

Black – original  
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Green – additions/changes

No.007.06



**JACKSON COUNTY  
MOUNTAIN AND HILLSIDE DEVELOPMENT ORDINANCE**

Adopted August 6, 2007

**Amendments Previously Approved by the Jackson County Planning Board  
January 8, 2015 through May 14, 2015 and Presented to the Jackson County Board of  
Commissioners for Consideration and Approval**

WHEREAS, the Jackson County Board of Commissioners has adopted a land development plan which includes provisions for mountain protection; and

WHEREAS, the Board finds that the protection of mountains and hillsides is an urgent matter given growing public concern about development on them; and

WHEREAS, notice has been provided and a public hearing has been held by the Board of Commissioners on this matter; and

WHEREAS, the Jackson County Planning Board has considered this matter;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Jackson County, North Carolina, as follows:

1 **Section 1. Title.**

2 This ordinance shall be known and may be cited as the "Mountain and Hillside  
3 Development Ordinance of Jackson County, North Carolina."

4

5

1 **Section 2. Authority and Jurisdiction.**

2 This ordinance, enacted in accordance with, and pursuant to the authority granted by,  
3 Articles 6 and 18 of Chapter 153A, and Article 14 of Chapter 113A, of the North  
4 Carolina General Statutes, shall only apply to that portion of the county outside the  
5 jurisdictions of the various municipalities and the Qualla Reservation and as noted in  
6 Section 6, below.  
7

8 **Section 3. Findings.**

9 The mountains of Jackson County, North Carolina, are characterized by steep slopes  
10 and thin soils. Land-disturbing activity on high-elevation, steep-slope mountains  
11 potentially threatens the public health, safety, welfare, and economic progress of  
12 Jackson County. Such land-disturbing activity has the potential to do the following: (a)  
13 endanger the quality of surface water by increasing erosion, stream sedimentation, and  
14 stormwater runoff; (b) induce landslides; (c) adversely affect ground water due to the  
15 difficulty in providing proper sewage disposal; (d) damage the habitat for some species  
16 of wildlife (both plants and animals); and (e) detract from the mountains' scenic and  
17 natural beauty which is vital to the recreation and tourism industry of Jackson County.  
18

19 The Jackson County Board of Commissioners finds the following:  
20

- 21 (a) Steep hillsides are inherently unstable.  
22
- 23 (b) Changes to slopes — through undermining by humans, flowing rivers, heavy rains,  
24 or the focusing of stormwater runoff by human-built channels or storm drain outlets  
25 — can cause erosion or landsliding. Soil slips, which cause avalanche-type failures,  
26 and slower-moving earth flows can occur on slopes of 25 percent and more. Serious  
27 erosion can occur on much shallower slopes. Steeper slopes are less forgiving of  
28 construction errors than are shallower slopes.  
29
- 30 (c) When steeper slopes fail, such failures can have disastrous consequences. Disturbed  
31 surfaces create loose materials which tend to move downhill. Development can  
32 result in alteration of land surfaces that can contribute to slope destabilization.  
33 Alterations that have the potential for creating unstable slopes include placing fills  
34 on top of marginally stable slopes, cutting slopes at too steep an angle or  
35 undermining the toe of a slope, redirecting storm runoff in a way that artificially  
36 concentrates flows onto portions of the landscape not prepared to receive such  
37 flows, removing woody vegetation, and adding water by means of hillside septic

1 systems. These factors work together and can cumulatively decrease the stability of  
2 slopes and eventually lead to disaster. Landslides and slope failures pose a variety  
3 of hazards to persons and property.

4 (d) Hillside development, if unregulated, can take place at the expense of  
5 environmental concerns. Stormwater runoff from slopes is greater in both quantity  
6 and velocity than it would be from level ground. Preserving existing vegetation  
7 reduces erosion by maintaining roots which increase infiltration and bind soils.  
8 Vegetation also reduces the velocity of raindrops and slows the velocity of surface  
9 water flow by increasing the roughness of the ground, thereby increasing  
10 groundwater recharge. Constructing hillside roads involves cuts in the upslope side  
11 and fills on the down slope side. Such cuts and fills are often much wider than the  
12 minimum required road right-of-way and can be more susceptible to failure.

13  
14 (e) Hillsides and ridge lines are unique vegetation communities and wildlife habitats.  
15 Hillsides in developing areas are often the last remaining natural areas and are the  
16 final refuges for many species of wildlife. Development needs to be sensitive to the  
17 hillside's function of providing biodiversity.

18  
19 (f) Hillsides have aesthetic value to Jackson County and its municipalities and  
20 contribute to the community's sense of identity, as well as its tourism economy.  
21 Prominent mountains, peaks, hills, and ridges have significance as identifiable  
22 landmarks to area residents. Hillside development, if unregulated, can take place at  
23 the expense of aesthetic concerns. Hills and ridges are highly visible from  
24 surrounding areas.

25  
26 (k) Vegetation clearance and landform grading practices, if unregulated, can upset the  
27 natural shape of hills. The bulk, shape, height, and color of buildings can contrast  
28 with the natural landscape if unregulated and thus intrude on the natural character  
29 of the landform. Regulations are needed to ensure that buildings and structures  
30 blend in with the natural environment through their placement on the land, shape,  
31 materials, and colors.

32  
33 **Section 4. Purpose, Intent and Objectives.**

34 It is the purpose of this Ordinance to provide development regulations applicable to  
35 mountains and hillsides to ensure that development occurs in the following manner:

36  
37 (a) Protects the natural conditions and respects existing topography;

- 1 (b) Prevents inappropriate development;
- 2 (c) Preserves the aesthetic and scenic qualities of such areas;
- 3 (d) Ensures the public health, safety, and general welfare.

4 The provisions of this Ordinance are intended to prevent developments that will erode  
5 hillsides, result in sedimentation of lower slopes and bodies of water, cause damage  
6 from landslides or create the potential for damage from landslides, flood downhill  
7 properties, or result in the severe cutting of trees or the scarring of the landscape. It is  
8 the intent of this Ordinance to encourage a sensitive form of development and to allow  
9 for a reasonable use that complements the natural and visual character of the  
10 community. These purposes cannot be met fully with existing development regulations  
11 such as subdivision, soil erosion and sedimentation control, and flood damage  
12 prevention. This Ordinance is considered the minimum necessary to attain these  
13 purposes. These regulations are also intended to encourage the application of  
14 principles of landscape architecture, architecture, planning, and civil engineering to  
15 preserve the appearance and protect the resources of mountains and hills.

16  
17 **Section 5. Definitions.**

18  
19 *Building and grading envelope (BGE):* The limits of disturbance affected by the  
20 establishment of a building and grounds. All buildings, walls, lawns, site amenities,  
21 and associated disturbance from construction activity shall be confined within this  
22 zone. The BGE may be sited in one mass or apportioned into several smaller  
23 compounds connected by walks or drives. Driveways are not included in the overall  
24 BGE but parking areas and garages are.

25  
26 *Director:* The Jackson County Planning Director or his or her designee.

27  
28 *Excavation:* A land-disturbing activity involving the mechanical removal of earth  
29 material.

30  
31 *Filling:* A land-disturbing activity involving the placement of fill material, including the  
32 temporary stockpiling of fill material.

33  
34 *Fill material:* A deposit of earth or other natural or man-made material placed by  
35 artificial means.

1 *Grading*: Any scraping, excavating or filling of the earth's surface or combination  
2 thereof.

3

4 *Hazardous waste*: Any waste which has been defined as a hazardous waste in  
5 regulations promulgated by the administrator of the United States Environmental  
6 Protection Agency.

7

8 *Land-disturbing activity*: Any grading of land, any clearing of vegetation, and any  
9 construction or rebuilding of a building or structure. This term shall not include  
10 activities such as ordinary maintenance and landscaping operations, individual home  
11 gardens, the upkeep of yard and grounds, repairs, and the cutting of firewood for  
12 personal use.

13

14 *Lot of record*. A lot included within a plat which has been recorded in the Office of the  
15 Register of Deeds of Jackson County or a lot described by metes and bounds, the  
16 description of which has been so recorded.

17

18 *Multi-family dwelling*: A structure that contains multiple dwelling units.

19

20 *Natural ground surface*: The ground surface in its original state before any land-  
21 disturbing activity.

22

23 *Protected mountain ridges*: All mountain ridges whose elevation is at least 2,500 feet and  
24 whose elevation is 400 feet or more above the elevation of an adjacent valley floor.

25

26 *Quadrangle map*: The most recently published U.S. Geological Survey 7.5-minute  
27 topographic map prepared at a scale of 1:24,000.

28

29 *Reforestation plan*: A plan, prepared by a registered forester, for replacing harvested  
30 timber by replanting or by natural regenerative processes (such as coppicing, seed trees,  
31 etc.), consistent with recommended best management practices for forestry in North  
32 Carolina.

33

34 *Sensitive natural area*: Any area, which is sensitive or vulnerable to physical or biological  
35 alteration, as identified now or hereafter by the North Carolina Natural Heritage  
36 Program and which contains one or more of the following: (1) habitat, including  
37 nesting sites, occupied by rare or endangered species; (2) rare or exemplary natural

1 communities; (3) significant landforms, hydroforms, or geological features; or (4)  
2 other areas so designated by the North Carolina Natural Heritage Program, which are  
3 sensitive or vulnerable to physical or biological alteration.

4 *Single-family dwelling*: A dwelling structure that is designed for the use of one family.  
5 For purposes of this Ordinance only, the term includes manufactured homes.

6  
7 *Slope*: An inclined earth surface, the inclination of which is expressed as the ratio of  
8 horizontal distance to vertical distance. In this Ordinance, slopes are generally  
9 expressed as a percentage; percentage of slope refers to a given rise in elevation over a  
10 given run in distance. A fifty (50) percent slope, for example, refers to a 100-foot rise in  
11 elevation over a distance of 200 feet. A fifty (50) percent slope is expressed in  
12 engineering terms as a 2:1 slope.

13  
14 *Undisturbed*: The natural ground surface remains in its natural state; no land disturbing  
15 activity occurs; no vegetation is removed except as exempted by this Ordinance; and no  
16 impervious surface is constructed thereon.

17  
18 **Sec 6. - Establishment of the Mountain and Hillside Development District.**

19 The Mountain and Hillside Development District is hereby established, the boundaries  
20 and extent of which are depicted on the map entitled "Mountain and Hillside  
21 Development District Map" (herein referred to as the District Map), which is hereby  
22 adopted as if fully set forth in this ordinance. Said map shall be attached to the County  
23 Clerk's copy of this ordinance upon adoption and shall be available for public  
24 inspection in the office of the ~~director~~ **Jackson County Planning Department. The**  
25 **District Map identifies all those areas with a slope of 35% or more and is to be used**  
26 **to identify properties on which further analysis is required.**

27  
28 **Section 7. Applicability.**

29 This Ordinance shall apply to any subdivision plat, land-disturbing activity, building  
30 permit, or any other development proposal on property situated within the Mountain  
31 and Hillside Development District. This Ordinance shall apply, and the director shall  
32 apply and enforce the provisions of this Ordinance, to the earliest application for  
33 development or building approval required of the applicant. When an application for a  
34 preliminary subdivision plat, preliminary development plan as may be required by  
35 other provisions of the ordinances of Jackson County, land-disturbing activity (e.g., soil  
36 erosion and sedimentation control plans), or a building permit pertaining to property  
37 regulated by this Ordinance is filed, said application shall be required to demonstrate

1 compliance with applicable provisions of this Ordinance, unless compliance has already  
2 been satisfactorily demonstrated by prior application and approval as determined by  
3 the Director.  
4

5  
6 **Section 8. Exemptions.**

7 The following land uses or activities are exempt from the requirements of this  
8 Ordinance provided they comply with any limitations or conditions specified herein.  
9

10 **8.1 *Agriculture and forestry.***

11 Agriculture and forestry on protected mountains, provided such uses or activities,  
12 including associated roads, are consistent with the best management practices  
13 established by the North Carolina Division of Forest Resources or the North  
14 Carolina Natural Resources Conservation Service, consistent with all state and  
15 federal laws, and all applicable regulations promulgated by the State of North  
16 Carolina. Logging roads shall be reclaimed in accordance with practices of the  
17 Division of Forest Resources when they are no longer in service.  
18

19 **8.2 *Landscape maintenance.***

20 Landscape maintenance activities, including the removal of diseased, dead or  
21 damaged trees; provided, however, that such activities shall be carried out in  
22 conformance with applicable regulations of this Ordinance.  
23

24 **8.3 *Additions to single-family residences.***

25 On lots of record with existing residences that were approved prior to the effective  
26 date of this Ordinance, said existing residences may be expanded without  
27 demonstrating compliance with this Ordinance, provided that the height of the  
28 building addition does not exceed the height limitation contained in Section 16.5, no  
29 more than minimal land disturbance is required to accomplish the building  
30 addition, and the building addition is in conformity with the purposes and intent  
31 and consistent with regulations and guidelines of this Ordinance as determined by  
32 the planning director.  
33

34 **8.4 *Existing lots of record.***

35 The owner, or any successor in interest, of any lot of record existing as of the  
36 effective date of this Ordinance shall be entitled to build one single-family home  
37 thereon. Such lot shall be exempt from the requirements contained in this

1 Ordinance provided that the development of such home shall be done in compliance  
2 with the following provisions: Section 14.1, Minimum Alterations, Section 14.2, Cut  
3 and Fill, Section 14.3, Compaction of Fill, Sections 15.1, 15.2 and 15.3, regarding  
4 driveways, Section 16.7, Partial Screening, Section 16.9, Hazardous Waste Facilities,  
5 Section 18.4, Land Disturbance and Grading, Section 18.8, Building Colors, Section  
6 18.11, Screening and View Corridors, Section 18.14, Lighting, and Section 18.17,  
7 Natural Drainage Channels.

8  
9 **8.5 *Prior development plan approval.***

10 It is recognized that some or all of the lots in subdivisions for which a determination  
11 of vested rights has been made, either pursuant to the Jackson County Vested Rights  
12 Ordinance or by final judgment of a court of competent jurisdiction, may not be lots  
13 of record. For a period of two years subsequent to the effective date of this  
14 Ordinance, or such longer period as may have been granted in the determination of  
15 vested rights, the building of homes in subdivisions determined to be vested shall be  
16 treated as if they were lots of record and regulated in accordance with Section 8.4,  
17 above. Subsequent to this vesting period, the building of homes or other  
18 improvements on lots in such subdivisions which have not been recorded shall  
19 comply with applicable requirements of this Ordinance unless the planning director  
20 determines that such compliance would result in practical difficulty or unnecessary  
21 hardship.

22  
23 **8.6 *Non-regulatory lots.***

24 Lots of record which are not situated on a protected mountain ridge, as defined  
25 herein, and for which the average slope, as determined by Section 14.7, below, is less  
26 than ~~30~~ 35 percent, shall be exempt from the requirements of this ordinance.

27  
28 **Section 9. Permit and Plan Required.**

29 No preliminary subdivision plat, preliminary development plan as may be required by  
30 other provisions of the ordinances of Jackson County, land-disturbing activity permit,  
31 or building permit shall be issued by the director or other administrative official of  
32 Jackson County for any land-disturbing activity, land use, building, or structure on  
33 property subject to the jurisdiction of this Ordinance, unless the activity, land use,  
34 building, or structure conforms to the requirements of this Ordinance. All development  
35 activities or site work conducted after approval of the site plan shall conform to the  
36 specifications of said site plan as approved by the director. The planning director or

1 designee shall have the authority to inspect property developed under these regulations  
2 to ensure compliance therewith.

3  
4  
5 **Section 10. Relationship to Other Development Processes.**

6 Prior to any land-disturbing activity permit, development approval, or building permit  
7 being issued, the planning director shall require a site plan in sufficient detail to review  
8 the proposed development for compliance with the provisions of this Ordinance. The  
9 application requirements of this Ordinance hereof shall apply in addition to the  
10 submission requirements for subdivision plats, preliminary development plans, land-  
11 disturbing activity permits, and building permits as specified in other ordinances or  
12 regulations of Jackson County, as applicable. The director shall determine if the  
13 application provides the information required by this Ordinance and shall refuse to  
14 process any such application that does not contain the information required for an  
15 application for development approval, subdivision, land-disturbing activity, or building  
16 and for a permit under the terms of this Ordinance.

17  
18 **10.1 Preliminary Subdivision Plat.**

19 In the case of subdivision plat approval, a preliminary plat meeting the  
20 specifications of the Subdivision Ordinance of Jackson County shall constitute the  
21 site plan required by this Ordinance.

22  
23 **10.2 Building Permit.**

24 In the case of a building permit, a plot plan required for such application shall  
25 constitute the required site plan.

26  
27 **10.3 Land-Disturbing Activity.**

28 In the case of a land-disturbing activity permit, the filing of plans meeting the  
29 specifications of the Jackson County Sediment Control Ordinance shall constitute  
30 the site plan required by this Ordinance.

31  
32 **Section 11. Relationship to Other Regulations.**

33 Nothing in this Ordinance shall be construed to modify or exempt development from  
34 applicable requirements of the state and other ordinances or regulations of Jackson  
35 County, including but not limited to the following:

36  
37 **11.1 Land disturbance.**

1 Proposed land-disturbing activity shall meet all applicable state standards and all  
2 regulations of Jackson County relating to soil erosion and sedimentation control.  
3 The provisions of this Ordinance are more restrictive and require the submission of  
4 plans and a permit which may not be required by said land-disturbance and soil  
5 erosion requirements.  
6  
7

8 **11.2 *Septic tanks.***

9 Where one or more septic tanks are to be used for individual sewage disposal, the  
10 proposed land-disturbing activity shall meet all applicable State standards and all  
11 applicable regulations of Jackson County relating to septic tanks.  
12

13 **11.3 *Sewage disposal.***

14 If sewage treatment is to be provided by any means other than one or more  
15 individual septic tanks, the sewage treatment shall meet all applicable State  
16 standards and all applicable regulations of Jackson County relating to sewage  
17 disposal.  
18

19 **11.4 *Individual wells.***

20 Where one or more wells are to be used for water supply, the proposed land-  
21 disturbing activity shall meet all applicable State standards and all applicable  
22 regulations of Jackson County relating to water wells.  
23

24 **11.5 *Water systems.***

25 If a public water supply system is to be provided, the water supply system shall  
26 meet all applicable State standards and all applicable regulations of Jackson County  
27 relating to public water systems.  
28

29 **Section 12. Application Requirements for All Land-Disturbing Activity Other Than**  
30 **That Associated With a Single-Family Dwelling.**

31 The following information shall be submitted as part of the first county application  
32 requirement encountered by the applicant, including, without limitation, approval of a  
33 preliminary subdivision plat, permit for land-disturbing activity, development plan  
34 approval, or permit for a building, road, or driveway for anything other than a single-  
35 family dwelling. In order to reduce costs to applicants, the topographic survey, soils  
36 report, hydrological report and plan, and geotechnical analysis and report need not  
37 address areas not proposed for development.

1  
2 Family subdivisions, as defined in the Jackson County Subdivision Ordinance, may be  
3 excused from submitting a soils report, a hydrology report and plan, and a geotechnical  
4 analysis and plan; provided, however, if the subdivision is excused from such  
5 requirements, the plat shall contain, in a prominent location and of a prominent size,  
6 the following note:

7  
8 “This subdivision is located in an area of steep slopes as determined by  
9 Jackson County. Steep slopes are inherently unstable and may be subject to  
10 severe erosion or landslides. No soils, hydrological or geotechnical analyses  
11 or reports have been prepared for this subdivision to determine the suitability  
12 of the lots contained herein for development.”

13  
14 **12.1 Topographic survey.**

15 A topographical survey of the project site shall be required for preliminary  
16 subdivision plat approval. Notes and details of existing terrain shall be included in  
17 the required topographic information. A topographic survey may be required by  
18 the director for any other application for land-disturbing activity or building  
19 approval where reliable data on existing topography including County GIS maps or  
20 other topographic maps which may be available do not provide sufficient detail to  
21 administer the requirements of this Ordinance. Said topographic survey, if required  
22 by this section or by the director pursuant to this section, shall provide contour  
23 intervals of no more than ten feet unless otherwise approved by the director.  
24

25 **12.2 Certification of Maximum Structure Height.**

26 Plans submitted with an application for a building permit shall contain a  
27 certification that the maximum height of any proposed structure complies with the  
28 height restrictions contained in this Ordinance.  
29

30 **12.3 Soils report.**

31 This report shall include conclusions and recommendations regarding the effect of  
32 soil conditions on the proposed development. This report shall be prepared by a  
33 registered professional engineer, soil scientist, engineering geologist, or other  
34 qualified professional approved by the director. The report may use the soil survey  
35 prepared and published by the Natural Resources Conservation Service for Jackson  
36 County, North Carolina, as its basis, although site-specific soil tests may be required  
37 at the discretion of the director.

1       **12.4 Hydrology report and plan.**

2       This report shall include a complete description of the hydrology of the site,  
3       conclusions and recommendations regarding the effect of hydrological conditions on  
4       the proposed development, and the capability of the site to be developed.

5       Hydrology reports shall be completed by a professional engineer experienced and  
6       knowledgeable in the practice of hydrology, or other qualified professional  
7       approved by the director. A hydrological control plan, prepared by a professional  
8       engineer experienced and knowledgeable in the practice of hydrology, or other  
9       qualified professional approved by the director, shall also be required. At minimum  
10      said plan shall show and take into account the direction of flow within the local  
11      drainage basin; all natural drainage channels directed toward and away from the  
12      site within fifty feet of the perimeter of the site, and other natural drainage ways  
13      which may affect or be affected by the development proposal. Alterations of natural  
14      drainage ways shall be prohibited except for approved road crossings and drainage  
15      structures. Natural drainage ways shall be rip-rapped or otherwise stabilized below  
16      drainage and culvert discharge points for a distance sufficient to convey the  
17      discharge without channel erosion. Special notations shall be included which  
18      highlight details of the terrain, existing natural surface drainage and areas subject to  
19      seepage or spring flow.

20  
21      **12.5 Geotechnical Analysis and Report.**

22      This analysis and report shall address the existing geology, topographic and  
23      hydrologic conditions of the site, including an evaluation of the ability of the site to  
24      accommodate the proposed activity. Such analysis and report shall contain a  
25      professional opinion regarding slope stability, soil-bearing capacity, the potential for  
26      landslide or other geological hazards and their potential impact on structures or  
27      surrounding properties, and any other pertinent information. The geotechnical  
28      report and analysis shall also contain recommendation regarding foundation design,  
29      cut or fill slope design, soil-bearing potential, and building restrictions or setbacks,  
30      such as are necessary to satisfy the intent of this Ordinance and to protect the public  
31      health, safety and welfare. Upon completion of all improvements shown on  
32      approved plans but prior to the issuance of any final approval of improvements by  
33      the County, the applicant shall submit a declaration by the geotechnical engineer or  
34      engineering geologist that all work was done in substantial accordance with the  
35      recommendations contained in the geotechnical analysis and report as approved  
36      and in accordance with approved plans.

1 **~~12.6 Assessment.~~**

2 ~~Applications for preliminary and final plat approval for major and minor~~  
3 ~~subdivisions shall be accompanied by a written assessment addressing the~~  
4 ~~environmental, scenigraphic and public safety impacts of the effect that the project~~  
5 ~~will have on the environment of the mountain or hill after the project has been~~  
6 ~~completed and is in operation.~~

7  
8 **12.6 Erosion and Sedimentation Control Plan**

9 **A formal erosion and sedimentation plan shall be submitted for all land**  
10 **disturbing activities involving the disturbance of more than 2,000 square feet on**  
11 **property with an average slope of 35% or more. Such plan shall be reviewed and**  
12 **approved by Jackson County prior to any land disturbing activity.**

13  
14 **Section 13. Application Requirements for Land-Disturbing Activity Associated With**  
15 **a Single-Family Dwelling.**

16 A plot plan of the lot or site on which the building is to be located shall be submitted to  
17 the building inspector for review and approval by the director. The plot plan shall be  
18 prepared by a registered surveyor, professional civil engineer, or other qualified  
19 professional approved by the director and shall show the finished floor elevation of the  
20 building in relation to the natural ground surface and in relation to the uppermost point  
21 of the crest, summit, or ridge top of the mountain or hill on which said building is  
22 constructed. The plot plan shall also indicate the limits of the area to be disturbed and  
23 the slope of the buildable area. Areas proposed or required to remain undisturbed shall  
24 be marked on the plot plan and in the field with tape, orange plastic fencing, or other  
25 approved marker until a certificate of occupancy is issued or as otherwise approved by  
26 the director. The following additional information shall be submitted along with the  
27 plot plan.

28  
29 **13.1 Level 1 Requirements.**

30 Every application for authorization to undertake land-disturbing activities  
31 associated with development of a single-family dwelling shall contain a topographic  
32 survey of the lot with contour intervals of ten feet and a certification of maximum  
33 structure height as per Sections 12.1 and 12.2. An analysis of the county soils map,  
34 and if the soils map indicates the presence of problematic soils, a soils report  
35 meeting the requirements of Section 12.3, shall accompany the application.

1       **13.2 Level 2 Requirements.**

2       Level 2 requirements apply to any application to develop a single-family home  
3       where (1) the soils report confirms the presence of problematic soil types, and/or (2)  
4       the natural slope of the building and grading envelope equals or exceeds 40%. In  
5       addition to the topographic survey and certification of maximum building height  
6       required in Sections 13.1, Level 2 applications shall also contain the following  
7       information:

- 8       a) A soils report meeting the requirements of Section 12.3, if one has not already  
9       been provided;
- 10
- 11       b) A hydrographic report and plan meeting the requirements of Section 12.4, above;  
12       and
- 13
- 14       c) A geotechnical analysis and report meeting the requirements of Section 12.5,  
15       above.
- 16

17       **Section 14. General Regulations for All Development and Other Land-Disturbing**  
18       **Activity.**

19       The following minimum standards shall apply to earth moving and land-disturbing  
20       activity which is not otherwise exempt.

21

22       **14.1 Minimum alterations.**

23       Earth moving shall be limited to the minimum required for building foundations,  
24       driveways, drainage control structures and immediate areas surrounding the  
25       building, structure, road driveway, or drainage structure required by this  
26       Ordinance. With the exception of approved stockpiling or restoration efforts,  
27       substantial earth moving beyond that required for the installation or construction of  
28       approved buildings, structures, driveways, roads, or drainage structures shall not be  
29       permitted.

30

31       **14.2 Cut and fill.**

32       Unless otherwise specifically approved by the county engineer, cut slopes shall be  
33       no steeper than one foot horizontal to one foot vertical (1:1) and fill slopes shall not  
34       be steeper than one-and-one-half feet horizontal to one foot vertical (1½:1). Artificial  
35       slopes exceeding 35 feet in height shall be benched at 35-foot intervals.

36

37

1       **14.3 *Compaction of fill.***

2       All fill shall be stabilized in conformance with generally accepted engineering  
3       standards, including a compacted density of at least ninety-five percent (95%).  
4       Vegetation which has been cut or cleared shall be removed from the site and shall  
5       not be covered by, or imbedded in, fill material. The planning director may require  
6       certification of compaction by a qualified professional if necessary to determine  
7       compliance with this section.  
8

9       **14.4 *Control of stormwater run-off.***

10       Run-off from concentrated impervious surfaces shall be collected and transported in  
11       a pipe or other approved manner to an approved storm water system if available, or  
12       if unavailable, to the bottom of the drainage way or other location specified by the  
13       county engineer and in a safe, adequate, and non-erosive manner. Where required  
14       by other ordinances or regulations or by the county engineer, storm water retention  
15       facilities shall be installed. Where required, interceptor ditches shall be established  
16       above steep slopes in such a way as not to avoid saturation or erosion of soil, and  
17       the intercepted water shall be conveyed in a pipe or other manner to the bottom of  
18       the drainage way or other location specified by the county engineer. The overall  
19       drainage system shall be completed and made operational at the earliest possible  
20       time during construction.  
21

22               **14.4.1 *Buffering of Natural Watercourses and Lakes***

23               **An undisturbed buffer shall be required around all natural watercourses**  
24               **(creeks, streams, branches, etc.) and lakes. The required buffer width shall be**  
25               **equal in feet to the calculated average slope (percent) of the property/parcel.**  
26               **Example: If the average slope of a property is 38% then the minimum**  
27               **undisturbed buffer shall be 38' wide.**  
28

29       **14.5 *Impact on adjacent property.***

30       Realignment of streams and natural drainage channels shall not be permitted except  
31       for the purpose of effecting a stream crossing and only as specifically approved by  
32       the planning director upon issuance of all necessary state and federal permits. In  
33       such cases, natural or typical flow of surface or subsurface water shall not be altered  
34       or obstructed in any way by grade changes if such alteration may adversely affect  
35       the property of another by either contributing to pooling or collection of waters, or  
36       to the concentration or intensification of surface water discharge.  
37

1 **14.6 Density limits.**

2 Development on lands that are subject to this Ordinance shall meet the density  
3 requirements shown in the table below.  
4

<b>Average Slope of Land to Be Developed or Subdivided</b>	<b>Minimum Lot Size (in acres)</b>	<b>Maximum Density (lots per acre)</b>
30-34%	2	.5
35-39%	2½	.4
40-44%	5	.2
45% or more	10	.1

5  
6

<b>Slope %</b>	<b>Minimum Lot area in Acres</b>
35	2.0
36	2.24
37	2.51
38	2.81
39	3.15
40	3.52
41	3.95
42	4.42
43	4.95
44	5.55
45	6.21
46	6.96
47	7.79
48	8.73
49	9.77
50 and above	10.0

7  
8

**Note: Only one dwelling unit is permitted per minimum lot area.**

1 ~~NOTE: Minimum lot size may also be expressed in terms of dwelling units per acre.~~  
2 ~~Thus, a two-acre minimum lot size would result in a maximum density of one~~  
3 ~~dwelling per two acres (or one-half dwelling per acre), a two-and-a-half-acre~~  
4 ~~minimum lot size would result in a maximum density of one dwelling per two-and-~~  
5 ~~a-half acres (or four-tenths of a lot per acre), and so forth. This table shall not be~~  
6 ~~construed to impair the clustering of dwellings and lots so long as maximum density~~  
7 ~~is not exceeded.~~

8  
9 **14.7 Determining slope.**

10 Average slope shall be determined for each separate land tract in accordance with  
11 the methods and procedures contained herein.

12  
13 **14.7.1.** Prior to commencing any development or land disturbing activity and  
14 prior to making application for any permits and/or other approvals, the  
15 calculated average slope for a particular land tract shall be approved by the  
16 director. Average slope calculations and supporting documentation shall be  
17 submitted to the director for review. Within 20 days of receipt, the director shall:  
18 (a) request additional information; (b) request revisions to the average slope  
19 calculation submittal; or (c) issue written concurrence with the determination of  
20 average slope, as submitted.

21  
22 **14.7.2.** Each slope calculation submitted to the director for review shall include a  
23 scaled map, accurately showing (a) topography for the entire land tract, (b) a  
24 closed perimeter line delineating a single area proposed for any type(s) of land of  
25 land-disturbing activity, and (c) the deeded land tract boundary. The accuracy  
26 and detail of the map shall be acceptable to the director for site specific  
27 conditions and the particular land-disturbing activities proposed. In certain  
28 cases, the director may, at his/her discretion, require that the slope calculation  
29 and associated mapping be prepared by a NC Professional Land Surveyor, a NC  
30 Professional Engineer, or a NC Professional Landscape Architect.

31  
32 **14.7.3.** For an individual building site, the basis of the average slope calculation  
33 will include only the building and grading envelope for such site. For  
34 subdivisions, the average slope calculation shall be based on the entire tract to be  
35 subdivided unless the subdivider has elected to exclude areas subject to an  
36 absolute conservation easement pursuant to Section 14.8 or the director has  
37 approved a division of area pursuant to Section 14.9, below. For the purpose of

1 determining entitlement to an exemption pursuant to Section 8.6, above, the  
2 average slope calculation shall be based on the lot or parcel for which a  
3 determination of exemption is sought. When used for determining slope, the  
4 term "delineated area" shall refer to the relevant parameters described herein.  
5

6 ~~14.7.4. Land slopes shall be calculated based on both (a) the downstream  
7 drainage slope from the highest, most remote point within delineated area, and  
8 (b) the upstream drainage slope from the lowest, most remote point within the  
9 delineated area in accordance with the following requirements.~~

10  
11 ~~14.7.4.1. Land slope based on the highest, most remote point shall be calculated  
12 by determining the maximum horizontal length of drainage travel (D) from the  
13 highest, most remote point (Elevation H1) within the delineated area in a  
14 downslope, drainage direction and perpendicular to topographic contours for  
15 the greatest distance to the lowest point (Elevation H2) at which drainage would  
16 exit the delineated area. Slope based on the highest, most remote point shall be  
17 calculated using the following formula:~~

18  
19 
$$Sa = ((H1 - H2) / D) (100)$$

20 Where:

21 Sa = slope expressed as a percentage

22 H1 = elevation of highest, most remote point

23 H2 = elevation of the lowest point drainage point  
24 below H1

25 D = is the maximum length of drainage travel  
26 between points H1 and H2 expressed as a  
27 horizontal measurement (D is not necessarily  
28 a straight line distance)  
29

30 ~~14.7.4.2. Land slope based on the lowest, most remote point shall be calculated by  
31 determining the maximum horizontal length of drainage travel (D) from the  
32 lowest, most remote point (Elevation L2) within the delineated area in an  
33 upslope direction and perpendicular to topographic contours for the greatest  
34 distance to the highest point (Elevation L1) at which location drainage to point  
35 L2 would begin within the delineated area. Slope based on the lowest, most  
36 remote point shall be calculated using the following formula:~~  
37

1  $S_b = ((L_1 - L_2)/D)(100)$

2 Where:

3  $S_b$  = slope expressed as a percentage

4  $L_1$  = elevation of highest point above drainage  
5 point  $L_2$

6  $L_2$  = elevation of the lowest, most remote point

7  $D$  = is the maximum length of drainage travel

8 between points  $L_1$  and  $L_2$  expressed as a

9 horizontal measurement ( $D$  is not necessarily

10 a straight line distance)

11  
12 ~~Average slope shall be a weighted average of  $S_a$  or  $S_b$  based on ratio of drainage~~  
13 ~~travel lengths rounded off to the nearest one percent.~~

14  
15 14.7.4. The formula for conducting a slope analysis of the property shall be:

16 
$$S = \frac{.0023(I)(L)}{A}$$

17 A

18 Where:

19 S = Existing grade of parcel in percent

20 I = Contour interval of map in feet, with said contour intervals to be five  
21 feet or less

22 L = Total length of the contour lines within the parcel in feet

23 A = Area of the parcel in acres

24 0.0023 = Product of two constants, one of which converts feet into acres  
25 and one of which converts a decimal fraction into a percentage

26  
27 Once "S" is calculated, it shall be rounded to the nearest whole number.

28  
29 14.7.5. The Planning Board may, at its discretion, approve other methods for  
30 conducting a slope analysis of property subject to this ordinance.

31  
32 14.7.6. A slope analysis conducted by an NC Professional Land Surveyor, a NC  
33 Professional Engineer, or a NC Professional Landscape Architect may be  
34 provided in cases where the applicant/property owner does not agree with the  
35 slope analysis conducted by Jackson County staff. The alternate slope analysis  
36 shall be approved by the Jackson County Planning Board.  
37

1       **14.8 Conservation easements.**

2       Lands subject to an “absolute” conservation easement, that is, an easement in which  
3       the landowner retains no development rights, may, at the landowners’ option, be  
4       excluded when determining average natural slope under this ordinance.

5  
6       **14.9 Division of area.**

7       Where there is a drastic variation in the landform character within one site, the site  
8       may be divided into several distinct areas for the purposes of slope determination.  
9       This division must be approved by the director. Generally, this provision shall only  
10      be used in cases where large tracts of property encompass flat land as well as  
11      significant mountain and hillside terrain. Details for each division must be  
12      provided.

13  
14      **Section 15. Requirements for Roads and Driveways.**

15      No new public road, private road, or driveway, including undeveloped lots of record,  
16      shall be permitted or constructed unless it complies with the requirements of Appendix  
17      A of the Jackson County Subdivision Ordinance and this section.

18  
19      **15.1.** All new public and private roads and driveways shall be designed and  
20      constructed to minimize the potential for landslides, erosion, and runoff.

21  
22      **15.2.** Roads and driveways shall be located such that the maximum number of  
23      existing trees on the site is preserved.

24  
25      **15.3.** Roads and driveways shall be designed to create the minimum feasible  
26      amounts of land coverage and the minimum feasible disturbance of the soil.  
27      Variations in road design and road construction specified by the county in its land  
28      subdivision regulations shall be permitted, as may be approved by the county  
29      engineer, to prevent the dedication of unnecessarily large amounts of land to such  
30      roads or driveways. One-way streets shall be permitted and encouraged where  
31      appropriate for the terrain and where public safety would not be jeopardized in the  
32      opinion of the county engineer. For instance, a two-way road may have the  
33      directions of flow split into one-way pairs that differ in elevation, circumnavigate  
34      difficult terrain, or avoid tree clearance.

35  
36      **Section 16. Requirements for Construction of Buildings.**

1 Unless exempted pursuant to Section 8, above, no residential or nonresidential building  
2 or manufactured home shall be erected within the area governed by this Ordinance  
3 except in compliance with the provisions of this section.  
4

5 **16.1 *Plot plan.***

6 A plot plan of the lot or site on which the building is to be located shall be submitted  
7 to the planning office for review and approval by the director. The plot plan for a  
8 single home site lot can be prepared using the Jackson County GIS Mapping system  
9 without the assistance of professionals provided sufficient accuracy of detail is  
10 maintained. The plot plan shall be prepared by a registered surveyor, professional  
11 civil engineer, or other qualified professional and shall show the finished floor  
12 elevation of the building in relation to the natural ground surface and in relation to  
13 the uppermost point of the crest, summit, or ridge top of the mountain or hill on  
14 which said building is constructed. The plot plan shall also indicate the limits of the  
15 area to be disturbed and the slope of the buildable area. Areas proposed or required  
16 to remain undisturbed shall be marked on the plot plan and in the field with tape,  
17 orange plastic fencing, or other approved marker until a certificate of occupancy is  
18 issued or as otherwise approved by the director.  
19

20 **16.2 *Disturbance limits for lots intended for single family homes.***

21 The building and grading envelope for any lot subject to this ordinance shall not  
22 exceed 10,000 square feet. Furthermore, impervious surfaces within the building  
23 and grading envelope shall not exceed 6,000 square feet. No other disturbance or  
24 impervious surfaces are permitted on the lot other than for a driveway to provide  
25 ingress and egress.  
26

27 **16.3 *Disturbance limits for lots intended for other than single-family homes.***

28 For lots intended for development as other than single-family homes, the building  
29 and grading envelope and impervious surfaces shall be the minimum necessary to  
30 develop the property for its intended use.  
31  
32  
33

34 **16.4 *Building and grading envelopes.***

35 Building and grading envelopes shall be sited so that any structure to be placed  
36 thereon shall not be readily visible from public rights-of-way or public lands, the  
37 elevation of which is equal to or less than such structure. This may be accomplished

1 through natural terrain, existing vegetation or other means approved by the  
2 director.

3  
4 **16.5 *Building height.***

5 The height of any building shall not extend closer than 20 feet to the uppermost  
6 point of any protected mountain ridge, as that term is defined herein, on which said  
7 building is constructed. For the purposes of this Ordinance, the uppermost point of  
8 the crest, summit, or ridge top refers to geological formations and not vegetation.

9  
10 **16.6 *Exempted appurtenances.***

11 The building height restriction specified in this section shall not apply to any of the  
12 following which are attached to the single-family dwelling: equipment for the  
13 transmission of electricity or communications, chimneys, flag poles, flues, poles, or  
14 wires; provided, however, that such appurtenances shall not extend to or beyond  
15 the uppermost point of the crest, summit, or ridge top of the mountain or hill on  
16 which said dwelling is constructed.

17  
18 **16.7 *Partial Screening.***

19 A portion of natural on-site vegetation shall be retained sufficient to partially screen  
20 (along fifty percent of the building face, or that achieves 50 percent opacity or more  
21 along the building face) the building, structure, use, or activity from views from  
22 public roads not serving the building, or landscaping shall be installed and designed  
23 to partially screen the building, structure, use, or activity from views from public  
24 roads, or other measures have been included in the project and approved by the  
25 director to reduce the visual impacts of such development from views from public  
26 roads.

27  
28 View corridors from the proposed development to surrounding areas may be  
29 provided, but such corridors shall not extend for more than fifty percent of the  
30 width of building face between the view sought and the building face from which  
31 the view is sought.

32  
33  
34 **16.8 *Antennas and towers.***

35 Water, radio, television, cell, or other towers shall not extend more than forty (40)  
36 feet, as measured from the highest point at which the foundation of such structure  
37 intersects the natural ground surface, above the uppermost point of the crest,

1 summit, or ridge top of the protected mountain on which the structure in  
2 constructed.

3  
4 **16.9 Hazardous waste facilities.**

5 Handling areas for the receiving and storage of hazardous waste and hazardous  
6 waste or solid waste disposal facilities are prohibited in areas regulated by this  
7 Ordinance.

8  
9 **16.10 Mining.**

10 Mining activity which requires a new permit from the North Carolina Department  
11 of Environment and Natural Resources shall be prohibited in the areas regulated by  
12 this Ordinance. Expansion of an existing mining activity that would require a permit  
13 modification from the North Carolina Department of Environment and Natural  
14 Resources shall be prohibited in the areas regulated by this Ordinance.

15  
16 **Section 17. Fire Protection.**

17 Adjacent to residences or structures to be occupied, in areas of high risk of forest fires  
18 there shall be required a fire-buffer zone of no less than 30 feet on all sides of said  
19 residences or structures, or to the property line, whichever is nearer. Within the fire-  
20 buffer zone, all brush, flammable vegetation, or combustible growth shall be  
21 maintained in a fire-safe manner. This provision shall not apply to single specimens of  
22 trees, ornamental shrubbery, or similar plants used as ground cover, provided that they  
23 do not form a continuous means of rapidly transmitting fire from the native growth to a  
24 residence or structure to be occupied. In areas of high risk of forest fires as determined  
25 by the Fire Marshal, the following provisions may be made a condition of development  
26 or building permit approval: (1) roofs shall be covered with noncombustible materials,  
27 such as clay or concrete shake, or tile, or other fire retardant materials; (2) exterior walls  
28 shall be surfaced with noncombustible or fire-resistant materials; and (3) chimneys shall  
29 be provided with approved spark arresters. Where no public water is available to serve  
30 a development or subdivision, the planning director may, in the interests of public  
31 safety, require the establishment of ponds and dry hydrants to serve such development  
32 or subdivision.

33  
34 **Section 18. Best Management Practices.**

35 Applications for development authorization shall demonstrate compliance with the best  
36 management practices set forth herein unless waived by the planning director in those  
37 circumstances where (1) strict compliance would result in practical difficulty or

1 unnecessary hardship, (2) the public safety and welfare are assured, and (3) the  
2 purposes of this ordinance are not compromised.

3  
4 **18.1 *Accepted professional practices.***

5 All development proposals subject to the requirements of this Ordinance shall be  
6 designed to meet generally accepted principles of land use planning, soil mechanics,  
7 engineering geology, civil engineering, environmental management, civic design,  
8 architecture, landscape architecture, landscape ecology, and related disciplines.

9  
10 **18.2 *Planning.***

11 Planning of the development shall take into account the topography, soils, geology,  
12 hydrology, vegetation, and other features of the proposed site. Areas not well suited  
13 for development due to soil characteristics, geology, vegetation, existing plant and  
14 animal life, or hydrology limitations, should not be developed.

15  
16 **18.3 *Innovation.***

17 Site designers are encouraged to propose and apply innovative concepts for slope  
18 and soil stabilization, grading, landscaping, and building placement and design to  
19 meet the purposes and intentions of this Ordinance.

20  
21 **18.4 *Land Disturbance and Grading.***

22 When grading is necessary, rigid contouring should be avoided; contours should be  
23 rounded to appear undulating and natural. Projects involving more than one use or  
24 phase should be phased into workable units in a way that minimizes the amount of  
25 soil disturbance at any given point in time. When grading must occur, it should  
26 blend with the natural land form as much as possible. Grading to form level pads  
27 and building sites is strongly discouraged and when required such grading should  
28 be minimized.

29  
30 Earth berms, rock forms, or stone retaining walls should be used to minimize visual  
31 impacts of cuts. Hedges and fences may also be appropriate in some locations.  
32 Large, continuous surfaces of smooth concrete and related structures are considered  
33 inappropriate. The height of any retaining wall should not exceed four feet unless  
34 required to be higher for engineering reasons. In areas where cuts are steeper, a  
35 stepped or terraced wall should be used.

36  
37 **18.5 *Vegetation, landscaping, and habitat.***

1 Plans for development should consider any characteristics of the area that make it  
2 unique or significant in the conservation of flora and fauna including threatened,  
3 rare, and endangered species. Existing deep-rooted vegetation, including trees,  
4 bushes and ground covers, should be removed only in cases where necessary for  
5 buildings, roads, driveways, parking, and minimal yards. Use plant materials that  
6 blend with the mountainside or hillside. Landscape schemes that are rough, natural  
7 and/or subdued in character are encouraged. Extensive areas of exotic plants and  
8 sod are discouraged where they would be visible from the public right-of-way.  
9

10 **18.6 *Historic and archaeological resources.***

11 Plans for development should consider the preservation of significant state historical  
12 and archaeological resources (defined as properties on or eligible for the National  
13 Register of Historic Places) within areas subject to the requirements of this  
14 Ordinance. Cemeteries and gravesites shall be protected and family members shall  
15 be assured reasonable access thereto. Anyone developing properties containing  
16 roads, trails and other travel ways connecting to national forests and other public  
17 lands shall assure continued public access thereto.  
18

19 **18.7 *Sensitive natural areas.***

20 Plans for development shall comply with requirements concerning sensitive natural  
21 areas contained in the Jackson County Subdivision Ordinance and shall be sensitive  
22 toward and mitigate any negative effects of development activities on immediately  
23 adjacent sensitive natural areas.  
24

25 **18.8 *Building colors.***

26 Exterior colors for new buildings and structures, including roofs, should be  
27 coordinated with the predominant colors of the surrounding landscape to minimize  
28 contrast between the structure and the natural environment. It is strongly  
29 encouraged that dark or earth-tone colors be used to make the home less  
30 conspicuous as seen from off site.  
31  
32  
33

34 **18.9 *Clustering of buildings and building locations.***

35 Buildings and structures should be clustered where possible to reduce disturbance  
36 and removal of vegetation. Buildings should be sited with different floor elevations  
37 to achieve height variation. For multi-family projects, stagger alignments of

1 buildings both horizontally and vertically to create unit identity, privacy at entry  
2 and private outdoor space, and to share common open space.

3  
4 **18.10 *Building setbacks.***

5 Where appropriate, buildings and structures should be located as close to the road  
6 as possible to preserve the natural terrain and to minimize disturbance and the  
7 length of driveways.

8  
9 **18.11 *Screening and view corridors.***

10 The thinning of limbs of individual trees is preferred over tree removal as a means  
11 to provide a view corridor. Dwellings or buildings that are proposed to be sited to  
12 maximize views from the lot or that require removal of vegetation to produce a view  
13 corridor are strongly discouraged.

14  
15 **18.12 *Road and driveways should follow the natural terrain.***

16 Road and driveway alignments should follow the natural terrain unless the project  
17 engineer can justify additional cuts or fills. Roads, walkways, and parking areas  
18 should be designed to parallel the natural contours of the site.

19  
20 **18.13 *Shared driveways and parking.***

21 Combinations of collective private driveways, shared parking areas and on-street  
22 parallel parking bays should be used where possible to minimize land and soil  
23 disturbance, minimize impervious surface coverage, and achieve excellence of  
24 design and aesthetic sensitivity.

25  
26 **18.14 *Lighting.***

27 Outside lighting should be muted and directed so that it does not spill over on to  
28 neighboring properties. Reduce the amount of light emanating from a development  
29 on a mountainside or hillside, since lighting from buildings located on  
30 mountainsides or hillsides can be highly visible at night and may affect the night  
31 character of the community. High-pressure sodium lights are prohibited.

32  
33  
34 **18.15 *Building pads.***

35 For subdivisions and developments with multiple buildings, building pads (i.e.,  
36 clearing and grading for buildings and structures) should be varied in elevation  
37 above or below road level to avoid the appearance of monotonous, flat, level pads.

1  
2 **18.16 Step-down design.**

3 Single-family dwellings and other structures should “step down” the hillside or  
4 mountainside to limit the amount of grading required. Large building pads and  
5 footings should be split into more than one (i.e., split-level homes that step down the  
6 hillside) where possible to allow the building pad and structure to more closely  
7 follow the existing slope of the land. Building footprint coverage should be  
8 minimized where possible by using multiple-level (two or more stories) buildings.  
9 The visible mass of larger buildings and structures should be reduced by utilizing  
10 below-grade rooms cut into the natural slope.

11  
12 **18.17 Natural drainage channels.**

13 Natural drainage ways shall be preserved to the maximum extent possible.  
14

15 **18.18 Setbacks.**

16 Setbacks should be used to protect natural features of the mountain and hillside  
17 terrain. Placing structures away from the shoulder reduces the visual impact of  
18 development as well as erosion on steep slopes. All structures should be set back a  
19 minimum of 20 feet from the shoulder of a ridge line. The shoulder is defined as the  
20 plane at which the slope of the land changes from greater than 20% to a ridge top of  
21 less than 20%. Natural vegetation should be maintained undisturbed within the  
22 setback area except for access to a lot or limited cutting to provide a view. All other  
23 setbacks including, but not limited to, those from streams, creeks, springheads and  
24 property lines shall be met as required by Jackson County ordinances.  
25

26 **Sec. 19. - Submission and Review of Applications.**

27 Upon the filing of a request for approval of a subdivision, land-disturbing activity,  
28 development, or building permit, the following procedures shall be required and followed  
29 to determine whether the proposed action is governed by provisions of this Ordinance and  
30 whether a permit pursuant to this Ordinance is required for a lot, parcel, part of lot, or part  
31 of a parcel. The application shall be reviewed by the planning director. Applications for  
32 development authorization that are required by the regulations of Jackson County to obtain  
33 approval of the Jackson County Board of Commissioners or **Planning Board**, if any, shall be  
34 referred to the **appropriate board** ~~planning commission and/or Board, as the case may be.~~  
35 Applications which do not require review and approval by the Board of Commissioners or  
36 **Planning Board** shall be administratively processed by the planning director. **Development**  
37 **projects to which the provisions of this ordinance are applicable are subject to various**  
38 **review and approval procedures, depending on the project. Development of a single lot**

1 subject to the provisions of this ordinance, whether for residential or non-residential  
2 purposes, must be evaluated for compliance with this ordinance and approved by the  
3 planning director. Minor subdivisions are subject to review and approval by the  
4 planning director while major subdivisions are subject to review and approval by the  
5 Planning Board. Development projects proposed for one of the zoned areas of the county  
6 are subject to the review requirements established by the ordinance for that area and  
7 must comply with the procedures set forth in that ordinance. In all cases, the  
8 development plans shall be reviewed for compliance with the provisions of this  
9 ordinance. The review processes are summarized below.

10  
11 **19.1 Subdivision Review**

12 Tracts of land proposed for subdivision into two (2) or more parcels or lots shall  
13 undergo a slope analysis by the planning department as set forth in Section 17.4 of  
14 this ordinance to determine the applicability of this ordinance to the subdivision.  
15 Tracts with a slope of 35% or more shall be reviewed for compliance with the  
16 provisions of this ordinance.

17  
18 **19.1.A. Minor Subdivisions**

19 Subdivisions of tracts of land meeting the definition of minor subdivision as defined  
20 in the Jackson County Subdivision Ordinance shall be reviewed by the Planning  
21 Department to assure compliance with this ordinance. This review shall be conducted  
22 concurrently with the review required by the Jackson County Subdivision  
23 Ordinance. Appeals of the decision of the planning director regarding compliance  
24 with the standards of this ordinance shall be heard by the Planning Board provided  
25 the appeal is filed with the Planning Department within 30 days of the receipt of the  
26 decision.

27  
28 **19.1.B. Major Subdivisions**

29 Subdivisions of tracts of land meeting the definition of major subdivisions as  
30 defined in the Jackson County Subdivision Ordinance shall be reviewed by the  
31 Planning Board to assure compliance with this ordinance. This review shall be  
32 conducted concurrently with the review required by the Jackson County Subdivision  
33 Ordinance. Appeals of the decision of the planning director regarding compliance  
34 with the standards of this ordinance shall be heard by the Planning Board provided  
35 the appeal is filed with the Planning Department within 30 days of the receipt of the  
36 decision.

37  
38  
39 **19.1.C. All Other Development Plans**

1 Plans for all other development of property subject to the provisions of this  
2 ordinance shall be reviewed by the planning director for compliance with this  
3 ordinance as set forth in Section 20 of this ordinance. Upon a finding that the  
4 development plan complies with this ordinance, the applicant shall be issued a letter  
5 of approval. Plans that do not meet the standards of this ordinance shall be denied as  
6 provided in Section 21 of this ordinance. Appeals of the decision of the planning  
7 director with regard to the administration of this ordinance shall be filed as set forth  
8 in Section 23 of this ordinance.

9  
10 **Sec. 20. - Criteria for Approval of Applications.**

11 No land-disturbing activity, development, building, structure, road, driveway, or other  
12 development related activity which requires a permit under the terms of this ordinance or other  
13 ordinance of Jackson County shall be permitted unless the **Board of Commissioners**, planning  
14 director or planning board, whichever has final authority over said application, has determined  
15 that the project as designed and sited meets all of the requirements of this ordinance and  
16 substantially conforms to the best management practices set forth in this ordinance.

17  
18 **Sec. 21. - Action on Application.**

19 An application that meets the requirements of this ordinance shall be approved by the **Board of**  
20 **Commissioners, planning board, or planning** director who shall be authorized to place  
21 conditions on the land disturbing activity, development, building, structure, use, or other  
22 development-related activity to ensure that the minimum requirements and the purposes and  
23 intentions of this ordinance are met. Applications that do not meet the standards contained in  
24 Section 20, above, shall be denied in writing, stating therein the reasons for denial.

25  
26 **Sec. 22. - Variances.**

27 The purpose of a variance is to provide relief when a strict application of this ordinance would  
28 impose practical difficulties or unnecessary hardships on the applicant. Owners of approved  
29 lots of record at the time of this regulation shall be given every assistance and consideration to  
30 overcome problems in the application and construction of personal single family dwellings.  
31 **Requests for variances shall be heard by the Planning Board, which is hereby designated as**  
32 **the board to consider such requests.**

33  
34  
35  
36 **22.1 Standards.**

37 A variance from the requirements of this ordinance may be granted by the **Board of**  
38 **Adjustment Planning Board** if it finds the following:  
39

1 (a) Strict enforcement of the regulations would result in practical difficulties or  
2 unnecessary hardships to the applicant for the variance;

3  
4 (b) The variance is in harmony with the general purpose and intent of the  
5 ordinance and preserves its spirit; and

6  
7 (c) In the granting of the variance the public safety and welfare have been  
8 secured and substantial justice has been done.

9  
10 Such findings shall be based on the following considerations:

11  
12 (a) The fact that the property could be utilized more profitably or conveniently  
13 with the variance than without the variance shall not be considered as grounds  
14 for granting the variance.

15  
16 (b) The hardship relates to the applicant's property rather than to personal  
17 circumstances.

18  
19 (c) The hardship results from the application of the ordinance and from no other  
20 cause, including the actions of the owner of the property or previous owners.

21  
22 (d) The hardship is peculiar to the property in question rather than a hardship  
23 shared by the neighborhood or the general public.

24  
25 **22.2 Conditions.**

26 Reasonable conditions may be imposed in connection with a variance as deemed  
27 necessary to protect the best interests of the surrounding property or neighborhood,  
28 and otherwise secure the purpose and requirements of this ordinance. Guarantees  
29 and evidence may be required that such conditions will be and are being complied  
30 with.

31  
32  
33  
34 **Section 23. Appeal.**

35 An applicant or other party aggrieved by a decision of the planning director in the  
36 administration, interpretation, or enforcement of this Ordinance may appeal said  
37 decision to the Board of Adjustment by filing a written appeal application with the

1 director. Said application for appeal shall be filed within 30 days of receipt of the  
2 order of denial. The decision of the planning director may be overturned only by  
3 vote of four-fifths of the members of the Board of Adjustment entitled to vote upon  
4 the matter. The decision of the board of adjustment shall be final, subject, however,  
5 to any subsequent action in Jackson County Superior Court or other court of  
6 competent jurisdiction.  
7  
8

9 **Section 24. Procedures for Variances and Appeals.**

10 Upon the filing of any complete application for a variance or appeal with the  
11 director, a public hearing shall be scheduled and held on the proposed variance or  
12 appeal. Notice of the public hearing shall be given at least fifteen (15) days in  
13 advance of the public hearing in a newspaper of general circulation in Jackson  
14 County. The board of adjustment shall make findings and render a decision in  
15 writing within thirty-two (32) days after the initial public hearing on the proposed  
16 variance or appeal. The director shall notify the applicant, in writing, of the decision  
17 on the variance or appeal within five (5) days after the board has rendered its  
18 decision. The burden of proof on any matter to come before the Board of  
19 Adjustment shall lie with the person seeking the variance or appealing the decision.  
20 Until such time as the Board of Commissioners shall establish an independent board  
21 of adjustment, the planning board shall serve in such capacity.  
22

23 **Section 25. Administration and Enforcement.**

24 It shall be the duty of the director to administer and enforce this Ordinance and to  
25 bring to the attention of the county attorney any violations or lack of compliance  
26 therewith. The director may delegate enforcement functions, powers and duties  
27 assigned by this Ordinance to other staff as may be appropriate, without the need to  
28 reflect such delegation by formal action.  
29

30 **25.1 Refusal of permits or permissions.**

31 The director is hereby authorized and directed to deny and withhold permits or  
32 permissions on any new project or application pursuant to this ordinance or other  
33 regulations of the county where the applicant, applicant's business or agent has  
34 failed or refused to comply with this Ordinance.  
35

36 **25.2 Stop work order.**

1 The director is hereby authorized to issue written "stop work" and "cease and desist"  
2 orders for any activity that fails to comply with the provisions of this Ordinance.  
3 Such stop work or cease and desist orders may be lifted at such time as the director  
4 is satisfied that a good faith effort is being made to comply with applicable  
5 provisions of this Ordinance. Nothing shall prevent the director from reissuing stop  
6 work and cease and desist orders where warranted.  
7

8 **25.3 Injunction.**

9 If any land is used or building, structure, or other activity is established or  
10 maintained in violation of this Ordinance, the director is authorized to and may  
11 institute, in addition to other remedies, an injunction or undertake other appropriate  
12 action to cause the violation to cease or to be corrected.  
13

14 **25.4 Rule-making.**

15 The Administrator shall have authority to promulgate such rules as may be  
16 necessary to facilitate the administration of this ordinance; provided, however, any  
17 such rule shall not be contrary to the express provisions of the ordinance and shall  
18 be in harmony with its purposes.  
19

20 **25.5 Violations; remedies.**

21 Appropriate actions and proceedings may be taken at law or in equity to:

- 22
- 23 (a) Prevent any violation of this ordinance;
  - 24
  - 25 (b) Prevent unlawful construction;
  - 26
  - 27 (c) Recover damages;
  - 28
  - 29 (d) Restrain, correct or abate a violation; and / or
  - 30
  - 31 (e) Prevent illegal occupancy of a building, structure or premises.
  - 32
  - 33

34 **25.6 Enforcement Procedures.**

35 When the Administrator becomes aware of a violation of this Ordinance, it shall be  
36 his duty to notify the owner of the land of the violation. The owner shall  
37 immediately remedy the violation.

1  
2 **25.6.1 Notice of Violation.** If the owner of the land fails to take prompt corrective  
3 action, the Administrator shall give the owner or occupant written notice (by  
4 certified or registered mail to his last known address, by personal service, or by  
5 posting notice conspicuously on the property) of the following:  
6

7 (a) That the activity is in violation of this Ordinance;  
8

9 (b) The nature of the violation, and citation of the Section(s) of this Ordinance  
10 violated;  
11

12 (c) The measures necessary to remedy the violation; and  
13

14 (d) Mechanisms available to appeal the decision of the Administrator.  
15

16 **25.6.2 Appeal.** Any owner who has received a Notice of Violation may appeal in  
17 writing the decision of the Administrator to the Board of Adjustment within fifteen  
18 days following the date of the Notice of Violation. The Board of Adjustment shall  
19 hear an appeal within a reasonable time, and it may affirm, modify, or revoke the  
20 Notice of Violation. In the absence of an appeal, the decision of the Administrator  
21 shall be final.  
22

23 **25.7 Criminal penalty.**

24 Any violation of this ordinance or amendments thereto shall constitute a  
25 misdemeanor. Those convicted of such violations shall be punished as provided by  
26 N.C.G.S. 14-4. Each day that a violation continues shall be considered a separate  
27 violation and punishment assigned accordingly.  
28

29 **25.8 Civil penalty.**

30 The owner of any land and any developer, builder, contractor, agent, or other  
31 person who participates or acts in concert, assists, directs, creates, or maintains any  
32 condition that is in violation of this Ordinance may be held responsible for the violation and  
33 subject to the civil penalties and remedies provided herein.  
34

35 **25.8.1 Notice.** No civil penalty shall be assessed until the person alleged to be in  
36 violation has been notified in accordance with Section 25.6.1. If after receiving a  
37 notice of violation under Section 25.6.1, the owner or other violator fails to take

1 corrective action, a civil penalty may be imposed under this Section in the form of a  
2 citation. The citation shall be served in the same manner as of a Notice of Violation.  
3 The citation shall state the nature of the violation, shall state the civil penalty to be  
4 imposed upon the violator, and shall direct the violator to pay the civil penalty  
5 within fifteen (15) days of the date of the citation.  
6

7 **25.8.2 Continuing violation.** For each day the violation is not corrected, the violator  
8 will be guilty of an additional and separate offense and subject to additional civil  
9 penalty.  
10

11 **25.8.3 Penalties.** Any person who violates any provision of this Ordinance shall be  
12 subject to assessment of a civil penalty in accordance with the following schedule:  
13

- 14 (a) \$50.00 for the first violation;
- 15
- 16 (b) \$100.00 for the second violation;
- 17
- 18 (c) \$200.00 for the third violation; and
- 19
- 20 (d) \$500.00 for the fourth and each succeeding violation.  
21

## 22 **Section 26. Amendments.**

23 This ordinance, including the Mountain and Hillside Development District Map,  
24 may be amended by the Board of County Commissioners in accordance with the  
25 provisions of this section.  
26

### 27 **26.1 General Procedure.**

28 Amendments shall be regulated by the general provisions contained herein.  
29

30 **26.1.1.** The text of this ordinance and the District Map may be amended in order to  
31 (a) correct an error or clarify statements or boundaries, (b) change the regulations in  
32 the text, or (c) change the boundaries of the District.  
33

34 **26.1.2.** Proposed changes or amendments to this ordinance or to the District Map  
35 may be initiated by the Board of County Commissioners, the Planning Board, the  
36 Board of Adjustment, the Watershed Review Board, the County Manager or one or  
37 more owners of property within the District, as applicable.

1  
2 **26.1.3.** All proposed changes to this chapter, including the District Map, shall first  
3 be reviewed by the Planning Board prior to consideration by the Board of  
4 Commissioners.

5  
6 **26.2 *Application.***

7  
8 **26.2.1. *Text amendments.*** In order for a person authorized by Section 26.1.2 to initiate  
9 a change to the text of this ordinance, an application accompanied by the application  
10 fee shall be submitted to the Jackson County Planning Department at least 30 days  
11 prior to the date of the Planning Board meeting at which the application is to be  
12 considered. The application shall contain the name(s) and address(es) of the  
13 applicant(s), a copy of the proposed text change and a statement from the  
14 applicant(s) which explains the purpose for the amendment.

15  
16 **26.2.2. *Map amendments.*** In order for a property owner to initiate a change to the  
17 District Map, an application accompanied by the application fee shall be submitted  
18 to the Jackson County Planning Department at least 30 days prior to the date of the  
19 Planning Board meeting at which the application is to be considered. The  
20 application shall contain the name(s) and address(es) of the owner(s) of the property  
21 in question, the location of the property, a list of the name(s) and address(es) of the  
22 owner(s) of property abutting the property in question as shown on the county tax  
23 listing. All applications requesting a change in the District Map shall include a  
24 description of the property in question sufficient to unequivocally describe and  
25 identify said property. Such description may take the form of a property survey, a  
26 legal description or a legible copy of a Jackson County cadastral or composite Tax  
27 Map clearly annotated with district lines which follow political boundaries,  
28 geographical features or property lines.

29  
30 **26.2.3.** Application forms may be modified by the Planning Department, as  
31 necessary.

32  
33 **26.2.4.** The Planning Board and the Board of County Commissioners will not  
34 consider an application for an amendment denied within the preceding 12 months  
35 by the Board of Commissioners.

36  
37 **26.3 *Planning Board action.***

1 Before taking any action on a proposed amendment to this ordinance or the District  
2 Map, the Board of County Commissioners shall consider the Planning Board's  
3 recommendation on each proposed amendment. The Planning Board shall have 45  
4 days after the first consideration of an application for rezoning at a regular meeting  
5 to submit its recommendations to the Board of County Commissioners. Failure of  
6 the Planning Board to submit recommendations within the forty-five-day period  
7 shall constitute a favorable recommendation, except that, if by agreement of the  
8 Planning Board and the applicant 45 days is insufficient due to the size of the area,  
9 the complexity of the request or similar circumstances, the Planning Board shall  
10 have 90 days to submit such recommendation. Time limitations, however, shall not  
11 be applied to text amendments or to District Map amendments initiated by the  
12 Planning Board, the Board of Adjustment, the Watershed Review Board, the County  
13 Manager or the Board of Commissioners.  
14

15 **26.4 Public hearing.**

16 Before enacting any amendment to this ordinance or the District Map, the Board of  
17 Commissioners shall hold a public hearing. Public notification of such hearing shall  
18 comply with the provisions of N.C.G.S. 153A-323 and 153A-343, as amended.  
19

20 **26.4.1. Newspaper notice.** In accordance with N.C.G.S. 153A-323, a notice of such  
21 public hearing shall be published in a newspaper of general circulation in Jackson  
22 County once a week for two successive weeks, the first publication of which shall  
23 not appear less than 10 days or more than 25 days prior to the date fixed for the  
24 public hearing. The notice shall include the time, place and date of the hearing and  
25 include a description of the property or the nature of the change or amendment to  
26 the ordinance and/or map.  
27

28 **26.4.2. Mailed notice.** In accordance with N.C.G.S. 153A-343, whenever there is an  
29 amendment to the District Map, the owner of that parcel of land as shown on the  
30 county tax listing and the owners of all parcels of land abutting that parcel of land as  
31 shown on the county tax listing shall be mailed a notice of a public hearing on the  
32 proposed amendment by first class mail at the last addresses listed for such owners  
33 on the county tax abstracts. This notice must be deposited in the mail at least 10 but  
34 not more than 25 days prior to the date of the public hearing. The person(s) mailing  
35 such notices shall certify to the Board of Commissioners that fact, and such  
36 certificate shall be deemed conclusive in the absence of fraud.  
37

1           **26.4.3. Posted notice.** For any proposed amendment to the District Map, the  
2           Planning Department shall post a sign in a prominent location on or near the  
3           subject property which indicates that a map change has been proposed for the  
4           subject property. In the event that more than one parcel is involved in a  
5           particular District Map amendment, at least one sign shall be posted in a central  
6           location; however, the Planning Department may post multiple signs. Said  
7           sign(s) shall be posted at least 10 days prior to the public hearing date.  
8

9           **Section 27.**

10          All ordinances or parts of ordinances, including, without limitation, the Mountain  
11          Ridge Protection Ordinance, which are in conflict with this ordinance are hereby  
12          repealed to the extent of such conflict.  
13

14          **Section 28.**

15          If any section, subsection, paragraph, sentence, clause, phrase or portion of this  
16          ordinance is for any reason held invalid or unconstitutional by any court of competent  
17          jurisdiction, such portion shall be deemed severable and such holding shall not affect  
18          the validity of the remaining portions hereof.  
19

20          **Section 29.**

21          The enactment of this ordinance shall in no way affect the running of any amortization  
22          provisions or enforcement actions, or otherwise cure any existing land use violations.  
23

24          **Section 30.**

25          This ordinance shall be in full force and effect from and after the date of its adoption.  
26  
27  
28  
29  
30  
31  
32

33          Adopted this 6<sup>th</sup> day of August, 2007, by the Jackson County Board of Commissioners.  
34  
35  
36  
37

---

Brian Thomas McMahan, Chairman

Jackson County Board of Commissioners

1  
2  
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6  
7  
8  
9

(SEAL)

ATTEST:

APPROVED BY:

\_\_\_\_\_  
Clerk to the Board

\_\_\_\_\_

1 JACKSON COUNTY MOUNTAIN AND HILLSIDE DEVELOPMENT ORDINANCE

2  
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