively demonstrated that he/she has the legal ownership of the property or is acting as a bona fide agent of the landowner.
3. Financial Ability: The applicant has the financial ability to complete the subdivision as proposed and approved by the Board. The Board may attach a performance bond requirement to the permit for any improvements affecting the public interest or neighboring property owners.
4. Boundary Markers: Permanent markers must be placed at all corners of lots created by subdivision. As required by State Law, at least one corner must be marked by a monument.
5. Comprehensive Plan: Proposed developments and activities will be consistent with the *Jackson Comprehensive Plan*.

B. Land Preservation Standards:

- 1) Lot Shape: Unless over 10 acres in size, no lot shall have a depth-to-width ratio greater than 3:1. Regardless of size, lots with shore frontage on a water body subject to the Shore Land Zoning provisions of this Ordinance shall not have a depth-to-width ratio greater than 5:1.
- 2) Storm Water Management: The proposed subdivision will provide for adequate storm water management for at least the calculated 25-year storm event (calculated normally waived for low-impact developments), and will create no adverse impact on other properties, receiving water bodies or the road system. Erosion, sedimentation and quality of run-off shall be consideration of impacts, along with the sizing and direction of drainage design. An absorbent vegetation buffer will generally be required down slope of developed areas to absorb and filter runoff. The Board may consider off-site engineered improvements proposed and to be installed by the developer as measures that will bring the project into compliance with this standard but is not required to approve a development that is unable to absorb its on-site. Any off-site improvements to be made as a condition of approval must have written authorization from the property owner, including property owned by the Town or State.
- 3) Erosion Control: Topsoil shall be considered a part of the subdivision and shall not be removed from the site except for surplus topsoil from road construction, parking areas and building excavations (this restriction is not binding on future lot owners). Except for normal thinning, landscaping and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact. The subdivision will be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods, the acceptability of the proposed methods will be judged utilizing the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. Whenever sedimentation is caused by stripping vegetation, regarding or other subdivision, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his/her expense as quickly as possible.
- 4) Wildlife Protection: If any of the proposed subdivision is located in a deer wintering area or other significant wildlife habitat area mapped by the Maine Department of Inland Fisheries and Wildlife, the applicant shall request the MDIF&W Field Biologist to conduct a field check and evaluate the threat that the subdivision proposal might cause to wildlife habitat. MDIF&W might suggest that the applicant adjust the design of the subdivision to better co-exist with area wildlife. The applicant must receive a letter from MDIF&W stating that it has determined that the proposed subdivision will cause little or no risk to wildlife habitat. This letter must be presented to the Planning Board before the Board issues a subdivision permit for the project. Should there be an impasse on this subject, the Board may host a meeting of two parties and act according to its own judgment. The standard of this Ordinance is that all reasonable measures shall be taken to avoid harm to significant wildlife habitat.

Environmental Sensitive Areas: The plan for the subdivision will reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers will be maintained and preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, such as timing of construction and extent of excavation.

6. Historic and Archaeological Resources: If any portion of the site has been identified as containing historic or archaeological resources, the development shall include appropriate measures for protecting these resources, including but not limited to modification of the proposed design, timing of construction and/or extent of excavation.

C. Water Quality Standards:

- 1) Water Supply: The proposed subdivision has planned for adequate source of water to serve the drinking and other needs of the development. The Board shall rely on the Jackson Fire chief or designee in making its finding regarding the adequacy of water supply for firefighting. The Fire Chief shall consider the relative risk to life and property on making his/her determination. If so advised, the Board may require that a water supply be provided for the development as a condition of approval.
- 2) Waste Water Disposal: The proposed subdivision will provide for adequate subsurface waste water disposal in accordance with the *State of Maine Subsurface Waste Water Disposal Rules*. In addition to the requirement for all high-density subdivisions, upon the recommendation of the local plumbing inspector, the Planning Board may require the location of reserve areas for replacement systems on individual lots of any subdivision plan.
- 3) Groundwater Protection: The proposed subdivisions will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. The applicant shall have to demonstrate to the Planning Board's satisfaction that there is no unusual risk posed to the ground water by the proposed development or activity. The Board may require, as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including delivery and transfer points, be conducted under and over an impervious surface surrounded by dikes. If appropriate to the activity conducted within the development, the Board may require written evidence of legal arrangements to properly dispose of hazardous materials and/or special wastes.

D. Road and Traffic Standards:

- 1) Access management: Proposed driveways and roads shall meet the applicable requirements in the Access Management Standards section of this ordinance.
- 2) Driveway and Road Construction Standards: Proposed driveways and roads shall meet the application construction standards outlined in the Access management and Road Standards sections (V and VII) of this Ordinance, including the Road Acceptance Petition Procedure if the applicant seeks to dedicate a road to the Town.
- 3) Traffic Flow and Intersection Design: The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed. The intersection of any access drive shall function at a level which will allow safe access into and out of the project if less than 400 trips are generated daily. If 400 or more trips are generated, the access will be engineered so that there will be no more than a 20 second delay for traffic traveling through the intersection.

- 4) Parking: The subdivision will provide for adequate off-road parking for anticipated residents, customers, guests and deliveries. Parking areas will be designated to provide safe and convenient circulation within the lot and to prevent vehicles from backing out onto a road. Parking for high-density subdivisions shall be located behind screening.

E. Aesthetic Standards:

- 1) Lighting and Advertising: Exterior lighting, signs and other advertising features shall conform to the general sign of the Town. Signs advertising a subdivision development shall match the design and colors of the development and be no larger than necessary to effectively direct the public to what is located or available on the premises. In keeping with Jackson's natural appearance, materials made of or resembling wood or metal are preferred over those made of or resembling plastic.
- 2) Utilities: Any utilities installations above ground shall be located so as not to be unsightly or hazardous to the public and shall be landscaped or otherwise buffered so as to screen the components from public view.

F. Additional Requirements for High-Density Subdivision:

- 1) Screening and Landscaping: All high-density subdivisions shall be screened from public view with natural vegetation such that at least 75% of the developed area (structures and parking lots) is invisible from any public way on a year-round basis. Where attractive vegetation exists prior to development, it is preferred that this be retained. If existing vegetation is to be replaced or none exists, the developer will submit a detailed landscaping plan for the Board to review for adequacy with this standard. The 75% screening must be maintained on property owned by the developer (or otherwise legally granted to the developer) and managed by the developer for the life of the project. New plantings must be of type and size to achieve the 75% screening requirement within 5 years of permit approval. The board will include these provisions as conditions to any permit approval granted.
- 2) Residential Screening: High-density subdivisions located within 300 feet of existing residential uses shall be required to maintain or plant a vegetative buffer that will effectively shield 75% of the activity from residential view on a year-round basis within five years of establishment, unless the Board, based upon input from abutting property owners, finds this to be unnecessary to preserve compatibility
- 3) Back-Up Waste Water Disposal System Design: The subdivision shall have a second approved wastewater system design available and protected from future development so that it may be constructed and utilized if the primary system fails.
- 4) Maintenance Agreements: If the desired subdivision plan involves common property, and/or is designed to situate privately-owned dwellings or leased units on less than the minimum lot size for the district, the subdivision as a whole, including private lots and common property, must not be developed any more densely than otherwise would be allowed. Structures may be situated on smaller private lots without the minimum road frontage requirement; as long as the Board finds that the subdivision design affords sufficient privacy, meets subsurface wastewater disposal, tire protection and water supply concerns, and does not increase the visual density along any public road. Legal instruments providing for maintenance of roads and other common property and systems must be sufficient to effectively operate without the Town's involvement. Mobile Home Park Standards: If a mobile home park, the standards outlined in Subsection VIII.9, must be met in addition to those referenced above.

9. Mobile Home Park Standards

A. Lot Size, Width and density:

Lots in a mobile home park shall meet the following lot size, width and density requirements.

- 1) Lots served by individual subsurface wastewater disposal system: Minimum lot area = 20,000 square feet Minimum lot width = 100 feet
- 2) Lots served by a central subsurface wastewater disposal system: Minimum lot area = 12,000 square feet Minimum lot width = 75 feet
- 3) The overall density of a mobile home park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area,
- 4) Where lots front on a curved right-of-way or are served by a driveway, the frontage requirements shall be measured in a straight line perpendicular to the setback line.
- 5) Lots within a shore land zoning district shall meet the lot area, lot width, setback, and shore frontage requirements for that district.
- 6) The overall density of the mobile home park shall be the combined area of its mobile home lots plus:
 - a) The area required for road rights-of-way;
 - b) The area required for buffer strips, if any;
 - c) The area within the municipality's shore land setback.
- 7) Mobile homes shall be set back on their lots at least 15 feet from the mobile home park road. If located along a public road they shall be set back at least 75 feet from the public road right-of-way.

B. Ownership: Where a developer elects to create a mobile home park in which all land is under one ownership, the park plan shall show lots and the developer shall demonstrate that the subdivision standards described herein are met.

C. Road Standards: Privately owned roads within the mobile home park as well as those dedicated for public acceptance shall meet the respective requirements of the Road Standards section of this ordinance,

D. Parking requirements: For each mobile home lot there shall be provided and maintained at least 2 off-street parking spaces.

E. Utility Requirements: All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations

- F. Storage: At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home for the storage of materials and equipment.
- G. Conversion of Park: No lot in a mobile home park may be sold or conveyed without the prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement of the district in which it is located.
- H. Manufactured Homes Only: No dwelling unit other than a manufactured housing unit shall be located within the parcel.
- I. Park Administration: The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all park-owned structures and their sites. Park management shall conform to state laws and regulations.
- J. Additional Groundwater Requirements for High-Density Mobile Home Parks:
 - 1) Hydro Geological Assessment: Accompanying the application for approval of any mobile home park of five or more lots at a density of greater than One unit per acre shall be a hydro geologic assessment prepared by a Certified Geologist or Professional Engineer registered in the State of Maine. The assessment shall contain at least the following:
 - a) A map showing the existing soil types, existing and proposed subsurface wastewater disposal systems and wells both inside the park and within 200 feet of the park's boundaries.
 - b) The depth to water table at representative points throughout the park.
 - c) Drainage conditions throughout the park.
 - d) Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.
 - e) An analysis and evaluation of the effect of the mobile home park on groundwater resources. The evaluation shall, at a minimum, include a protection of any wells within the mobile home park, at the mobile home park boundaries, and at a distance of 1000' from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
 - 2) Standards for Approval:
 - a) Projections of groundwater quality shall be based on the assumption of drought conditions, i.e. 60% of annual average precipitation.
 - b) No mobile home park shall increase any contaminate concentration to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
 - c) If groundwater already contains contaminants in excess of the primary standards, the applicant shall demonstrate how water quality shall be improved or treated.
 - d) If groundwater already contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
 - e) Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are included in the easement, these shall be included as a note on the Plan.

9. Final Plan Stage**A. Procedure:**

- 1) Within six months after the approval of the Preliminary Plan, the developer shall submit an application for approval of the Final Plan in accordance with the Administration Section of this Ordinance. No additional fee is required. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board. If the applicant cannot submit the Final Plan within six months, the applicant may request an extension in writing before the end of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies (if applicable), and that municipal ordinances or regulations which may have an impact on the proposed subdivision have not been amended.
- 2) The applicant, or applicant's representative, shall attend the meeting of the Board to discuss the Final Plan.
- 3) Within 30 days of receipt of the Final Plan application, the Board shall determine if the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- 4) Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant. The Board, at its discretion, may decide to hold a public hearing on the Final Plan Application, regardless of whether a hearing was held on the Preliminary Plan Application. The Board will consider the level of demonstrated public interest in the project, likelihood of different comments from those already made to date, presence of outstanding issues, and whether the Final Plan is altered from the Preliminary Plan in such a manner as to provoke new public concern.
- 5) The Board shall notify the Road Commissioner, Fire Chief and Board of Selectmen of the proposed subdivision, and request that these officials comment upon the adequacy of Town resources to service the proposed subdivision.
- 6) Before the Board grants approval of the Final Plan, the applicant shall execute any required performance guarantee.
- 7) Within 30 days of a public hearing or 60 days of receiving a complete application if no public hearing is held, or within another time limit otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the standards of this Ordinance. All criteria from Title 30-A MRSA 4404 shall be addressed. If the Board finds that any applicable criteria of the *Jackson Land Use Ordinance* or any State Statute with municipal authority will not be met, the Board shall either deny the application or approved the application with conditions to ensure that all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

B. Submission:

- 1) Plan Maps and Drawings: Plan Maps and Drawings: The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn to a scale of not more than 200 feet to the inch providing all necessary detail can be easily read. One reproducible stable based transparency shall be submitted along with a working blueprint or photocopy.
For subdivisions, plans shall be no larger than 24 by 36 inches in size and shall have a margin of 2 inches outside of the border line on the left side for binding and a one inch margin outside of the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board.
- 2) Required Information:
 - a) Two copies of the final version of all information submitted with the preliminary plan that has not changed.
 - b) Ten copies of all other information that is new or has changed since the preliminary plan was filed, including all changes or conditions required by the Board.
 - c) The location, names and widths of existing and proposed roads, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every road, lot line and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of road lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor.
 - d) Road plans, if applicable, meeting the requirements of the Road Standards section of this Ordinance.
 - e) All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces, roads, facilities and other property to be retained by the developer or lot owners are to maintained shall be submitted.
 - f) The developer shall submit a list of construction items, with cost estimates, that will be completed by the developer prior to the sale of lots, with evidence that the sub divider has financial commitments or resources to cover these costs.

C. Final Approval and Subdivision Filing Requirements:

- 1) No plan shall be approved by the Board as long as the developer is in violation of the provisions of a previously approved subdivision within the municipality.
- 2) Upon findings of fact and determination that all standards in this Ordinance have been met and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- 3) All conditions of approval shall be clearly stated on the plan and in accompanying documentation, including Planning Board minutes. The Board may attach reasonable operating conditions, such as hours of operation, to moderate any nuisances (e.g. noise, traffic, odor, dust) likely to impact neighboring areas.
- 4) A Mylar copy of the signed plan shall be submitted to the Town Clerk or designee within 15 days of subdivision approval.

- 5) Any subdivision not recorded in the Waldo County Registry of Deeds within 30 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- 6) No changes, erasures, modifications or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised Final Plan is first submitted and the Board approves any modifications. The Board shall make the findings that the revised plan meets the standards of the *Jackson Land Use Ordinance* before granting approval. In the event that a subdivision plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall file an affidavit with the Waldo County Registry of Deeds declaring the subdivision to be invalid.
- 7) The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any road, easement, open space, facility or other property shown on such plan. The Board shall require the plan to contain appropriate notes to the effect. The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, subdivision, equipment and maintenance of any such dedicated area. No property may be accepted by the Town without a Town Meeting vote.

10. Approval Required for Re-subdivision or Revisions to Approved Plans

No lot that is part of an approved subdivision may be further divided without amending the original subdivision. A subdivision permit is required, with submission requirements outlined at the pre-application meeting. Only relevant information will be required. In general, if the revision involves the creation of new lots or dwelling units beyond two per lot, the applicant must begin at the preliminary plan stage. If the revision involves only modification of the approval plan, without the creation of additional lots or dwelling units exceeding two per lot, the procedures for final plan approval shall be followed.

The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

DEVELOPMENT REVIEW

SECTION IX

Section IX Development Review

1. Purpose

The purpose of this section is to institute and define a municipal review and permit system for more intensive land-based activities which have the potential to disturb the health, safety and welfare of Jackson residents if not managed in conformance with reasonable performance standards. This section details the procedures to be followed and standards to be met by persons proposing applicable land-based activities and defines the Managed Development Area in which high impact developments may locate. In the mutual interests of the townspeople and the developer, it is the Town's intent to conduct a fair, thorough and expedient review process for proposed activities subject to the provisions of this section.

2. Applicability

- A. Land Uses Requiring a Development Permit: Development approval by the Planning Board, evidenced in the form of a Development Permit, shall be required for any new construction or new activity (including those in existing facilities) meeting any of the following criteria:
- 1) involving placement of a non-residential principal structure with over 20,000 square feet of developed area (i.e. combined gross floor area and/or impervious surface);
 - 2) involving construction or excavation that will affect more than 20,000 square feet of land area;
 - 3) involving any ongoing activity that will generate an average of over 50 vehicle trips per day open for business;
 - 4) involving activity that will generate more than the background level (*see definition*) of noise, odor, glare, vibration, electrical interference or other disturbances at any property boundary without adequate design and/or buffering;
 - 5) involving placement or creation of a third (or more) dwelling unit(s) on one lot unless reviewing as a subdivision;
 - 6) involving installation or reactivation of public or private utilities or railroad infrastructure, including but not limited to transmission lines, pipelines, wireless communications facilities and railroad tracks; or
 - 7) is a Concentrated Animal Feeding Operation (CAFO) requiring a Livestock Operations Permit from the Maine Department of Agriculture, Food and Rural Resources. *Note: At the time this Ordinance is enacted, a permit is required for CAFO's with over 300 animal units.*
- B. Exceptions: This ordinance *does not apply* to activities or construction conducted in the course of:
- 1) agricultural production other than described in Subsection IX.2.A.7) above (*see definition*);
 - 2) timber harvesting (*see definition j*)
 - 3) temporary construction activity for allowed land uses, or
 - 4) temporary events, such as fairs, parades, funerals, parties, dances and yard sales.
- C. Expansion to Existing Facilities: Owners of facilities or conductors of activities that existed at the time of enactment of this ordinance shall be required to obtain a Development Permit prior to expanding the existing facility or operation to the point at which it will collectively meet any of the thresholds listed above. The threshold will be measured including the pre-existing operation.

3. Administration

- A. Classification of Development: The proposed development shall be categorized as either a medium or high-impact development. In general, the detail of review will correspond directly to the complexity of the proposed development, although the Town reserves the right to review any development as a high-impact development in the event of an unanticipated or controversial aspect of a proposed development of any size, nature or traffic volume. Development Review will be kept to the minimum level necessary to assure compliance with the standards in this Ordinance.

Whenever there is a doubt, The Planning Board shall make the Driveway Permit contingent upon approval of the final design by the Planning Board shall determine whether a development qualifies as a low, medium or high-impact development as defined within this Ordinance.

- 1) Medium-impact developments are land use activities involving less than 20,000 square feet of development area and expected to generate an average of between 50-150 vehicle trips per day open for business.
- 2) High-impact developments that are land use activities which meet any of the criteria listed under Section IX.2.A. Above other than those classified as medium-impact developments in (Subsection IX.2.A.1)

B. Coordination with Other Town Requirements: Successful completion of the development review process will include the approval of other necessary Town land use permits.

- 1) **Subsurface Waste Water Disposal System permit Required Prior to Submission:** The applicant shall pursue the design of any planned subsurface waste water disposal system and obtain the Plumbing Inspector's approval for the design. A copy shall be included with the Preliminary Application.
- 2) **Driveway Permit Applications :** If a new driveway or road is contained with the project, the applicant shall present an approved driveway permit, together with all documentation, with the Preliminary Application. Given that the development may be changing during development Review, the Road Commissioner may, at his/her discretion, make the Driveway Permit contingent upon approval of final plan design by the Planning Board.
- 3) **Development Permit Contingent on the Other Permit Requirements:** Standards require for all other applicable Town permits related to the proposed development shall be met as conditions of any Developed Permit issued.
- 4) **Rights Reserved if development Permit is denied:** If the Development Permit is denied, permits for other uses on the site may be requested by the applicant as outlined in Town ordinances or a new development Permit application may be filed.

4. **Medium-impact developments Review**

A. Procedure:

1. Applications will be available at the Town Office. Ten copies of the completed application shall be delivered to the Town Clerk, who shall issue the applicant a dated receipt. The Town clerk will notify the Chair or designee (according to the Planning Board by-laws) of the Planning Board that an application has been received and the Chair will:
 - a) call a meeting according to procedures set out in the Planning Board by-laws;
 - b) Prepare a public notice of the application, including a general description of the proposed use, location of the property, date, time and place of the meeting at which the application will be reviewed and when the full application is available for review;
 - c) see that it is published in either the *Waldo Independent* or *Republican Journal* at least seven days prior to the meeting;
 - d) mail a copy of the public notice, including a description of the application, to all abutters and property owners within 500 feet of the boundary of the property to which the application applies, as well as to the applicant, so that they will receive the notice at least seven days prior to the meeting;
 - e) contact the applicant and request any additional information that appears to be needed to ensure that the application is complete and;
 - f) see that the Town Clerk delivers a copy of the notice and application to each member of the Planning Board and the CEO prior to the meeting.
2. The applicant shall attend the meeting at which the Planning Board discusses the application to clarify information and answer any questions the Board might have pertaining to the proposed development.

3. The Board will confirm that the proposed development meets the medium-impact classification and is being properly reviewed under the terms of the Ordinance. The method used to estimate average traffic will be evaluated for reliability.
- B. Application Information: The applicant will call for the following information:
1. Application and Lot Information: Landowner, Applicant (if different), Location Address, Mailing Address of Applicant (if different), telephone number, Map and Lot number, Size of Lot, Applicable zoning districts (Rural, Shore Line Zoning, Managed Access, Managed development), Road maintenance status
 2. Other Necessary Permits:
 - a) Driveway permit, if new driveway proposed
 - b) Subsurface waste water disposal permit, if applicable
 3. Development Plan: Drawing approximately to scale, with proposed location of new buildings on the property, width of lot at proposed building site, setback distance from center line, distance from road center line, distance from existing or other proposed buildings on the property, distance from property boundaries if closer than 25 feet.
 4. Information Related to Performance Standards:
 - a) Nature of proposed building use
 - b) Number of vehicle trips anticipated per day and how determined
 - c) Anticipated parking needs and plan
 - d) Whether and how the use will generate any noise, odor, glare, vibration, dust, electrical disturbance or other nuisances beyond any boundary and how this will be addressed
 - e) How erosion will be prevented during construction and afterward
 - f) How surface water runoff might be affected by development.
 - g) Any unusual aspects of development which may impact public resources or cause off site impacts, such as if it is a high user of water or will involve storage of hazardous or toxic materials.
- C. Standards for Medium -Impact developments: The Planning Board will issue a Medium-Impact Development Permit if the following standards are met:
- 1) Applicant demonstrates rightful ownership of property;
 - 2) Anticipated amount and nature of traffic will not cause unreasonable damage to the public roads and/or cause a hazard to the traveling public;
 - 3) The proposed development will not result in environmental degradation beyond necessary clearing and ground preparation for construction and conduct of operation;
 - 4) No unreasonable adverse impact of any nuisance, including but not limited to noise, odor, electrical disturbance, dust or glare will be carried beyond the property boundary where it might unduly interfere with the rights of neighboring property owners. "Unreasonable" shall be determined based upon comparison with customary impacts typically experienced within the community and level of legitimate neighbor concern This provision shall not be interpreted to serve as a 'Zero Tolerance' standard but shall protect residents from impacts that are outside what should be anticipated within a small, rural community such as Jackson. Also excluded from these regulations are odors and other nuisances generated by agricultural operations if they are in compliance with Best Management Practices and the Nutrient Management Rules of the Department of Agriculture, Food and Rural Resources.
 - 5) Adequate preparations are in place to address any potential hazard to the environment or neighboring properties and;

- 6) Adequate off-road parking is available for peak anticipated needs.
- 7) 1999 Screening and Landscape: All medium-density subdivisions shall be screened from public view with natural vegetation such that at least 75% of the developed area (structures and parking lots) is invisible from any public way on a year-round basis. Where attractive vegetation exists prior to invisible from any public way on a year-round basis. Where attractive vegetation exists prior to development it is preferred that this be retained. If existing vegetation is to be replaced or none exists, the developer will submit a detailed landscaping plan for the Board to review for adequacy with this standard. The 75% screening must be managed by the developer for the life of the project. New planting must be of type and size to achieve the 75% screening requirement within 5 years old permit approval.. The board will include these provisions as conditions to any permit approval granted.

8)

- D. Conditions: The Board may place any conditions upon approval of the development that it deems necessary to protect neighboring property owners, meet the standards of this Ordinance and maintain the integrity of townspeople's wishes as expressed within Jackson Comprehensive Plan. Such conditions may relate to construction and/or operation of the development and may include factors such as limiting hours of operation, wetting down excessive dust, conducting ongoing noisy operations indoors or limited the hours at which certain activities take place.

5 High-Impact development Review

A. Procedure: In reviewing applications for High-Impact development Permits, the Planning Board and applicant shall utilize the same procedure and submittal requirements as outlined for major subdivisions (see section VIII). An application form for high-impact developments shall be available to guide the applicant through the submittal requirements.

B. Standards for Approval: High-Impact developments shall meet all applicable standards applied to High-Density Subdivisions (see Section VIII) plus the following:

- 1) Management development Area: In general, high-impact developments may only locate within the Management development Area. On-site dependent natural resources based on industries requiring a High-Impact development Permit such as mining operations, saw mills or agricultural operations may locate anywhere in Jackson, subject to obtaining a Development Permit.
- 2) Nuisance Containment (other than noise): The development shall be designed so as to incur no off-site adverse impacts, including but not limited to radiation, electrical disturbance, glare, dust, smoke, fumes or odor, beyond those consistent with existing background levels. In order to achieve this standard, the Board may require landscaped buffer areas adequate to protect neighboring property owners from disturbance that would otherwise exceed background levels. This standard may be waived upon written agreement by all affected neighbors. Excluded from these regulations are odors and other nuisances generated by agricultural operations if they are in compliance with Best management Practices and the Nutrient Management Rules of the Maine Department of Agriculture, Food and Rural Resources.
- 3) Noise levels: Noise perceptible at the property boundary, exclusive of background noise, shall not exceed 45 dB(A) from 6 AM (8AM on Sundays) to 8:30 PM and 40 db(A) from 8:30 to 6AM (8AM on Sundays), where dB(A) refers to the decibel (20 times the logarithm to the base 10 of the ratio of the measured sound pressure to 20 micro Pascal's) level recorded when using the A-weighting measurement of a sound level meter conforming to A.N.S.I. Type I or II standards (see Appendix for sample reference sounds). Excluded from these limitations are noises related to live stock, emergency equipment, temporary maintenance, construction, agriculture production, timber harvesting, yard care, non-commercial recreation and religious celebrations. This standard may be waived upon written agreement by all affected neighbors.

- 4) Hours of Operation: The Board may set reasonable limits to hours of operation as a condition of approval; any such restrictions will be held to the minimum necessary to provide neighboring residents with adequate relief from any unavoidable adverse impacts caused by the development or activity, including traffic. Normal hours of operation shall be deemed to be 6 AM to 8:30PM (Monday-Sunday) and 8AM-8:30PM Sunday, although variations from this standard may be approved by the Board if affected parties are agreeable.

C Additional Requirements for Wireless Telecommunication Facilities:

- 1) Additional Submittal Requirements: In addition to all applicable submittal requirements within Section IX, the following materials shall be submitted with a development Permit application:
- a) a copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with the current FCC regulations
 - b) a USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunication facilities above 150 feet above ground level, except antennas located on roof tops, within a five mile radius of the proposed facility;
 - c) a site plan prepared by a qualified Professional Engineer registered in Maine indicating the location, type and height of the proposed facility antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines and all applicable American National Standards Institute (ANSI) technical and structural codes;
 - d) certification that the proposed facility will comply with all FCC radio emissions standards;
 - e) a scenic assessment, including:
 - i. elevation drawings of the proposed facility;
 - ii. a landscaping plan indicating the proposed facility and its relation to existing and proposed surroundings; and
 - iii. photo simulations of the facility imposed on actual photographs taken from a variety of public viewpoints throughout Jackson as determined by the Planning Board during the per-application conference;
 - f) a written description of how the proposed facility fits into the applicant's telecommunications network (without disclosure of confidential business information);
 - g) evidence demonstrating that no existing building, site or structure can accommodate the applicant's proposed facility, due to insufficient location, height, structural capacity, access or affordability;
 - h) a signed statement that the owner of the facility and his/her successors and assigns agree to:
 - i. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - ii. negotiate in good faith and allow for shared use of the facility by third parties at reasonable rates based upon equitable cost-sharing of all applicable costs;
 - iii. a form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.
- 2) Additional Standards of Review: in addition to the general development review standards, wireless telecommunications facilities shall adhere to the following specialized standards in order to be granted a development Permit:
- a) Setback: A new or expanded wireless telecommunications facility must be set back 105% of its height from the property boundary. The setback may be satisfied by land outside the property boundary if secured by easement satisfactory to the Planning Board. The setback may be reduced if the applicant demonstrates that the tower is designed to collapse such that the neighboring properties would not be affected.

- b) Screening: Wireless telecommunications facilities and related equipment must be screened with plants from view by abutting properties and public roadways. Existing plants and natural land forms on the site shall be preserved to the maximum extent practicable.
- c) Fencing: The facility must be fenced to discourage trespass on the facility and to discourage climbing on the facility by trespassers.
- d)
- e) Lighting: The facility must be illuminated only to the extent necessary to comply with Federal Aviation Administration (FAA) or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional and limited to the facility property.
- f) Materials and Colors: The facility must be constructed with materials and colors that match with the surrounding natural environment to the maximum extent practicable.
- g) Structural Standards: The applicant must demonstrate to the Planning Board's satisfaction that the facility is structurally designed to meet or exceed current industry standards. The structural design must be signed by a qualified professional engineer, registered in the State of Maine. *Note: One document that may be referenced to determine adequacy with this requirement is the current Electronic Industries Association/Telecommunications (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Supporting Structures."*
- h) Co-Location: The owner of the facility, and his/her successors and assigns to agree to:
 - i) respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - ii) negotiate in good faith for shared use of the facility by third parties;
 - iii) allow shared use of the facility if the applicant agrees in writing to pay reasonable charges for co-location and ;
 - iv) require no more than a reasonable charge for shared use of the facility, based on Maine market rates and generally accepted accounting principals. This charge may include, but is not limited to, a pro-rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the facility.
- i) Radio Frequency Emissions: the applicant demonstrates how the facility will comply with FCC regulations. During the life of the facility, the owner agrees, upon request by the municipality, to certify compliance with all applicable FCC radio frequency emissions regulations in a manner understandable to the average citizen.

- j) Abandonment: a facility that is not operated for a continuous period of 12 months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within 90 days of receipt of the written notice. The owner of the facility shall have 30 days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have 60 days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and responsible to return the site to its pre-construction condition, including the removal of roads and re-establishment of vegetation. The Planning Board may require the applicant to post a surety bond to cover eventual facility removal in case of abandonment.

**SHORELAND ZONING
OVERLAY DISTRICT**

SECTION X

Section X. Shoreland Zoning

1. Purpose

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing; to protect commercial fishing; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open spaces; and to anticipate and respond to the impacts of development in shoreland areas.

2. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high water line of Hadley Pond and Drake Pond and its associated freshwater wetlands; within 250 feet, horizontal distance, of the upland edge of the Town's other freshwater wetlands; and within 75 feet, horizontal distance, of the normal high-water lines of the North Branch of Marsh Stream (from Drake Pond to the Monroe Town Line), and of Great Farm Brook (from the point of its confluence with Penny Brook to its juncture with the North Branch of Marsh Stream). This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extended or located beyond the normal high-water line of a water body or within a wetland.

3. Administration

- A. Procedure for Administering Permits: Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in the Table of Regulated Shoreland Zone Uses, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, the specified additional material that is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve with conditions, or deny all permit applications in writing within 35 days of receiving a complete application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the complete application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purpose and provisions of this Ordinance.
- B. Standards for Permit Approval: After submission of a complete application to the Planning Board or Code Enforcement Officer (CEO), the Board or CEO shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
- 1) Will maintain safe and healthful conditions;
 - 2) will not result in water pollution, erosion, or sedimentation to surface water;
 - 3) Will adequately provide for disposal of all waste water;
 - 4) will not have adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - 5) will conserve shore cover and visual, as well as actual, points of access to inland waters;
 - 6) Will protect archaeological and historical resources as designated in the comprehensive plan;
 - 7) Will avoid problems associated with flood plain development and use and ;
 - 8) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local Ordinance or regulation or any State Law which the municipality is responsible for enforcing.

- C. Special Exceptions: In addition to the criteria specified in Section C.2 above, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District, provided that the applicant demonstrates that all of the following conditions are met:
- 1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
 - 2) The lot on which the structure is proposed is undeveloped and was established and recorded in the Registry of Deeds of the county in which the lot is located before the adoption of the Resource Protection District.
 - 3) The proposed location of all buildings, sewage disposal systems and other improvements are:
 - a) Located on natural ground slopes of less than 20% and;
 - b) All buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation, and the development is otherwise in compliance with any applicable municipal flood plan ordinance. *Note: As of the date of enactment of this Ordinance, there are no mapped flood hazard areas in Jackson and the Maine State Office of Flood Plan Management has determined that a flood plain management ordinance is not required.*
 - 4) The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.
 - 5) All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood plain, and its proximity to moderate-value wetlands.

4. Establishment of Districts

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the *Jackson Land Use Map*: Resource Protection, Limited Residential and Stream Protection.

A. Resource Protection District:

The Resource Protection District includes areas in which developments would adversely affect water quality, productive habitat, biological ecosystems, or scenic natural values. This district shall include the following areas when they occur within the limits of the shore land zone, exclusive of the Stream Protection District.

1. Areas of two or more contiguous acres supporting wetland and hydrolic soils, which are not part of a freshwater wetland as defined, and which are not surperficially connected to a water body during normal spring high water. Several areas meeting this description have been identified within the shore land zones surrounding six of Jackson's fresh water wetlands.
2. The shoreland surrounding the southern portion of Meadow Brook freshwater wetland complex, within the property of the Tax Map 1, Lot 28, due to its proximity to a sand and gravel aquifer downstream in Brooks.

B. Limited Residential District:

The Limited Residential District includes those areas suitable for residential and recreational development. The following areas are placed in this district:

1. The Shore Land area surrounding Hadley Pond.
2. The shore land areas surrounding the Town's fresh water wetlands are designed as Limited Residential Districts, except where they meet the criteria for placement in the Resource Protection District, as described above.
3. The shoreland surrounding Drake Pond and its associated wetlands is placed in the Limited Residential District, despite the fact that Drake Pond is rated by the Maine Department of Inland Fisheries as a high-value wildlife habitat, which normally would indicate the Resource Protection District. This was done because;
 - a) a pre-existing, partially developed subdivision envelopes the area and some residences had already been built within the shore land zone, making an imposition of the Resource Protection District at this time unfair to neighboring landowners who purchased lots at the same time;
 - b) a clear-cutting violation by one landowner has already disturbed the pristine environment around the pond, and would increase the injustice felt by neighboring landowners who have used environmentally sound practices should the Resources Protection District have been imposed and ;
 - c) Drake Pond's wildlife habitat should be sufficiently protected with an enforced Limited Residential District Designation, because the density of future development in the area is limited by the subdivision's covenants to a maximum of one residential unit per ten acres.

C. Stream Protection District:

The Stream Protection District includes all land areas within seventy five feet (75), horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line Drake or Hadley Ponds, or within Two hundred and fifty (250) feet, horizontal distance, of the upland edge of a fresh water wetland. Where a stream and its associated shoreland area is located within two hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that the land area shall be regulated under the terms of the shoreland district associated with that water body or wetland. The following areas are within the Stream Protection District:

- 1) the shoreland along the North Branch of Marsh Stream, from Drake to Hadley Ponds, and downstream from Hadley Pond to the Monroe town line and;
- 2) the shoreland along Great Farm Brook, from its juncture with Penny Brook to its juncture with the North Branch of Marsh Stream.

5 Table of Regulated Shoreland Zone Land Uses

All land use activities, as indicated in the following table, Regulated Shoreland Zone Land Uses, shall conform with all of the applicable land use standards in Subsection X.6. The district designation for a particular site shall be determined from the *Jackson Land Use Map*.

Key to Table of Regulated Shore Land Zone Land uses:

No = Prohibited
 PB = Requires permit issued by the Planning Board
 CEO = Requires permit issued by the Code Enforcement Officer
 LPI = Requires permit issued by the Local Plumbing Inspector

Abbreviations:

RP = Resource Protection
 LR = Limited Residential
 SP = Stream Protection

Table of Regulated Shore Land Zone Land Uses

LAND USES	DISTRICT		
	SP	RP	LR
1. <u>Non-intensive recreational uses not requiring structures such as hunting and fishing</u>	yes	yes	yes
2. <u>Motorized vehicular traffic on existing roads and trails</u>	yes	yes	yes
3. <u>Forest management activities except for timber harvesting</u>	yes	yes	yes
4. <u>Timber harvesting</u>	yes	CEO ¹	yes
5. <u>Clearing of vegetation for approved construction and other allowed uses</u>	CEO	CEO ¹	yes
6. <u>Fire prevention activities</u>	CEO	yes	yes
7. <u>Wildlife management practices</u>	yes	yes	yes
8. <u>Soil and water conservation practices</u>	yes	yes	yes
9. <u>Mineral exploration</u>	no	yes ²	yes
10. <u>Mineral extraction including sand and gravel extraction</u>	no	PB ³	PB
11. <u>Surveying and resource analysis</u>	yes	yes	yes
12. <u>Emergency Operations</u>	yes	yes	yes
13. <u>Agriculture</u>	yes	PB	yes
14. <u>Aquaculture</u>	PB	PB	PB
15. Principal structures and uses:			
A. <u>One and Two family residential</u>	PB ⁴	PB ⁹	CEO
B. <u>Multi-unit residential</u>	no	no	PB
X. <u>Commercial</u>	no	no	no
Δ. <u>Industrial</u>	no	no	no
E. <u>Government and Institutional</u>	no	no	no
Φ. <u>Small non-residential facilities for educational, scientific, or natural interpretation</u>	PB ⁴	PB	CEO

	LAND USES			DISTRICT		
	SP	RP	LR			
16. Structures accessory to allowed uses				PB ⁴	PB	CEO
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland:						
a. Temporary				CEO	CEO	CEO
b. permanent				PB	PB	PB
18. Conversion of seasonal residences to year-round residences				LPI	LPI	LPI
19. Home occupations				PB	no	PB
20. Private sewage disposal systems for allowed uses				LPI	LPI	LPI
21. Essential services				PB ⁴	PB ⁴	PB
22. Service drops, as defined, to allow uses				yes	yes	yes
23. Public and private recreational areas involving minimal structural development				PB	PB	PB
24. Individual, private campsites				CEO	CEO	CEO
25. Campgrounds				no	no ⁷	PB
26. Road & driveway construction(10)				PB	no ⁸	PB
27. Parking facilities				no	no ⁷	PB
28. Marinas				PB	no	PB
29. Filling and earth moving of<10 cubic yards				CEO	CEO	yes
30. Filling and earth moving>10 cubic yards				PB	PB	CEO
31. Signs				yes	yes	yes
32. Uses similar to allowed uses				CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit				CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit				PB	PB	PB

1. In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards
2. Requires permit from the CEO if more than 100 square feet of surface area, in total, is disturbed.
3. In RP not permitted in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. Functionally water-dependent uses and uses accessory to such water dependent uses only.
6. See further restrictions in Subsection X.6.L.2
7. Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
8. Except to provide access to permit uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.
9. Single family residential structures may be allowed by special exception only according to the provisions of Subsection X.3.C.
10. A permit is not required for the replacement of an existing road culvert as long as: (1) The replacement culvert is not more than 25% longer than the culvert being replaced; (2) The replacement culvert is not longer than 75 feet; and (3) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course. NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38 MRSA Section 480-C., if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that the material or soil may be washed into them:
 - A Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
 - B Draining or otherwise dewatering;
 - C Filling, including adding sand or other material to a sand dune; or
 - D any construction or alteration of any permanent structure.

6 Land Use Standards

All Land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards The minimum lot size and shore frontage standards within designated shoreland areas shall be consistent with the dimensional standards of Section IV of this Ordinance where applicable, but no less than 40,000 square feet of lot area and 200 feet of shore frontage for Residential Uses (per dwelling) and Public and Private Recreational Facilities, and 60,000 square feet of lot area and 300 feet of shore frontage for Governmental, Institutional, and Commercial Uses.

1. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
2. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such a road was established by the owner of land on both sides thereof after September 22, 1971.
3. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
4. If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of Drake and Hadley Ponds, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
2. Principal or accessory structures and expansions of existing structures, which are permitted in the Resource Protection, Limited Residential and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no flood area.
3. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
4. The total area of all structures, parking lots and other non-vegetation surfaces, within the shore land zone, shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the natural Resources Protection Act, Title 38, Section 480-C); and that the application demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extended beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
7. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure. NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 MRSA, Section 480-C.

D. Campgrounds: Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the follow:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of Drake and Hadley Ponds, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or upland edge of a wetland.

E. Individual Private Campsites: Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

1. one campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30000) square feet of lot area within the shoreland zone, whichever is less, maybe be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of Drake and Hadley Ponds, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
3. Recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the sitting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the *State of Maine Subsurface Waste Water Disposal Rules* unless served by public sewage facilities.

F. Commercial and Industrial Uses: New commercial and industrial uses are prohibited within the Shoreland Zone.

G. Parking Areas:

1. Parking area shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas servicing the public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a) Typical parking space: approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b) Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways: the following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least one hundred (100) feet from the normal high-water line of Drake and Hadley Ponds, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent. This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.
2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q.
5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
6. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip

7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
- a) Ditch relief culverts, drainage dips associated water turnouts shall be spaced along the road at intervals no greater than indicating in the following table:

<u>Road Grade</u> <u>(percent)</u>	<u>Spacing</u> <u>(feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40
 - b) Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
 - c) On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle down slope from a line perpendicular to the center line of the road.
- 8) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials. Ditches, culverts, bridges, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to ensure effective functioning.

I. **Signs:** In addition to the town wide sign standards expressed in Subsection VI.4.E., the following provisions shall govern the use of signs in the Resource Protection, Stream Protection and Limited Residential Districts:

- 1) Signs and billboards relating to the goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods and services not sold or rendered on the premises shall be prohibited.
- 2) Name signs shall be permitted, provided such signs shall not exceed the two (2) signs per premises.
- 3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- 4) Signs relating to trespassing and hunting shall be permitted without restriction as to the number provided that no such sign shall exceed two (2) square feet in area.
- 5) Signs relating to public safety shall be permitted without restriction.
- 6) No sign shall extend higher than twenty (20) feet above the ground.
- 7) Signs may be illuminated only by shielded, non flashing lights.

J. Storm Water Runoff:

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the normal pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal: All subsurface sewage disposal systems shall be installed in conformance with the *State of Maine Subsurface Waste Water Disposal Rules (Rules)*. *NOTE:* The *Rules*, among other requirements, include:

1. The minimum setback for new subsurface sewage disposal systems, shall be no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.
2. Replacement systems shall meet the standards for replacement systems as contained in the rules.

L. Essential Services:

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

M. Mineral Exploration and Extraction: Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety. Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 3 below.
2. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, MRSA Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of Drake and Hadley Ponds, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. *NOTE:* The State of Maine Solid Waste Laws, Title 38 MRSA, Section 1310 and Chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- b) The final graded slope shall be two to one (2:1) slope or flatter.
 - c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with the mineral extraction operations on surrounding uses and resources.

N. Agriculture:

1. All spreading or disposal of manure shall be accomplished in conformance with best management practices, as determined by the Commissioner of Agriculture, Food and Rural Resources in accordance with Maine Administrative Procedure Act, Title 5, Chapter 375, and the Law protecting Farmers' Right to farm, Title 17, MRSA Section 2801 et seq.
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of Drake and Hadley Ponds, or within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shore land zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shore land zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance. NOTE: *Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District Office.*
4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of Drake and Hadley ponds; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Drake and Hadley ponds; within seventy-five (75) feet, horizontal distance of other water bodies; nor within twenty-five (25) feet, horizontal distance, of a tributary stream, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provision may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

O. Timber Harvesting: Timber harvesting shall conform with the following provisions:

1. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - a) within one-hundred (100) feet, horizontal distance of the normal high-water line of Drake and Hadley Ponds, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - b) At a distance greater than one-hundred feet (100), horizontal distance, of Drake and Hadley Ponds, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings

shall be included in the calculation of total volume removal. For the purpose of these standards volume may be considered to be equivalent to basal area.

2. Timber harvesting operations exceeding the 40% limitation in paragraph a) above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the propose of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.
 3. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part there of extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
 4. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - a) Surface waters are frozen; and
 - b) the activity will not result in any ground disturbance.
 5. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
 6. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.
 7. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland
- P. Clearing of Vegetation for development:
- 1) In any Resource Protection District, the clearing of vegetation shall be limited to which is necessary for uses expressly authorized in that district.
 - 2) Except in areas as described in Paragraph A. above, and except to allow for development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of Drake and Hadley Ponds, and seventy-five (75) feet, horizontal distance from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - a) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to Drake and Hadley Ponds, and to the North Branch of Marsh Stream upstream of Hadley Pond, the width of the foot path shall be limited to six (6) feet.
 - b) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to Drake

and Hadley Ponds, and to the North Branch of Marsh Stream upstream of Hadley Pond shall, be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

<u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
2-4 in.	1
>4-12 in	2
>12 in.	4

Adjacent to other water bodies, tributary streams, and wetlands, a “well distributed stand of trees and other vegetation” is defined as maintaining a minimum rating score of 8 per 25-foot square area. *NOTE: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (30 trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is : $(3 \times 1) + (3 \times 2) + (3 \times 4) = 21$ points. Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points $(21 - 12 = 9)$ may be removed from the plot provided that no cleared openings are created.* Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

- c) In order to protect water quality and wildlife habitat, adjacent to Drake and Hadley Ponds, and to the Northern Branch of Marsh Stream upstream from Hadley Pond, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs b) and b)(1) above.
- d) Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- e) In order to maintain a buffer strip of vegetation, when removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native species unless existing new tree growth is present.

The provisions contained in paragraph b) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- 3) At a distance greater than one hundred (100) feet, horizontal distance, from the normal high-water line of Drake and Hadley Ponds, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than 40% of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in forty (40) percent calculation. For the purpose of these standards volume may be considered to be equivalent to basal area. In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceeding in aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed.
- 4) Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
- 5) Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

Q. Erosion and Sedimentation Control:

- 1) All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil Erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - α) Mulching and revegetation of dispersed soil.
 - β) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - χ) Permanent stabilization structures such as retaining walls or riprap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch vegetation is established.
 - b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage-ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. Soils: All land uses shall be located on soils in or upon which is proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include a Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist. Water Quality: No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities of substances will impair designated uses or the water classification of the water body. Archaeological Sites: Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application. *NOTE: As of the date of enactment of this Ordinance, no such sites had been identified in Jackson.*

DEFINITIONS

SECTION XI

Section XI. Definitions

1. Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in this Ordinance shall have the meaning implied by their context in the Ordinance or their ordinary accepted meaning. Where any uncertainty arises, the Board of Appeals shall be the final authority.

The word “Person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and plural numbers include the singular.

The words “shall”, “will” and “must” are mandatory; the word “may” is permissive.

2. Definition of Terms

In this Ordinance the following terms shall have the following meanings:

Abutter -the owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an appeal.

Abutting Property – The parcel(s) sharing a boundary line with, or across the road from, the subject property.

Access (or accessway) – legal right-of-way connecting a parcel of land with a road.

Access Point – same as “curbcut”.

Accessory Apartment – a secondary dwelling unit attached to a single-family residence that may be occupied by a family or tenant of the owner-occupants of the main dwelling unit.

Accessory Structure or use – a use or structure which is incidental and subordinate to the principal use or structure and does not require an address. Accessory uses, when aggregated shall not be subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Agricultural Production – The activity of growing crops and/or raising livestock. This definition includes horticulture and nursery activity but does not include processing facilities, slaughter houses or the composting of material from off-site.

Aggrieved party – an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such a permit or variance.

Alternative Toilet – a device, other than a water closet, designed to treat human waste only. Examples are: privies and compost, chemical, recirculating, incinerating, and vacuum toilets.

Animal Unit – 1000 pounds of live animal weight. NOTE: An operation is considered to have 300 animal units if it confines and feeds any combination of animals totaling 300,000 pounds of live animal weight. Some examples are: 145 dairy cows (plus and equivalent number of young cattle); 213 dairy cows (with no young cattle); 300 beef cows; 750 sows or finishing pigs; 6,000 feeder pigs; 300 horses; 3,000 sheep; 16,500 turkeys or 60,000 laying hens.

Applicant – person seeking permission from Town to undertake land use activity.

Automobile Graveyard – means a yard, field or other area used to store 5 or more unserviceable, discarded, worn out or junked motor vehicles or parts of such vehicles. 'Automobile Graveyard' does not include any area used for temporary storage by an establishment or place of business which is primary engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable “Automobile graveyard” includes an area used for automobile dismantling, salvage and recycling operations.

Average Daily Traffic – the average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Background Level – The all-encompassing level of attribute associated with a given environment, being, in the case of noise, a composite of sounds from many distant, individually indistinguishable sources, prior to the new noise being introduced, and excluding noise from individual identifiable vehicles, power tools in temporary use, or other sporadic emanators of noise at the site being evaluated. Similar analysis would be applied to other applicable attributes, such as odor, glare, dust, vibration, etc.

Backlot – any lot or parcel of land that does not have frontage on a public or private road.

Base Flood – means the flood having a one percent chance of being equal or exceeding in any given year, commonly called the 100-year flood.

Basement – means any area of the building having its floor subgrade (below ground level) on all sides.

Best management Practices (BMP) -

(a) Agriculture: a method or practice which, when installed or used, is consistent with efficient, practical, technically and environmentally sound animal or crop protection practices. For those practices that have an impact on water quality, BMP's are those practices best suited for preventing, reducing or correcting surface and groundwater contamination. In this Ordinance, those BMP's currently used by the Maine Department of Agriculture, Food and Rural Resources will be utilized to judge the adequacy of BMP's related to agriculture operations.

(b) Construction: a method of construction that effectively and efficiently prevents soil erosion. In this Ordinance, the publication *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991, will be utilized to judge the adequacy of proposed BMP's.

Bridge – a structure to convey a road over a physical barrier or obstacle such as other roads, railroads or water, including culverts with a combined opening of 80 square feet or greater.

Boat Launching Facility – a facility designed primarily for the launching and landing of water craft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Buffer Strip or Zone – area of vegetation designed to effectively shield a land use activity from surrounding properties from potentially disturbing sights, sounds, odors and other nuisances.

Buildings – same as structures.

Building Height – the vertical distance between the highest point of the roof and the average grade of the existing or original ground adjoining the building, whichever is greater.

Certificate of Compliance – A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Clear Cutting – timber harvesting on a forested site greater than 5 acres in size which in a 10 year period results in an average residual basal area of trees over 6 inches in diameter of less than 30 square feet per acre, unless one or both of the following conditions exists:

- a) If, after harvesting, the average residual basal area of trees over 1 inch in diameter measured at 4.5 feet above the ground is 30 square feet per acre or more, a clear cut does not occur until the average residual basal area of trees 6 inches or larger measured at 4.5 feet above the ground is less than 10 square feet per acre; or
- b) After harvesting, the site has a well distributed stand of trees at least 5 feet in height, that meets the regeneration standards applicable under 12 MRSA, c. 805, sec. 8869, subsec. 1.

Code Enforcement Officer – any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Commercial – Any business endeavor operated for pecuniary gain, or involving the selling of goods or services, including non-profit operations.

Commercial use (Shore Land Zone Only) – the use of lands, buildings, or structures, other than a 'home occupation', defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of residential buildings and/or dwelling units.

Construct – building, place, move upon, pave, grade or make other physical improvement operations on land, including, excavation, fill, drainage, etc.

Culvert – a conduit for water placed under a road, driveway or other passageway. Multiple culverts with a combination opening of less than 80 square feet shall also be defined as culverts and those with a combined opening of 80 square feet shall be defined as a bridge.

Curbcut – junction of a vehicular accessway and the public or private road accessed.

Density – the number of dwelling units per area of land.

Development – means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Development Permit – Written authorization from the Planning Board that the activity applied for pursuant to this Ordinance has been approved.

Development Permit Application – the information provided by the applicant as required by this Ordinance for the Planning Board to use in its review. A preliminary (development Permit) application is always submitted and may, if in full compliance with the standards of this Ordinance, be approved without further work on the part of the applicant. If the plan needs more than minor adjustments in order to be approved, a Final (Development Permit) Application is required.

Development Review – The process described within this Ordinance in which the Planning Board and other relevant Town review authorities make findings of fact and determine whether a proposed activity as described within a Development Permit Application meets the standards set out in this Ordinance. Based upon review, the Planning Board may either approve or deny a development Permit.

Dimensional requirements – numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage, driveway separation and building height.

Direct Watershed – that portion of the watershed that does not first drain through an upstream lake.

Disability – any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

District – a specified portion of the municipality, delineated on the *Jackson Land Use Map*, within which certain regulations and requirements or various combinations thereof apply under provisions of this Ordinance.

Driveway (outside the Shore Land Zone) – a vehicular access-way serving one or two principal structures or lots.

Driveway (Shore Land Zone only) – a vehicular access-way less than 500 feet in length serving two lots or less.

Dwelling – any building or structure or portion thereof designed or used for residential purposes.

Dwelling Unit – a room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Duplex – same as a two family dwelling.

Emergency operations – operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from threat of destruction or injury.

Essential services – gas, electrical or communication facilities; stream, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure – an increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

Expansion of use – the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Family – one or more persons occupying a premises and living as a single house keeping unit.

Family development – a development that would otherwise constitute a subdivision as defined by Title 30-A, Section 4401 but the development meets the exception because of a gift to a person related to the donor by blood, marriage or adoption.

Flood or flooding – Means:

a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The Overflow of inland or tidal waters

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood Elevation Study – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

Floodplain or Flood-prone Area – means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Flood area – the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, with 5' vertical or more headroom, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Management activities – timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland – a forested wetland dominated by woody vegetation that is six meters tall or taller.

Forestry – the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

Foundation – the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost-walls.

Freshwater Wetland – freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are;

- a) of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook such that in a natural state, the combined surface area is in excess of 120 acres; and
- b) inundation or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Frontage, road – the horizontal, straight-line distance between the intersection of the side lot lines with the road right-of-way.

Frontage, shore – the horizontal distance, measured in a straight line, between the intersection of the lot lines with the shore line at normal high water elevation.

Front Structure Setback – linear distance from the road center-line within which no structure development may occur.

Functionally water-dependent uses – those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

Grandfathered – exemption from mandatory compliance with one or more standards of this Ordinance due to existence prior to Ordinance enactment.

Gravel pit – borrow pit in which the excavation of sand or gravel takes place.

Great pond or great pond classified (GPA) – Hadley Pond or Drake Pond.

Height of a structure – the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples. Antennas, and similar appurtenances which have no floor area.

High-density subdivisions – a major subdivision in which dwelling units are suited at a density greater than one unit per acre (regardless of overall density including all land associated with the subdivision). They shall include apartment buildings, condominiums, mobile home parks with lots of less than one acre, clustered single-family home subdivisions, and any other form of residential development of 5 or more lots and/or units.

High-impact development – A development involving over 20,000 square feet of enclosed floor area and/or impervious surface or expected to generate an average of over 150 vehicle trips per day open for business.

Historic Structure – means any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1) By an approved state program as determined by the Secretary of the Interior, or
 - 2) Directly by the Secretary of the Interior in states without approved programs.

Home Occupation – a home based enterprise in which: a) the proprietor lives on the same parcel as the business or on an abutting parcel; and b) there are no more than six full-time (or equivalent) non-resident employees.

Impervious surface – one that does not absorb moisture, including but not limited to rooftops and paved areas.

Individual private campsite – an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not limited to gravel pads, parking areas, fire places, or tent platforms.

Industrial use – the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Junk – discarded or unused appliances and materials.

Junkyard – a yard, field or other area used as place of storage for:

- a) Discarded, worn-out, junked plumbing, heating supplies, household appliances, and furniture;
- b) Discarded, scarp and junk lumber;
- c) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, plastic debris, waste, and all scrap iron, steel and other scrap ferrous materials, and included:
- d) Garbage dumps, waste dumps and sanitary landfills.

Landlocked Lot – a parcel of land with no legally land-based access from a public way.

Land use permit – document issued by the Code Enforcement Officer or Planning Board authorizing a particular land use by an applicant.

Lot – an area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by Planning Board and recorded in the County Registry of Deeds.

Lot area – the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot of Record – lot as it was recorded in the County Registry of Deeds by the date referenced

Lot width – the linear distance between side lot lines, being those relatively perpendicular to the road providing access to the lot. Taken either at the point of 75 feet back from the road center-line or at the actual location of an existing or planned principal structure.

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 buildings 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 described in Article VI of this Ordinance.

Low-impact Development – a development involving less than 20,000 square feet of enclosed floor area and/or impervious surface *and expected* to generate an average of 50 or fewer vehicle trips per day open for business.

Major subdivision – one consisting of five or more lots and/or units.

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 also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Marina – a business establishment having frontage on a navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Market value – the estimated price of a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

MDOT specifications – Maine Department Of Transportation publication, *Standards Specification High Ways and Bridges, Revision of October 1990 or later.*

Medium impact Development – A development involving 20,000 square feet or less of enclosed floor area and/or impervious surface or expected to generate an average of no more than 150 vehicle trips per day open for business.

Minimum lot width – the closest distance between the side lot lines of a lot.

Mineral exploration – hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction – any operation within any 12 month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minor subdivision – one consisting of 3 or 4 lots and/or units.

Mean Sea level – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Mobile home park – a parcel of land under unified ownership approved by the Town for the placement of 3 or more manufactured homes. Mobile home parks shall be limited to so-called “single-wide” manufactured homes, unless the lot meets the Town's dimensional requirements for other residential development.

Multifamily dwelling – a building containing 3 or more dwelling units, such buildings being designed exclusively for residential use and occupancy by 3 or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

New construction -means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

Non-conforming lot – a single lot of record which, at the effective date of adoption or amendment of the relevant portion(s) of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure – a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use – use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-residential structure – any building that has a principal use other than as a dwelling or as an accessory to a dwelling.

Normal high-water line – that line which is apparent from visible markings, changes in character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominately aquatic and predominately terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

100 -year flood – see **Base Flood**.

Outlet stream – any perennial or intermittent stream, as shown on the most recent edition of a 7.5-minute series topographic map produced by the United States Geological Survey, that flows from a freshwater wetland.

Parcel – same as lot

Permanent (road or driveway) – used for more than a seven-month period.

Person – an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having joint or common interests, or other legal entity.

Piers, docks, wharfs, bridges, and other structures and uses extending over or beyond the normal high-water line or within a wetland -

Temporary: Structures which in or over the water for less than 7 months in any period of 12 consecutive months.

Permanent: Structures which remain in or over the water for 7 months or more in any period of 12 consecutive months.

Primitive disposal field – a minimal disposal field designed specifically to treat gray waste water originating from a non-pressurized water supply.

Primitive system – a subsurface waste water disposal system consisting of a primitive disposal field and an alternative toilet.

Principal structure – a building whose function is predominate to the developed use of a piece of property and generally is assigned and addressed. For example, homes and central commercial buildings are principal structures, while garages, barns, and sheds are accessory structures.

Principal use – a use other than one which is wholly incidental or accessory to another use on the same premises.

Private road – a privately-owned road serving more than two principal structures or lots over which neither the municipality nor the public has a right to travel by vehicle or on foot.

Public easement – an easement held by a municipality for purpose of public access to land or water not otherwise connected to a public way.

Public facility – any facility, including, but not limited to, buildings, property, recreation areas, and roads, which owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Public road – a way or public easement for highway purposes as defined in 23MRSA 3021 held by any governmental body.

Recent flood plain soils – the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles	Fryeburg	Hadley	Limeric
Lovewell	Medomic	Ondawa	Podunk	Rumney	Saco
Suncook	Sunday	Winooski			

Recreational Facility – a place designed and equipped for the conduct of sports, leisure time activities, and other customary and unusual recreational activities, excluding boat launching facilities.

Recreational vehicle – a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement systems – a system intended to replace: (a) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or (b) any existing overboard waste water discharge.

Residential dwelling unit – a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

Residual basal area – the sum of the basal area of trees remaining on a harvested site.

Riverine – means the relating to, formed by, or resembling a river (including tributaries), streams, brooks, etc.

Right-of-way – all public or private roads, state and federal highways, public easements (formally private ways), and land reserved for the purpose of public access, including utility right-of-way.

Riprap – rocks, irregularly shaped, and at least 6 inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of 2 units horizontal to 1 unit vertical or less.

River – a free body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

Road (outside Shore land Zone) – any public or private way designed for vehicular access, other than driveways, shared driveways, farm roads, trails or logging roads. The term 'road' includes the normal meaning conveyed by synonymous words including street, avenue, highway, land and way.

Road or roadway (Shore Land Zone only) – a route or tract consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Road frontage – length of parcel boundary abutting the right-of-way of a public or private road, generally measured in linear feet.

Seasonal use – one that takes place no more than 7 months of the year.

Selective cutting – tree harvesting that shall not remove, in any ten year period, more than 40% of the volume on each acre involved of trees 6 inches in diameter and larger measured at 4.5 feet above ground level. Removal of trees less than 6 inches in diameter, measured as above, is permitted if otherwise in conformance with the regulations in the Shore Land Zoning Overlay District. Unless otherwise stated, a score of 8 in the rating system outlined in Section X.6.P.2)b) shall constitute a “well distributed stand of trees.” For the purpose of these standards, volume may be determined as being equivalent to basal area.

Service drop – any utility line extension which does not cross or run beneath any portion of a water body provided that:

- 1) in case of electric service:
 - a) the placement of wires and/or the installation of utility poles is located entirely upon premises of the customer requesting service or upon a roadway right-of-way; and
 - b) the total length of the extension is less than 1,000 feet.
- 2) in the case of telephone service:
 - a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b) the extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

Set-aside of land – a contiguous portion of land, owned by one or more parties in one or more parcels, that is protected from future development by deed restriction or other legal instrument.

Setback – linear distance from the road center-line, right-of-way or property line within which no structural development may occur.

Setback (Shore Land Zone only) – the nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage – the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shore-line at normal high-water elevations.

Side/Rear Structure Setback – linear distance from the property boundary within which no structural development may occur.

Sight Distance – the length of unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

Sign – any structure, display, logo, device or representation which is designed or used to advertise or call attention to anything, person, business, activity or place and is visible from any public way, including window signs. The following types of signs are exempted from the provisions of this Ordinance:

- a) the flag, pennant or insignia of any nation, state or town;
- b) signs listing family names or addresses;
- c) traditional posting signs. (no trespassing, no parking)
- d) any sign associated with traditional holiday decorations;
- e) signs identifying real estate that is for sale or rent;
- f) signs related to public safety;
- g) non-commercial signs of a temporary nature (e.g. political posters, advertisement of charitable functions, notices of community events, etc.) Such signs must be removed by the person or organization that posted them within 10 days of the termination of the sign's purpose;
- h) commercial signs of a temporary nature (e.g. yard sale signs), which may not be illuminated and may not be displayed for more than 30 days during a calendar year.

Single-family dwelling – any structure containing only one dwelling unit for occupation by not more than one family.

Sketch plan – An informational drawing (approximately to scale) and set of basic information designed to give the Planning Board an idea of existing site conditions and what is to be proposed in a subdivision or Development Permit Application.

Slash – bark, branches, tops, chunks, cull logs, uprooted stumps and broken or uprooted trees and shrubs left on the ground as a result of a timber harvesting operation.

Start of Construction – means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Stream (Shore Land Zoning Only) – a free-flowing body of water from the outlet of unity Pond or a freshwater wetland, or the confluence of two (2) perennial streams as depicted on the most recent edition of the United States Geological Survey 7.5 minute series topographical map, or if not available, a 15-minute series topographical map, to the point where the body of water becomes a river or flows to another water body or wetland within the shore land area (this definition includes **Outlet Streams**, as defined).

Structure – Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground and extending over 30 feet in height above ground level (e.g. radio towers and windmills, but not fences or satellite dishes). Temporary or seasonal shelters that are erected for 7 months or less in a 12 month period are exempted.

Sub-district – one of the five districts within the Shore Land Zone: either Resource Protection, Limited Residential, Limited Commercial Development or wetland/Stream Protection.

Subdivision – the division of a tract or parcel of land into 3 more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the subdivision is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. In Jackson, lots of 40 acres or greater in size are considered lots within this definition and come under municipal review. *NOTE: See minor, major and high-density subdivision definitions for distinction among subdivisions classifications.*

Substantial start – completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

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

Substantial improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual work performance. The term does not, however, include either:

- a) Any project for improvements of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Subsurface waste water (sewage) disposal systems – a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices associated piping designed to function as a unit for the purpose of disposing of wastes or waste water on or beneath the surface of the earth. The term shall not include any waste water discharge system licensed under 38 MRSA Section 414, any surface waste water disposal system licensed under 38 MRSA Section 41 Subsection 1-A, or any public sewer. The term shall not include a waste water disposal system designed to treat waste water which is in a whole or in part hazardous waste as defined in 38 MRSA Chapter 13, sub chapter 1.

Sustained slope – a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Temporary access-way, road or driveway – one used for a seven consecutive month period or less.

Timber harvesting – the cutting and removing of trees from their growing site, and the attendant operation of mobile and portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads and winter haul roads. Timber harvesting does not include the clearing of land for allowed uses.

Tributary stream – a channel between defined banks created by an action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shore land zone of the receiving water body or wetland.

Trip – a single or one direction vehicle movement with either the origin or destination inside the development area.

Two-family dwelling (duplex) – a building containing two dwelling units, for occupation by not more than two families.

Undue hardship – as used in this Ordinance, the words “undue hardship” shall mean all of the following:

- a) That the land in question cannot yield a reasonable return unless a variance is granted; and
- b) That the need for a variance is due to the unique circumstance of the property and not to the general conditions in the neighborhood; and
- c) That the granting of a variance will not alter the essential character of the locally; and
- d) That the hardship is not the result of action taken by the applicant or a prior owner.

Unserviceable motor vehicle – any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public highway or which is not being used for the purpose for which it was manufactured. It does not apply to wrecked or dismantled vehicles that are awaiting parts and/or adjustment. The limit of “temporary storage” is 90 days.

Upland edge – the boundary between upland and wetland.

Variance – a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of this Ordinance would result in undue hardship. Variances permissible under this Ordinance are limited to height of buildings, structures, lot size, yard and open spaces sizes, frontage, and setbacks. No variance can be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent districts.

Vegetation – all live trees, shrubs, ground cover, and other plants including without limitations, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

Violation – means the failure of a structure or development to comply with a community's floodplain management regulations.

Volume of a structure – the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Waiver – a relaxation of requirements of this Ordinance allowed by the Planning Board as prescribed in this Ordinance. Waivers occur due to circumstances of a particular application that require adjustment in order to best accomplish the Town's objectives.

Water body – pond, river, or stream.

Water crossing – any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, and cables as well as maintenance work on these crossings.

Wetland – a freshwater wetland.

Wetlands associated with great ponds and rivers – wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

JACKSON LAND USE MAP
(available at Town Office)

SECTION XII

Appendices

Appendix A	Planning Board Ordinances
Appendix B	Board of Appeals Ordinances
Appendix C	State Junkyard and Automobile Graveyard Law
Appendix D	Common Equivalencies of Decibel ratings for Noise
Appendix E	Posted Road Ordinance
Appendix F	Shoreland Zoning Ordinance
Appendix G	Wind Turbine Ordinance

APPENDIX

A

Jackson Planning Board Ordinance

A. Establishment

Pursuant to Article VIII, Pt. 2, Sec. 1 of the Maine Constitution, and 30-A MRSA 3001, the Town of Jackson hereby establishes a Planning Board. The Board which has been acting as a Planning Board for the Town of Jackson is hereby reestablished as the legal Planning Board for the purposes of this Ordinance. The actions which that Board and all prior Boards took prior to the adoption of this Ordinance are hereby declared to be the bona fide acts of the legally constituted Planning Board of the Town of Jackson.

B. Duties and Powers

1. **Recommend Development Policies** – In general, the Jackson Planning Board will be responsible for developing policies related to land use and development within the Town of Jackson and making recommendations to the townspeople. Specifically, the Board is responsible, together with the Board of Selectmen, for implementing the wishes of the townspeople as expressed within the Jackson Comprehensive Plan, and initiating updates and revisions to the Plan as deemed necessary, but no less than every ten years. The Board is encouraged to include non-Board members to participate with the Board on committees to update the Comprehensive Plan, develop ordinances or otherwise plan for Jackson's future.
2. **Education and training** – It shall be the responsibility of the Board to become familiar with the Jackson Comprehensive Plan, all the duly enacted ordinances of the Town which it may be expected to act upon as well as with applicable state statutes. The Town Clerk shall make the chairperson of the Board aware of notices received by the Town regarding available training opportunities for the Board members and the selectmen shall encourage their participation in such training.
3. **Regulated Development** – The Planning Board is responsible for regulating land use and development as authorized within ordinance and policies approved by the Townspeople, generally reviewing applications for subdivisions, activities in environmentally sensitive areas and other developments felt appropriate for municipal review as outlined in Town Ordinance.
4. **Monitor Development Trends** – The Planning Board must work cooperatively with the Code Enforcement Officer, Addressing Officer, Plumbing Inspector and Board of Selectmen/Assessors in assessing the effectiveness of the Town's Ordinances and other strategies to guide development in accordance with the Comprehensive Plan. Each January the Board, in cooperation with the officials named above, will compile records of all development activity during the calendar year, report such activity within the Annual Report to the Townspeople, including an assessment of which the activity occurring is in concert with the direction of the Comprehensive Plan. Specifically, the quantity, type and location of development activity will be considered in this assessment. If activity to the Comprehensive Plan's stated direction, the Board shall make recommendations as to how the Town might wish to respond.
5. **Other** – In addition to the primary functions noted above, the Board is authorized to perform such duties and exercise such powers as may be otherwise provided either by Town Ordinance or the laws of the State of Maine. In conducting its duties, the Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

X. Membership

1. **Qualifications** – All members shall be residents of the Town of Jackson. Service on the Board of Appeals, which constitutes judicial review of Planning Board decisions, is considered to be incompatible with concurrent service on the Planning Board. If a Board of Appeals member or an immediate household member of a Board of Appeals member is appointed to the Planning Board, the person will be considered to have resigned from the Board of Appeals. In addition, to ensure that a diverse group of residents are involved in monitoring land use trends and acting on development applications, no more than one Planning Board member may be concurrently serving on the Board of Selectmen.
2. **Appointment** – The Board shall consist of five (*Reference Warrant 2008*) members appointed by the Board of Selectmen. Following appointment, each member shall be sworn in by the Town Clerk or other person authorized to administer oaths.
 - (a) The term of each member shall be three years. Terms of those appointed in 1999 will be staggered, with two members' terms scheduled to terminate in each of 2000 and 2002, and three members' terms scheduled to terminate in 2001. the cycle of appointment shall be repeated every three years.
 - (b) Those members serving on the Planning Board at the time of this Ordinance is enacted shall be considered to have been properly appointed until the effective date of this Ordinance, when they shall become eligible for reappointment.
3. **Vacancies and Removals** – A vacancy shall occur upon the resignation of any member, or when a member ceases to be a legal resident of the Town, or when a member fails to attend three consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve month period. When any of the foregoing events occurs, the chairperson of the Board shall immediately so advise the municipal officers in writing. The Board may recommend to the municipal officers that the attendance provisions be waived for cause, in which case no vacancy will exist until the municipal officers disapproved the recommendation by majority vote. In addition to the automatic vacancy provisions noted above, the municipal officer may remove members of the Planning Board by unanimous vote, for cause, after notice and hearing. If a vacancy occurs by resignation, removal or otherwise, the municipal officers shall within sixty (60) days appoint a person to serve for the unexpired term. The Town Clerk shall administer the oath of office as soon as possible following acceptance of the appointment.
4. The role of the alternate is to fulfill all the duties and responsibilities of an absent Planning Board member. The 1st alternate will serve first, followed by the 2nd alternate if necessary. (*Reference Warrant 1999*)

D. Organization and Rules

1. **Rules and procedure** – Business of the Board shall be conducted in accord with Maine statutes and Town Ordinances. The Board shall adopt bylaws to govern its internal procedures, including but not limited to meeting schedule, public notice of meetings and business to be conducted, method of bringing business to the Board, and internal communication procedures. The bylaws shall be reviewed no less than annually and revised if desired during the organizational meeting.
2. **Meetings** – The Board shall determine its meeting schedule and frequency but under no circumstances shall meet less than twice annually. An organizational meeting will be held following annual appointments but no later than the first Wednesday of May. A development trends review meeting will be held following the construction season but no longer than January with other municipal officials involved in land use activities. The date for this meeting will be established at the organizational meeting so that all Board members and involved officials will be sure to attend.

(a) **Annual Organizational Meeting** – Following annual town meeting and appointments by the municipal officers, but no later than the first Wednesday of May, the board shall hold an annual organizational meeting to review its responsibilities under this Ordinance, provide copies of the Comprehensive Plan and existing ordinances to members, elect officers, review the bylaws, establish a meeting schedule (including date for development trends review meeting) and set goals for the year. This meeting shall be called by the existing chairperson of the Board, or, if that person is vacant, by the municipal officers. The town Clerk shall attend to administer the oath of office to any member beginning his or her term.

(b) **Development Trends Review Meeting** – Following the construction season, but in no event later than during the month of January, the Board will meet with the Addressing Officer, Code Enforcement Officer, Plumbing Inspector and a delegate from the Board of Selectmen to review the amount, type and location of development, as well as level of compliance with Town Ordinances. All Town systems related to guiding development and informing landowners of Town policies will be reviewed as to their effectiveness and user-friendliness, with recommendations for all changes considered. This information will be compiled into a written report for Annual Report to townspeople, including an assessment of how well the Town's systems are working to achieve the goals expressed in the Comprehensive Plan. It shall be the responsibility of the Board chairperson to conduct this meeting and notify the other officers to attend or otherwise provide input needed for the evaluation.

(c) **Regular Meetings** – Unless the bylaws provide to the contrary, the Board will, at the annual organizational meeting, establish a regular monthly meeting time to be reserved for Planning Board meetings. If no business is filed at the Town Office or with the Board chairperson by three days before a regularly scheduled meeting, and there is no other business before the Board, any meeting may be canceled. The specified procedure to be followed in communicating a cancellation to Board members and the public should be outlined in Board bylaws.

(d) **Open to Public** – All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in a public meeting. The Board shall not hold executive sessions except for consultation between the Board and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the Town or Board at a substantial disadvantage. The Board may establish rules for allowing public comment at its meetings within the bylaws.

(e) **Public Notice** – The Board shall outline specific public notice procedures in its bylaws. The date, time and place of the annual organizational meeting, development review meeting and regularly scheduled meetings should at a minimum be posted in the Town Office. Whenever possible, notice of special meetings should appear in the weekly newspapers. In case of public hearings, special efforts to broadly advertise the session should be undertaken.

3. Officers – During the annual organizational meeting, the Board shall elect a chairperson and vice chairperson from among its members. The board may either elect a secretary from among its members or hire a non-Board member to serve as secretary if funds are appropriate for such purpose. The term of all officers shall be one year with eligibility for re-election.

4. **Voting** – The Board shall act by majority vote calculated on the basis of the number of members present and voting.

(a) **Quorum** – No meeting of the Board shall be held without a quorum of five members. On any specific piece of business, (*three reference town warrant 2008*) members must be eligible to vote or the matter must be postponed. When a quorum does not exist, those members in attendance may act to set the date for a future meeting.

(b) **Conflict of Interest** – Any questions of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present and authorized to vote, except the member whose potential conflict is under consideration. The term “conflict of interest” shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or his or her employer, or the employer of any member of the person's immediate family.

5. **Records** – The Board secretary shall keep a record of board resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times. More specifics on topics such as where records are stored should be outlined in Board bylaws.

E. Severability – Should any portion of this Ordinance be found to be void or unenforceable by a court of law, such judgment shall not affect the remainder of the conditions of the Ordinance, which shall remain in effect.

F. Effective Date – This Ordinance is effective as of April 1, 1999.

G Compensation: 2007 Town Report: Payment to the Planning Board Members based on monies available in budget. Payment will be paid yearly, only for meetings attended and not to exceed \$10.00 per meeting.

2009: \$20.00 per attended meeting.

2012: from \$20.00 to \$15.00 per member, increase the stipend for Chairman to \$25.00.

APPENDIX

B

Board of Appeals Ordinance

A. Established and Authority

A Board of Appeals, hereinafter referred to as “board,” is hereby created in accordance with the provisions of Title 30A, MRSA, Sections 2691 and 3001 (home rule) to provide an impartial vehicle for: (a) the interpretation of unclear ordinance provision, (b) the appeal of actions taken by town officials in administering Jackson's ordinances, and © the gaining of variance relief in unusual circumstances where strict interpretation of town ordinance will cause undue hardship as defined by state law. To the extent authorized by state statute, the Board may also be empowered to hear appeals in other subject areas.

B. Powers and duties

The Board shall have the following powers and duties related to Jackson's ordinances that provide for an appeal process and areas so designed by state statute. With the exception of advisory interpretation appeals, the Board's powers are to be exercised only upon receipt of a written appeal from an aggrieved party:

1. Advisory Interpretation Appeals: Upon appeal by an administrative board or official of the Town, the Board may interpret the provision of any applicable town ordinance which is called into question. Such interpretations are strictly advisory and non-binding upon future appeal rulings. No application or aggrieved party if necessary for an interpretative appeal to be requested by a town board or official.
2. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the board of selectmen, addressing officer, code enforcement officer, planning board or other responsible town board or official in the administration of town ordinances. Enforcement decisions, however, may not be appealed.
3. Variance Appeals: To authorize variances (permission to deviate from ordinance requirements) upon appeal, within the limitations set forth below, in state law and in any specific ordinance governing the variance request. The board shall limit any variances granted to the minimum relief necessary in order to render substantial justice while ensuring conformance with the purpose and provisions of the applicable ordinance(s) and the Jackson Comprehensive Plan. In doing so, the board may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

The board shall not grant a variance unless it finds that:

- a) the activity would meet the performance standards of the applicable ordinance(s) except for the specific provisions from which relief is sought; and
- b) the strict application of the terms of the ordinance would result in undue hardship.

The term “undue hardship” shall mean all of the following:

- i. that the land in question cannot yield a reasonable return unless a variance is granted;
 - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - iii. That the granting of a variance will not alter the essential character of the locality; and
 - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
4. State Authorized Appeals: The board shall be empowered to hear appeals in any area specifically authorized by State law without Town ordinance directive, such as municipal Special Amusement Permits (Title 28-A MRSA, Section 1054) as required in the Board of Appeals Statute (Title 30-A MRSA, Section 269, Paragraph 4).

C. General Provisions

1. Business of the board shall be conducted in accord with the Maine statutes, town ordinances and Roberts Rules of Order. The board, may, however, adopt additional bylaws to govern its procedures.
2. The Board may rely upon the "*Handbook for Local Appeals Boards: A Legal Perspective.*" published by the Maine Municipal Association (hereinafter referred to as "*Handbook*"), as a general guide for how to conduct its business beyond the specific provisions contained within this ordinance.
3. It shall be the responsibility of the board to become familiar with all the duly enacted ordinances of the town which it may be expected to act upon as well as with the applicable state statutes. The municipal officers shall make the chairperson of the board of notices received by the town regarding available training opportunities for board members and shall encourage their participation in such training.
4. It shall be the responsibility of the board to become familiar with the community goals and policies as expressed in Jackson's Comprehensive Plan, and grant the minimum relief necessary to prevent the intent of the Plan and see that substantial justice is done.

D. Appointment and Composition

1. The municipal officers shall appoint members of the board, whose term shall begin as of the date of the annual organizational meeting required under subsection D.5 below
2. The board shall consist of five (5) members. Of the first members appointed, one term will expire in each of the following years: 1998, 1999, 2000, 2001 and 2002. Members may be reappointed to successive terms.
3. Persons holding the following incompatible positions at the same time are ineligible to serve on the board; municipal officers, planning board members, code enforcement officer, addressing officer, plumbing inspector and any other persons responsible for administrating any of the ordinances which may be called into question before the board. Title 30-A, MRSA, Section 2681 also prohibits spouses of municipal officers from serving on the board.
4. Among its appointment considerations, the municipal officers shall seek to appoint one or more members who are knowledgeable of town ordinances, relevant state laws and/or appellate procedures to provide the board with some experience to draw upon in conducting its duties.
5. Following annual town meeting but no later than the fourth Wednesday of April, the board shall hold an annual organizational meeting to review its responsibilities under this ordinance and provide copies of existing ordinances to all members. This shall be called by the existing chairperson of the board, or, if that position is vacant by the municipal officers. The town clerk shall attend to administer the oath of the office to the member beginning his/her term.

6. At the annual meeting, the Board shall elect a chairperson, acting chairperson and secretary from its membership for a term of one year. The secretary shall maintain all official records of the Board and shall provide for the keeping of the minutes of the proceedings of the Board, which shall show the vote of each member upon each question. All minutes, correspondence, and information gathered on any appeal before the Board, shall be public record and filed at the town office.
7. Any member of the Board may be removed from the Board for cause, by the municipal officers, before the expiration of his/her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refuse specific charges against him/her. The term "for cause" shall include failure to attend three (3) consecutive Board meetings or hearings without sufficient justification, or voting when the member has a conflict of interest.
8. If a vacancy occurs by resignation, removal or otherwise, the municipal officers shall within sixty (60) days appoint a person to serve for the unexpired term. The Town Clerk shall administer the oath of office as soon as possible following acceptance of the appointment.

E. Meetings

1. Other than the annual organizational meeting, the chairman shall call meetings of the Board as necessary to perform its duties. The chairperson shall also call meetings of the Board when requested to do so by a majority of the members or shall by the municipal officers.
2. At least five (5) days' written notice of the time, place and business of the meeting shall be posted in the Town Office and given to each member of the Board, the Selectmen, the Planning Board, the Code Enforcement Officer, the Town Clerk and any other parties of interest. The notice shall specify the matters to be considered at the meeting. (NOTE: When public hearing on an appeal is scheduled to be heard, published notice and notice to abutter is also required under Subsection G.8 below).
3. All meetings of the Board shall be opened to the public, except executive sessions. No vote may be taken by the Board except in public meeting. The Board except in public meeting. The board shall not hold executive sessions except for consultation between the Board and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the Town or Board at a substantial disadvantage
4. A quorum shall consist of three (3) members of the Board.
5. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the chairperson to call a special meeting for a subsequent date.

F. Voting

1. All matters shall be decided by a roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board unless otherwise specified herein.
2. A tie vote or favorable vote by a lesser number than the required majority shall be considered a failure to act.
3. If a member has a conflict of interests, said number shall not be counted by the Board in establishing the quorum for such matter. The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflicts is under consideration.
4. No member shall vote on the determination of any matter requiring public hearing unless he/she has attended the public hearing thereon, or, alternatively, has become thoroughly familiarized with such matters by reading the record.

G. Appeal Procedure

1. Time Limit:

- a) An administrating or variance appeal may be taken to the Board by an aggrieved party from any permitting decision of a town official or board responsible for administering town ordinances. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the board, upon it showing of good cause, may waive the thirty (30) day requirement.
- b) there is no time limit on interpretation appeals brought by one or more of the town officials or boards responsible for administrating town ordinances as an internal matter of clarifying the town's interpretation of ordinance language.

2, Application and fee: Such appeal shall be made by filing with the town clerk a written appeal application which includes:

- a) A concise written statement indicating what interpretation, administrative error or variance relief is requested and why it should be granted;
- b) A sketch drawn to scale showing lot lines, location, of existing buildings and structures and other physical features of the lot pertinent to the relief requested;
- c) If a variance appeal, a copy of the last recorded deed to the property's chain of title, with Book and Page number of its record in the Waldo County Registry of Deeds clearly visible; and
- d) The appropriate fee based upon a schedule adopted by the municipal officers to defray the cost to the Town of administrating the appeal. The municipal officers may provide for a refund of the application fee in administrative appeals where the Board finds in favor of the petitioner.

3. Town Official Notification: Upon receipt of the application for appeal, the Town Clerk shall send a copy of the application to the chairperson of the Board, the municipal officers, the Addressing Officer, the code enforcement officer, the chairperson of the planning Board, and/or other relevant town officials to notify them of the application. If the appeal information is lengthy, the clerk may summarize the nature of the appeal and notify the Town Officials that the full application is available for review in the Town Office.

4. Existing Town Records of Case: Upon being notified of an appeal, the board of Selectmen, Addressing Officer, Code Enforcement officer, Planning Board, and/or any other responsible town official(s), as appropriate, shall transmit to the Board secretary all of the papers constituting the record of the decision appealed from.

5. Town Official Participation: Representatives of the Planning Board and Board of Selectmen, as well as individual town officials holding responsibility for administering the ordinance provisions or permit decision being appealed, shall attend the meetings and/or hearings of the Board on the appeal and participate as appropriate.

6. Board Meeting: The chairperson shall call a meeting of the Board to discuss the appeal, providing notice as required under Section D above to town officials, the applicant and the public. At the meeting, the Board will determine whether to act on the appeal at the time, schedule another meeting within thirty (30) days at which time to act on the appeal, or schedule a public hearing on the appeal (see subsection 7 below). The Board shall review the Town records on the case, the information provided in the application, and determine what other information it feels must be obtained in order to make its decision.

7. Legal Advice: Provided the Town maintains its membership, the board may utilize the Maine Municipal Association for legal advice unless the nature of the appeal is such that a Town attorney must be retained. If the Board feels that legal counsel beyond that available from the Maine municipal Association is required, it shall request the municipal officers to authorize retention of an attorney knowledgeable in the matter at hand.

8. Public Hearing: For all variance appeals and other appeals it deems necessary, the Board shall schedule a public hearing to offer a thorough opportunity for input from interested parties and the public. The hearing shall be scheduled within (30) days of the filing of a completed appeal application. The board shall send or hand-deliver written notice of this hearing to the representative (if different), abutters to the property involved, and any other interested parties or relevant town officials at least seven (7) days prior to the date of the hearing. A public notice shall also be posted in a newspaper of general circulation at least seven (7) days prior to the hearing.

H. Hearing Procedure

The order of business at a public hearing shall be as follows, unless waived by agreement of all parties:

1. The Chairperson calls the hearing to order.
2. The Chairperson determines whether there is a quorum.
3. The Chairperson gives a statement of the case and reads all correspondence and reports received.
4. The Board determines whether it has jurisdiction over the appeal.
5. The Board decides whether the applicant has the right to appear before the Board.
6. The Board determines which individuals attending the hearing are “interested parties.” “Interested parties” are those persons who request to offer testimony and evidence and to participate in oral cross-examination through the Chair. They would include those who might be adversely affected by the Board's decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Town Officials and/or Boards responsible for administering the permit being appealed shall automatically be made parties to the proceeding. Other persons attending the hearing and federal, state, municipal, and other governmental agencies shall be permitted to make oral and written statements and to submit oral and written questions through the Chair.
7. The applicant is given the opportunity to present his/her case without interruption.
8. The Board and interested parties may ask questions of the applicant through the Chair.
9. The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
10. The appellant may ask questions of the interested parties and Board witness through the Chair.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.
14. The Board will normally continue in meeting format and render its decision directly after the close of hearing. If, however, the board feels that more information and/or legal consultation is necessary before rendering a decision, it may assign the necessary research work among its members and/or request information from the parties and schedule a future meeting at which to render a decision. The five (5) day notice is not required of the following-up meetings on the same case, as long as the meeting is posted and all interested parties are immediately notified of the date and time of the meeting.

I Decisions

1. Burden of Proof: The person filing the appeal shall have the burden of proof.
2. Public Record: The transcript of all testimony, if any, and exhibits, together with all papers and request filed in the proceedings, shall constitute the record. All decisions shall become part of the record and shall include a statement of findings and conclusions related to each issue relevant to the appeal such that the basis for decision is clear.
3. Basis of Decision: The Board, in reaching said decision, shall be guided by standards specified in the applicable state laws, town ordinances, policies specified in the Jackson Comprehensive Plan and by the specific findings of fact by Board in each case. In reviewing an application on any matter, the standards in any applicable ordinance or statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

4. Action on Appeal: Following the findings of fact on an appeal, the Board may affirm with conditions, or reverse the decision of the appropriate town official or board may reverse the decision, or failure to act, was clearly contrary to specific provisions of town ordinance or applicable state law. When errors of administrative procedures or interpretation are found, the case shall be remanded back to the appropriate town official for correction and reconsideration with no prejudice as to the eventual outcome of the substantive matter in question. The final decision on any matter before the Board shall be made by written order signed and dated by the chairman, acting chairperson or secretary.
5. Time Frame: the Board shall decide all appeals within thirty (30) days after the close of fact-finding.
6. Distribution of Decision: Decisions of the board shall be immediately filed with the town Clerk and shall be made public record. Copies of the Board's decision shall be provided to the petitioner, petitioner's agent (if different), planning board, municipal officers, code enforcement officer and other interested parties within seven (7) days of the board's decision. In the case of a variance granted within the shore land zone, a copy will also be provided to the Department of Environmental Protection within 14 days of the decision.
7. Variance Certificate: If a variance is granted by the Board, a certificate indicating the name of the current property owner, identifying the property by reference to the last record deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form by the Secretary of the Board or designee. The certificate must be recorded by the property owner or his/her agent in the Waldo County Registry of Deeds within 30 days of final approval of the variance (or of subdivision approval, if appropriate) or the variance is void. The variance is not valid until recorded as provided in this provision. (NOTE: A sample certificate is provided in the "Handbook").

J. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board may appeal to Superior Court in accordance with the State laws within forty-five (45) days from the date of any decision of the Board.

K. Reconsideration The Board may reconsider any decision reached within thirty (30) days of its prior decision. A vote to reconsider, notice to interested parties, and the action taken on that reconsideration must occur and be completed within 30 days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony, providing notice as outlined in Subsection H.14 above. Appropriate reasons for reconsideration include the following: a) The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based; or b) The Board misinterpreted the Ordinance, followed improper procedures, or acted beyond its jurisdiction.

L. Severability

If any of this Ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

M. Amendments At any time this Ordinance is amended, the Town Clerk, upon written advice approved by unanimous vote of the Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct topographical errors, provide such changes do not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.

APPENDIX

C

Economic Regulation

30-A 3751

Ch. 183

Subchapter

Section

VI Pawnbrokers.....3961

Subchapter I

Junkyards and Automobile Graveyards

Section		Section	
3751	Purpose	3756	Permit fees
3752	Definitions	3757	Provisions regarding nuisances unaffected
3753	Permit required		
3754	Hearings	3758	Violation
3755	Limitations on graveyard, automobile recycling business and junkyard permits	3759	Rules
3755-A	Automobile recycling business permits; operation standards	3760	Relocation, removal, disposal, compensation and condemnation

Historical and Statutory Notes

Amendments

1991 Amendment. Laws 1991, c 548, B-4 eff. July 10, 1991, repealed and replaced the first 3	Lines of chapter 183, which, in effect, changed the name of Subchapter I from “Automobile Junkyards” to “Junkyards and Automobiles Graveyard”
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3751. Purpose

Junkyards and so-called “auto graveyards” have been steadily expanding and frequently encroached upon highways. These Junkyards and graveyards have become a nuisance and a menace to safe travel on public ways, often distracting the attention of drivers of motor vehicles because it appears cars are parked on the highway or that an accident has occurred. It is declared that such junkyards and automobile graveyards are a nuisance and are properly subject to regulation and control.

It is recognized that recycling of automobiles is a business enterprise that, when conducted in accordance with certain standards, differs from the enterprise of an automobile graveyard and that adoption of uniform state standards for the type of business enterprise would assist in development and regulation of that business.

1987, c. 737, A, 2; 1993, c. 173, 1.

Historical and Statutory Notes

Amendments

1993 Amendment. Laws 1993, c. 173, 1, added paragraph relating to the adoption of uniform state standards for the automobile recycling business.	“this act shall be retroactive to Feb. 28, 1989” The emergency clause of laws 1989, c. 104, provided “In review of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989)”
Effective dates 1987 Act. Laws 1987, c. 737, C, 106, as amended by laws 1989, c. 6, eff. March 1, 1989;Laws 1989, c. 9, 2, eff. March 16, 1989; Laws 1989, c. 104, C,8, provided “this act shall take effect Feb. 28, 1989”1989 Act. Laws 1989, c. 104, C, 10, provided:	Derivation: RS. 1954, c. 100, 137 Laws 1963, c. 178, 1. Laws 1965,c. 285, 1. Laws 1965,c. 481, 1. Former 2451 of title 30

WESTLAW Electric Research

See WESTLAW Electronic Research Guide following the Preface.

3752. Definitions

As used in this sub-chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Automobile graveyard** - “Automobile graveyard” means a yard, field or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title 29, section 1, subsection 7, or parts of such vehicles.
 - A. “Automobile graveyard” does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.
 - B. “automobile graveyard” includes an area used for automobile dismantling, salvage and recycling operations.
 - 1-A **Automobile recycling business** - “Automobile recycling business” means the business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.
2. **Highway** - “High-way” means any public way.
3. **Interstate System** - “Interstate System” means those portions of the Maine Turnpike and the highway system incorporated in the National System of Interstate and Defense Highways, as officially designated by the Department of transportation.
4. **Junkyard** - “Junkyard” means a yard, field, or other area used to store:
 - A. Discarded, worn-out or junked plumbing, heating supplies, house hold appliances and furniture;
 - B. Discarded, scrap and junk lumber;
 - C. Old or scrap copper, brass, ropes, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous materials; and
 - D. Garbage dumps, waste dumps and sanitary fills.
5. **Primary Systems** - “Primary System” means that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.
6. **Recycling or Recycling Operations** - “Recycling or Recycling operations” means the dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles.

1987, c. 737, A, 2; 1991, c. 745, 1; 1993, c. 173, 2, 3.

Historical and Statutory Notes

Amendments

1991 Amendments. Laws 1991,c. 745, 1, added subsec. 1, par. B.	“this act shall be retroactive to Feb. 28, 1989”
1993 Amendment, laws 1993,c. 173, 2, added subsec. 1-A	The emergency clause of laws 1989, c. 104, provided: “In view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989)”
Laws 1993,c. 173, added subsec. 6.	Derivation:
Effective dates	Laws 1965, c. 78, 2.
1987 Act. Laws 1987,c. 737, C, 106, as amended by laws 1989,c. 6, eff. March 1, 1989; Laws 1989, c. 9, 2, eff March 1, 1989; Laws 1989, c. 104, C, 8, provided: “this act shall take effect on Feb. 28, 1989”	Laws 1965, c. 285, 2
1989 Act. Laws 1989, c. 104, C, 10, provided:	Laws 1965, c. 481, 2
	Laws 1971, c. 593, 22
	Laws 1975, c 300
	Former 2451-B of Title 30

Library References

Words and Phrases

words and phrases (perm.Ed.)

Notes of Decisions

1. In general

<p>Where enabling act for ordinance defining offense of maintaining automobile junkyard proscribed storage of “three or more” unserviceable or discarded vehicles and authorized a municipality to “apply more stringent restrictions, limitations and conditions in any permit for an automobile graveyard *** adjacent to any highway” and municipal ordinance proscribed the occupation of such a yard by “two or more vehicles,” the ordinance was not facially invalid and complaint alleging maintenance of such a yard “on 41 Third Street” in which there were “two or more unregistered, discarded or junked motor vehicles” when juxtaposed against ordinance was not subject to facially disability.</p>	<p>State vs. Lewis (1979) Me., 406 A.2d 886. Ordinance defining offense of maintaining an automobile junkyard was not invalid on its face for including word “unregistered” in its definition of an automobile junkyard even though enabling act did not include such an adjective, because reference in ordinance to “unregistered vehicles” incorporated “discarded or junked motor vehicles” as referred to in enabling act. Stae vs. lewis (1979) Me. 406 A2d 886. Effective of ordinance proscribing maintaining automobile junkyard was not an unconstitutional taking of property. State vs. Lewis (1979) Me., 406 A.2d 886.</p>
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3753 Permit Required

No person may establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officers of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any unorganized territory in which the automobile grave yard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year. Permits issued to an automobile recycling business under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business. 1987, c. 737, A, 2; 1993, c 173, 4.

Historical and Statutory Notes

Amendments

<p>1993 Amendment Laws 1993, c. 173, 4, made provisions applicable to automobile recycling businesses, and added provisions relating to the issuance and renewal of permits. Effective dates 1987 Act. Laws 1987,c 737, C, 106, as amended by laws 1989, c. 6, eff. March 1, 1989; Laws 1989,c 9, 2, eff march 16, 1989; Laws 1989, c. 104, C, 8, provided: “this act shall take effect on Feb. 28, 1989.” 1989 Act. Laws 1989, c 104, c, 10, provided: “this act shall be retroactive to Feb. 28, 1989”</p>	<p>The emergency clause of laws 1989, c 104, provided: “In view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989)” Applications Laws 1991, c 745, 4, provided: “annual permits issued under the Maine Revised Statutes, Title 30-A, section 3753 remain in effect until those permits expire.” Derivation: R.S. 1954, c. 100, 138. Laws 1963, c 178, 2. laws 1965,c 285, 3. laws 1965, c 481, 3 former 2452 of Title 30</p>
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3754. Hearings

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish, operate or maintain an automobile graveyard,

automobile recycling business or junkyard. They shall post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written notice of the application to the Department of Transportation by mailing a copy of the application at least 7 and not more than 14 days before the hearing. 1987, c 737, A, 2; 1993, c 173, 4.

Historical and Statutory Notes

Amendments

<p>1993 amendment Laws 1993, c 173, 4, made section applicable to automobile recycling businesses. Effective dates 1987 Act. Laws 1987,c 737, C, 106, as amended by laws 1989, c. 6, eff. March 1, 1989; Laws 1989, c. 9, 2, eff. March 16, 1989; Laws 1989, c. 104, C, 8, provided: "this act shall take effect on Feb. 28, 1989." 1989 act. Laws 1989, c. 104, C, 10, provided: "this act shall be retroactive to Feb. 28, 1989."</p>	<p>The emergency clause of laws 1989, c. 104,provided; "In view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989)." Derivation: R.S. 1954, c. 100, 139. Laws 1963, c. 178, 3. Laws 1965, c. 285, 4. Laws 1965, c. 481, 3. Laws 1971, c. 593, 22. Laws 1977, c. 564, 115-A. Former 2453 of Title 30.</p>
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3755. Limitations on graveyard, automobile recycling business and junkyard permits

1. **Highways; Interstate and Primary Systems.** No permits may be granted for an automobile graveyard or junkyard within 1000 feet of the right-of-way of any highway incorporated in the Interstate and Primary Systems or within 600 feet of the right-of-way of any other highway, except for:
 - a. Those automobile graveyards or junkyards that are kept entirely screened to ordinary view from the highway at all times by natural objects, plantings or fences;
 - 1). Screening required by this paragraph must be well constructed and properly maintained at a minimum height of 6 feet and acceptable to the municipal officers or county commissioners. It must comply with the rules adopted by the Department of Transportation. The permit shall specify that compliance with these rules is required; and
 - b. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1000 feet from the right-of-way of any highway incorporated in the Interstate and Primary Systems.
 2. **Public facilities.** No permit may be granted for an automobile graveyard or junkyard that is:
 - a. Located within 300 feet of any public park, public playground, public bathing beach, school, church or cemetery; and
 - b. Within ordinary view from that public facility.
- 2-A. **Public and private water supplies.** No permit may be granted for automobile graveyard operations within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard of the owners or operators abutting residence. This prohibition does not apply to wells installed after the effective date of the subsection if the automobile graveyard has already received a permit under section 3753.
3. **limitation on new permits.** No permit may be granted for any automobile graveyard or junkyard established after October 3, 1973, and located within 100 feet of any highway.

3. **Rules.** No permit may be granted for an automobile graveyard or junkyard that does not comply with the rules adopted under section 3759. Municipal officers or county commissioners as provided for in section 3753 may apply more stringent restrictions, limitations and conditions in considering whether to grant or to deny any permit for an automobile graveyard or junkyard adjacent to any highway.
4. **Local ordinances.** This subchapter may not be construed to limit a municipalities home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that concern any other standards that the municipality determines reasonable, including, but not limited to:
 - A. Compliance with state and federal hazardous waste regulations;
 - B. Fire and Traffic safety;
 - C. Levels of noise that can be heard outside the premises;
 - D. Distance from existing residential or institutional uses; and
 - E. The effect on ground water and surfaces water, provided that municipal ordinances on

groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection concerning automobile graveyards and junkyards. Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to the grant of a permit.

6. **Applicability.** Municipalities may apply local ordinances adopted previously under subsection 5 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit to be filed.

1987,c. 737, A,2; 1991, c.745, 2; 1993, c. 173, 5.

No subpar. (2) was enacted.

Historical and Statutory Notes

<p>Amendments 1991 Amendment. Laws 1991, c. 745, 2; added subsec. 2-A. 1993 Amendment Laws 1993, c. 173, 5, in subsec. 5, made provisions applicable to automobile recycling businesses, and added subsec. 6.</p> <p>Effective dates 1987 Act laws 1987, c 737, C, 106, as amended by laws 1989,c 6, eff March 1,1989; Laws 1989,c. 9, 2, eff march 16, 1989; Laws 1989, c. 104, C, 8, provided: “ This act shall take effect on Feb. 28, 1989” 1989 Act. Laws 1989,c. 104, C, 10, provided: “this Act. Shall be retroactive to Feb. 28, 1989.” the emergency clause of laws 1989,c. 04, provided: “ In view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989)</p> <p>Applications Laws 1991, c 745, 4, provided</p>	<p>“Annual permits issued under the Maine Revised statutes, Title 30-A, section 3753 remain in effect until those permits expire.”</p> <p>Derivation: R.S. 1954, c. 100, 140. Laws 1963, c. 178, 4. Laws 1965, c. 285, 5. Laws 1965, c. 481, 3. Laws 1971, c. 593, 22. Laws 1973, c. 424, 1. Laws 1985, c. 305. Laws 1987, c. 582, A, 48. Laws 1987, c. 583, 28. Former 2454 of title 30.</p> <p>Costs Excluded from Mandate Laws 1991, c. 745, 5, provided: “Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local and county government are not state mandates subject to that section and the State is not required to fund those costs.”</p>
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Notes of Decisions

<p>In General 2 Purpose 1 Review 3</p> <p>1. Purpose Legislature intended to limit city councils inquiry in considering applications for permits for automobile junkyards to evidence concerning location of facility with reference to highway and compliance with screening regulations, and though city council may apply more stringent restrictions and impose conditions on operation of such facilities, council may not deny permit application for any reason other than applicants failure to satisfy location and design criteria specified in this section and regulatory requirements pursuant to 2459 of this title. <i>Spain v. City of Brewer</i>(1984) Me, 474 A.2d 496.</p> <p>2. In General City council ,acting in its legislature capacity, may decide to amend zoning ordinance to exclude or restrict automobile junkyards from certain areas of city, but while exercising its adjudicatory function under automobile junkyard licensing statute, it is without authority either to make initial determination regarding permitted use under zoning ordinance or to review prior ruling on that issue by Zoning Board of Appeals. <i>Spain v. City of Brewer</i> (1984) Me, 474 A.2d 496. City council lacked authority to consider issues related to zoning and water pollution in reviewing application for automobile graveyard permit. <i>Spain v. City of Brewer</i> (1984) Me, 474 A.2d 496. Only authority delegated to municipal corporations with respect to private use of property as automobile junkyard is authority to review and approve all applications for permits subject to statutory criteria regarding their location and design; municipal corporation does not have authority to consider properties compliance with local zoning ordinances, which is responsibility of code enforcement officer and Zoning Board of Appeals, nor to consider property owners protection of water supplies from potential pollutants, which is responsibility of State Board of Environmental Protection. <i>Spain v. City of Brewer</i> (1984) Me, 474 A.2d 496. Where enabling act for ordinance defining offense of maintaining automobile junkyard proscribed storage of “three or more” unserviceable or discarded vehicles and</p>	<p>Authorized a municipality to “apply more stringent restrictions, limitations and conditions in any permit for an automobile graveyard ...adjacent to any highway” and municipal ordinance prescribed the occupation of such a yard by “two or more vehicles,” the ordinance was not facially invalid and complaint alleging maintenance of such a yard “on 41 third street” in which there were “two or more unregistered, discarded or junked motor vehicles” when juxtaposed against ordinance was not subject to facial disability. <i>State v. Lewis</i> (1979) Me, 406 A.2d 886.</p> <p>3 Review Review of the city counsels denial of permit to operate automobile salvage yard was limited to determining whether city council abused its discretion or community error of law in denying application based on its own interpretation of zoning ordinance and on its own behalf that salvage yard would pollute water supply. <i>Spain v. City of Brewer</i> (1984) Me., 474 A.2d 496. Appeal from order requiring town council to issue junkyard permits concerned scope of town council's authority to regulate automobile graveyard and junkyards and appeal was therefore not dismissed as most merely because 1983 permit which council was ordered to approve had already expired but was entertained under exception to mootness doctrine allowing consideration of issues which may be repeatedly presented to the superior court, yet escape further review because of their fleeting nature; overruling <i>Drummond v. Inhabitants of the Town of Manchester</i>, (212, A2d 701, 161 Me. 376 (1965). <i>Lynch v. Town of Kittery</i> (1984) Me., 473 A2d 1277. Where town council never sought to impose any conditions on proposed automobile graveyard and junkyard, its authority in this regard of only speculative internet and was not present for decision by the superior court, and Supreme Judicial Court therefore declined to issue opinion which would be purely advisory with respect to powers that town council (which now conceded it lacked authority to deny application if location and design satisfied all criteria set forth in 2454 of Title 30 and regulations) might choose to exercise in the future. <i>Lynch v. Town of Kittery</i> (1984) Me., 473 A.2d 1277.</p>
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3755-A Automobile recycling business permits; operation standards

1. **Application** - An application for an automobile recycling business permit must include the following information:
 - A. The name and address of the property owner;
 - B. The name and address of the person or entity who will operate the site; and
 - C. A site plan, including:
 - (1) Property boundary lines;
 - (2) A description of the soils on the property;
 - (3) The location of any sand and gravel aquifer recharge areas;
 - (4) The location of any residence or school within 500 feet of where the cars will be stored;
 - (5) The location of any body of water on the property or within 200 feet of the property lines;
 - (6) The boundaries of the 100-year flood plain;
 - (7) The location of all roads within 1,000 feet of the site;
 - (8) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires; and
 - (9) The location within the property boundary lines where vehicles are drained, dismantled or stored.
2. **Standards for Permits** – The Municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3.
3. **Operation standards** – an automobile recycling business licensed under this section must meet the following standards.
 - A. The site of the yard must be enclosed by a visual screen at least 6 feet high and built in accordance with rules adopted by the Department of transportation pursuant to section 3759.
 - B. A vehicle with an intact engine or motor may not be stored within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5.
 - C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued.
 - D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area.
 - E. A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain.
 - F. A vehicle may not be dismantled or stored within 100 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence.
 - G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner.
 - H. Dismantling of a vehicle must be performed in accordance with the following standards:
 1. The battery must be removed.
 2. Engine lubricant, transmission fluid, and engine coolant must be drained into watertight, covered containers and must be recycled or disposed of in accordance with the applicable federal or state laws, rules or regulations.
 3. Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.
 4. The receiving operation must comply with all applicable federal or state laws related to hazardous materials.
4. **Revocation or suspension of permit** – For purposes of section 3758, subsection 3, each of the standards set forth in this section are conditions of each permit.
5. **Relationship to automobile graveyard permit** – A person who recycles automobiles but does not qualify for, or loses, an automobile recycling business permit may apply for an automobile graveyard permit.

1993, c. 173, 6.

3756. Permit Fees

The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule.

3756. Permit Fees

The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule.

30-A 3756

MUNICIPALITY AND COUNTIES

Title 30-A

1. **Graveyard or junkyard more than 100 feet from the highway** – Fifty dollars for each permit for an automobile graveyard or junkyard located more than 100 feet from any highway, plus the cost of posting and publishing the notice under section 3754;
2. **Graveyard or junkyard within 100 feet from highway** – Two hundred dollars for each permit for an automobile graveyard or junkyard located within 100 feet from any highway, plus the cost of posting and publishing the notice under section 3754; and
3. **Recycling business** – Two hundred fifty dollars for a 5-year permit for an automobile recycling business plus the cost of posting and publishing the notice under section 3754. 1987, c. 737 , 7.

Historical and Statutory Notes

Amendments

<p>1993 Amendment Laws 1993,c 173, 7, added subsec. 3 Effective dates 1987 Act. Laws 1987, c 737, C, 106, as amended by laws 1989, c. 6, eff. March 1, 1989; Laws 1989, c 104, C, 8, provided : “this act shall take effect on Feb. 28, 1989.” 1989 Act. Laws 1989, c 104, C, 10, provided: “this act shall be retroactive to Feb. 28, 1989.”</p>	<p>The emergency clause of laws 1989,c 104, provided: “ In review of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989).” Derivation: R.S. 1954, c 100, 141. Laws 1963, c 178, 5. Laws 1965, c 285, 6. Laws 1971, c 260. Laws 1973, c 424, 2. Former 2455 of Title 30.</p>
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3757. Provisions regarding nuisances unaffected

This sub-chapter shall not be construed as in any way repealing, invalidating or abrogating Title 17, section 2802, or limiting the right of prosecution under that section. Violation of this sub-chapter in the establishment, maintenance or operation of any automobile graveyard or junkyard constitutes prima facie evidence that the yard is a nuisance in Title 17, section 2802. 1987, c 737,A, 2.

Historical and Statutory Notes

<p>Effective dates 1987 Act. Laws 1987, c 737, C, 106, as amended by laws 1989, c 6, eff. March 1, 1989; Laws 198, c. 9, 2, eff. March 16, 1989; Laws 1989, c. 104, C, 10, provided:” This act shall be retroactive to Feb. 28, 1989.”</p>	<p>The emergency clause of laws 1989, c. 104, provided: “in view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989).” Derivation: R.S. 1954, c. 100, 144. Laws 1965, c. 285, 8. Former 2457 of Title 30.</p>
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3758. Violation

1. **Enforcement** – The state policy as well as local and county law officers shall enforce this sub-chapter. Municipal officers or their designee may also enforce this sub-chapter.
2. **Penalties** – Whoever violates this sub-chapter or the rules of the Department of Transportation adopted under section 3759 must be penalized in accordance with section 4452. Each day that the violation continues constitutes a separate offense.
3. **Revocation or suspension of Permit** – Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the

permit by the authority that issued the permit. No permit may be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

1987, c. 737, A, 2; 1991, c. 824, B-8, eff. April 6, 1992; 1993, c. 173, 8.

Historical and Statutory Notes

Amendments

<p>1991 Amendment. Laws 1991, c. 824, B-8, in subsec. 2, substituted reference to 4452 of this title for reference to 4506 of this title. 1993 Amendment. Laws 1993, c. 173, 8, in subsec. 3, made reference to automobile recycling businesses. Effective dates 1987 Act. Laws 1987, c. 737, C, 106, as amended by laws 1989, c. 6, eff. March 1, 1989; Laws 1989, c. 9, 2, eff. March 16, 1989; Laws 1989, c. 104, C, 8, provided: "This act shall take effect on Feb. 28, 1989." 1989 Act. Laws 1989, c. 104, C, 10, provided</p>	<p>"This act shall be retroactive to Feb. 28, 1989." the emergency clause of laws 1989, c. 104, provided: "in view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989)." Derivation: R.S. 1954, c. 100, 143. Laws 1963, c. 178, 6. Laws 1965, c. 481, 4. Laws 1971, c. 593, 22. Laws 1983, c. 796, 9. Former 2458 of Title 30.</p>
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3759. Rules

In the interest of uniformity and to establish guidelines for the municipal officers and county commissioners in the matter of adequate screening, the Department of transportation shall not adopt rules established minimum standards for screening of automobile graveyards and junkyards. 1987, c. 737, A, 2.

Historical and Statutory Notes

<p>Effective dates 1987 Act. Laws 1987, c. 737, C, 106, as amended by laws 1989, c. 6, eff. March 1, 1989; Laws 1989, c. 9, 2, eff. March 16, 1989; Laws 1989, c. 104, C, 8, provided: "this act shall take effect on Feb. 28, 1989." 1989 Act. Laws 1989, c. 104, C, 10, provided: "This act shall be retroactive to Feb. 28, 1989."</p>	<p>The emergency clause of laws 1989, c. 104, provided: "In view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989)." Derivation: Laws 1965, c. 481, 5. laws 1971, c. 593, 22. Former 2459 of title 30.</p>
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Notes of Decision

1 In general

<p>Legislature intended to limit city council's inquiry in considering applications for permits for automobile junkyards to evidence concerning location of the facility with reference to highway and compliance with screening regulations, and though city council may apply more stringent restrictions and</p>	<p>Impose conditions on operation of such facilities, council may not deny permit application for any reason other than applicant's failure to satisfy location and design criteria specified in 2454 of this title and regulatory requirements pursuant to this section. Spain v. City off Brewer (1984) Me., 474 A2d 496.</p>
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3760. Relocation, removal, disposal, compensation and condemnation

- Acquisition of land** – If the Department of transportation determines that the topography of the land adjacent to any portion of a highway incorporated in the Interstate or Primary Systems will not permit adequate screening, as required in section 3751 to 3760, or that adequate screening would not be

economically feasible, it may acquire by gift, purchase or conditions any interests in property that are necessary to secure the relocation, removal or disposal of the automobile graveyards or junkyards.

2. **Compensation** – In the case of such acquisition, just compensation shall be paid to the owner for the relocation, removal or disposal of the following automobile graveyards and junkyards: those which were operating and in existence on May 11, 1966 and located in areas adjacent to any portion of a highway incorporated in the Interstate or Primary Systems, which exceed federal restrictions and for which federal funds are available to defray the costs; Those in operation along any highway made a part of the Interstate or Primary Systems on or after May 11, 1966; and those in operation and established on or after May 11, 1966.
- 3.
4. **Procedures** – The purchases, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, section 153 to 159.
5. **Use of federal funds** – This section does not prevent the Department from participating with the owner when federal funds are available to defray costs of screening junkyards whenever it is determined to be more feasible to screen rather than to be involved in the cost or impact of acquisition and relocation. 1987, c. 737, § A, 2.

Historical and Statutory notes

<p>Effective dates 1987 Act Laws 1987, c. 737, C, 106, as amended by laws 1989, c. 6, eff. March 1, 1989; Laws 1989, c. 9, 2, eff. March 16 1989; laws 1989, c. 105, C, 8, provided: “This act shall take effect on Feb. 28, 1989.” 1989 Act. Laws 1989, c. 104, C, 10, provided “This act shall be retroactive to Feb. 28, 1989.”</p>	<p>The emergency clause of laws 1989, c. 104, provided: “In view of the emergency cited in the preamble, this act shall take effect when approved (May 4, 1989).” Derivation: Laws 1965, c. 481, 5. Laws 1971, c. 593, 22 Laws 1973, c. 625, 204. Laws 1977, c. 423, 3, 4. Former 2460 of Title 30</p>
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**SUBCHAPTER II
 CLOSING-OUT SALES**

<p>Section 3781. License requirements 3782 Continuation of businesses</p>	<p>Section 3783 Limitation. 3784 Violations and Penalties</p>
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3781. License requirements

No person may offer for sale a stock of goods, wares or merchandise under the designation of “closing-out sale,” “going out of business sale,” discontinuance of business sale,” “entire stock must go,” “must sell to the bare walls” or other designating which states directly or by implications, an intent of that person to dispose of the entire stock of goods with a view to permanently terminating further business after that disposal is complete, unless the person complies with the following requirements.

1. **Inventory license** - Before the disposal sale begins the person must obtain a license to conduct the sale from the municipal officers of the municipality in which the sale will be conducted.

A. The person must apply to the municipal officer for the license under oath. The application must contain a complete inventory of all items to be included in the sale and must be accompanied by the payment of a license fee set by the municipal officers that no applicant must affirm, in writing and under oath, to the municipal officers that no

APPENDIX

D

Common Equivalence of Decibel Ratings for noise

In interpreting the decibel ratings in the noise Performance Standards of this Ordinance, it is helpful to understand that when one noise of say 70 db is added to a second noise of 70 db (as from two vacuum cleaners), the new total noise level is 73 db , not 140 db. In other words, 73 db represents twice as much noise (or sound pressure) as 70 db. This is because the decibel scale is logarithmic, and not an arithmetic or linear scale. However, human perception of loudness is such that a 10 db increase is required for a noise to sound twice as loud. Therefore, perceived noise levels doubles with every 10 db increase. (Compared with 40 db, 50 db sounds twice as loud, 60 db sounds 4 times as loud, 70 db sounds 8 times as loud, 80 db sounds 16 times as loud, etc.)

Distance diminishes the effective perceived by the ear. At the sidewalk, moderate city traffic rates about 70 db, but this drops too 50 db (one-quarter as loud) at 100 feet away.

The following table provides a layman's guide to understanding how various decibel levels related to ordinary noises most people are familiar with:

Decibels	Common Equivalency
10	Rustle of leaves in the breeze (just audible)
20	average whisper
30	Quite suburban street in the evening, no traffic
35	average indoor night-time noises (11pm-6am) in suburban area
40	Average day-night outdoor noises (in rural residential are
47	Average outdoor daytime background noise level on a typical suburban street
50	Large transformers at 100 feet
60	Air conditioner at 100 feet, or average city traffic on a shopping street
66	Air conditioner at 6 to 10 feet (window unit)
70	Vacuum cleaner or traffic noise on very busy city street
73	outdoor noises of a sports car or large truck
76	Expressway traffic at 50 feet from pavement
80	Garbage disposal, or High urban ambient sound (heavy city traffic)
82	very heavy traffic with elevated railway
84	Diesel truck (40 mph) at 50 feet, or diesel train(45 mph) at 100 feet
87	Power lawn mower or food blender (at source)
90	Motorcycle at 25 feet, or pneumatic drill at 10 feet
97	Boeing 737 at 6000 feet before landing
110	Rock and roll band
115	Gasoline powered chain saw (at source) when cutting

NOTE: A "good" standard of noise within dwellings with windows closed is 45 db(a) in daytime and 35 db(a) at night. (Closing windows usually reduces outside noise by about 10 db(a).) The highest noise level that permits relaxed conversation indoors is 45 db(a). People tend to raise their voices in order to be heard, when the background noise exceeds 45-50 db(a).

APPENDIX

E, F, G

Appendix E Posted Road Ordinance

Adopted 21 March 2009

Complete Posted Road Ordinance available at Town Office.

Appendix F Shoreland Zoning

Adopted 14 March 1992

Revised March 1997

Revised March 2009

Revised March 2011

Complete Ordinance available with maps at Town Office.

Appendix G Wind Turbine Ordinance

Adopted 6 Feb. 2010

Amended 20 March 2010

Complete Wind Turbine Ordinance available at Town Office.