

Town of Buxton  
Planning Board Minutes  
March 11, 2024

Minutes prepared by Patti McKenna, Code Enforcement

**Chairman Keith Emery called the meeting to order at 7 p.m.**

Members present: Chris Baldinelli, Jere Ross, Craig Lefebvre, Roger Tracey. Also attending on behalf of the town: Patti McKenna, Code Enforcement, Roxanne Gardner Codes - Planning Admin. Others in attendance: Cliff Thomas, Peter Richards, Galen Cuning, Paul Richards, Mark Blier, and David Field.

**Appointments:**

**Public hearing on zoning ordinance amendments**

Jere Ross made a motion to open the public hearing on zoning ordinance amendments.

Chris Baldinelli seconded the motion. The motion passed with a vote of 5-0 in favor.

The Board reviewed the elements of the first proposed change listed below. Comments regarding this amendment are listed at the end of the proposed change.

**PROPOSED ZONING ORDINANCE AMENDMENTS TO COMPLY WITH  
NEW STATE HOUSING LAW**

The Zoning Ordinance of the Town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:

**ARTICLE 1 - PREAMBLE**

**1.3. Purpose.**

The purpose of this ordinance is to promote the health, safety and general welfare of the residents of the Town; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide safety from fire and the elements; to prevent overcrowding of real estate; to prevent housing development in inappropriate areas; to conserve natural resources; to provide for adequate public services; to prevent 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 waters; to conserve natural beauty and open space; to affirmatively further the purposes of the Federal Fair Housing Act, 42 U.S.C. ch. 45, as amended, and the Maine Human Rights Act to achieve the applicable statewide or regional housing production goal established

by the Maine Department of Economic and Community Development; and to anticipate and respond to the impacts of development in shoreland areas, as an integral part of a comprehensive plan for municipal development.

## ARTICLE 2 - DEFINITIONS

**Accessory Dwelling Unit (ADU):** ~~An additional living area independent of a primary dwelling that may have been added to, created within, or detached from a primary one-unit dwelling. A self-contained dwelling unit located within, attached to or detached from a single family dwelling located on the same lot. The ADU must provide for living, sleeping, cooking, and bathroom facilities and be on the same parcel as the primary one-unit dwelling. ADU shall be at least 190 square feet and no more than 500 square feet of living space.~~

**Affordable Housing Development:** (1) For rental housing, a development in which a household whose income does not exceed 80% of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and (2) for owned housing, a development in which a household whose income does not exceed 120% of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. For purposes of this definition, "housing costs" means: (a) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and (b) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

**Area Median Income:** The midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development ("HUD"). For purposes of this definition, "region" is the HUD-designated metropolitan area that includes the Town of Buxton.

**Base Density:** The maximum number of dwelling units allowed on a lot not used for affordable housing development based on the applicable minimum lot size and buildable area in the zoning district where the lot is located.

**Centrally Managed Water System:** A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.

**Certificate of Occupancy:** The municipal approval for occupancy granted pursuant to 25 M.R.S.A. § 2357-A or the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

**Comparable Sewer System:** Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

**Designated Growth Area:** Any area within the Village District.

**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. Except for an accessory dwelling unit, nNo dwelling unit shall contain less than 480 square feet of floor living space. For Subdivision purposes a "Dwelling Unit" means any part of a structure, which, through sale or lease, is intended for human habitation other than accessory dwelling units, including single-family and multifamily housing, condominiums, apartments and time-share units.

**Low Income Housing:** ~~A housing project that is subsidized by a Federal or State Funding program.~~

Chairman Keith Emery asked if there were any questions or comments.

Scott stated under designated growth area it says the only one would be the village, but the state has also designated the little triangle 4A, 112, 202 as a designated growth area. Scott's suggestion would be to include the State designated growth area also.

Potable: "Potable" as that term is defined the DECD Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B), as amended.

#### **ARTICLE 4 - CONFORMANCE WITH REGULATIONS**

4.2.C.4 Non-Conformance. Notwithstanding the other provisions of Section 4.2.C, the construction of an accessory dwelling unit in accordance with Section 11.23 does not constitute an extension, reconstruction, enlargement, structural alteration, or expansion of use, or unlawful continuance of a non-conforming use or structure.

#### **ARTICLE 5 - ADMINISTRATION**

##### **5.6 Application for Building Permit.**

5.6.B. The approval of all building permit applications shall be subject to evidence of compliance with the State Subsurface Wastewater Disposal Rules and Title 30-A, M.R.S.A., Section 4211. In addition, the approval of all building permit applications for one or more dwelling units, including accessory dwelling units and units within an affordable housing development, shall be subject to evidence of compliance with Section 10.18. The Code Enforcement Officer may condition approval of a building permit on such evidence of compliance.

##### **5.7 Certificate of Occupancy.**

5.7.A. No new building or addition shall be occupied after its construction, alteration or relocation, nor shall a new use be established in an existing building until a Certificate of Occupancy has been issued by the Code Enforcement Officer. Upon notification by the owner or his agent, the Code Enforcement Officer shall, within 72 hours, make proper examination to verify that the work or new use is in compliance with this Ordinance and the Buxton Building Code, including but not limited to the written verification of the requirements set forth in Section 10.18. If all work is found to be in compliance, the Code Enforcement Officer shall issue a Certificate of Occupancy.

## ARTICLE 9 - DISTRICT REGULATIONS

### 9.6 Lot and Yard Requirements.

In each district, the division of land and placement of structures shall conform to the following table:

**TABLE A. Dimensional Requirements<sup>(1)</sup>**

|  | Village<br>Lot Size (sq. ft.) | Res                    | Rural                  | BC                                  | LC                    |
|--|-------------------------------|------------------------|------------------------|-------------------------------------|-----------------------|
| Residential  |                               |                        |                        |                                     |                       |
| Single Family  | 80,000 <sup>(2)</sup>         | 120,000 <sup>(2)</sup> | 200,000 <sup>(2)</sup> | <del>80,000<sup>(2)</sup></del> n/a | 80,000 <sup>(2)</sup> |
| <del>Elderly &amp; Low</del><br>Income Housing<br>for first Dwelling<br>Unit | 80,000                        | 120,000                | 200,000                | n/a                                 | n/a                   |
| for each additional<br>Dwelling Unit   | 20,000                        | 20,000                 | 20,000                 | n/a                                 | n/a                   |

(2) Per dwelling unit. Minimum lot size and buildable area does not apply to an accessory dwelling unit constructed in compliance with Section 11.23.

### 9.8 Land Use Regulations.

**TABLE B - LAND USE<sup>9</sup>**

| LAND USE                                      | Ord. Ref | V <sup>6</sup> | Res | Rur | S             | RP | BC <sup>6</sup> | LC <sup>6</sup> |
|---|----------|----------------|-----|-----|---------------|----|-----------------|-----------------|
| Accessory Dwelling Unit*                      | 11.23    | P              | P   | P   | <del>NP</del> | N  | N               | <del>NP</del>   |
| Affordable Housing Development*               | 11.22    | E              | E   | E   | N             | N  | N               | N               |
| <del>Elderly &amp; Low Income</del> Housing * | 11.22    | E              | E   | E   | N             | N  | N               | N               |

## ARTICLE 10 - PERFORMANCE STANDARDS -- GENERAL REQUIREMENTS

### 10.7 Off-Street Parking and Loading.

10.7.D. Parking spaces shall be provided to conform with the number required in the following schedule:

#### Activity

#### Minimum Required Parking

Residential & Elderly

2 spaces per dwelling unit with 2 or

Housing, other than Affordable  
Housing Development

more bedrooms. 1 ½ spaces per  
dwelling unit with 1 bedroom. No

additional spaces for ADUs.

Affordable Housing Development

2 spaces per 3 dwelling units

1. Except for affordable housing developments, the above are minimum standards and additional parking spaces shall be required if these prove to be inadequate.

#### **10.18. Sanitation and Potable Water Standards.**

The standards in this Section 10.18 apply to all dwelling units, including units within an affordable housing development and accessory dwelling units. Prior to the issuance of a certificate of occupancy, the permit holder must provide written verification to the Code Enforcement Officer that the unit is connected to potable water and wastewater services, as follows:

10.18.A. If a unit is connected to a public, special district, or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.

10.18.B. If a unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S.A. § 4221. Plans for a subsurface wastewater disposal system must be prepared by a licensed site evaluator in accordance with 22 M.R.S.A. § 42.

10.18.C. If a unit is connected to a public, special district, or other centrally managed water system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection and the volume and supply of water required for the unit.

10.18.D. If a unit is connected to a private well, proof of access to potable water, including the following standards:

10.18.D.1. The well must be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other known sources of potential contamination.

10.18.D.2. Site design must allow for placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal in compliance with 10-144 C.M.R. Ch. 241, the Maine Subsurface Wastewater Disposal Rules.

10.18.D.3. Proposed activities involving sources of potential contamination, including junkyards, automobile graveyards, gas stations, and bulk storage of petroleum products, must be located at least 300 feet from existing private and public water supplies.

10.18.D.4. For subdivisions and commercial, industrial, and other non-residential development, the applicant must demonstrate that there is sufficient healthful water supply to serve the needs of the project.

10.18.D.5. When a project is to be served by a public water system, the location and protection of the source, the design, construction, and operation of the system must conform to the standards of 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water.

10.18.E. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

The written verification required by this Section 10.18 shall apply only to the extent such written verification is required by 30-A M.R.S.A. §§ 4364(5), 4364 A(4), or 4364-B(7).

## **ARTICLE 11 - PERFORMANCE STANDARDS,**

### **SPECIFIC ACTIVITIES AND LAND USES**

#### **11.22 Elderly and Low-Income Housing and Affordable Housing Development.**

Elderly and ~~Low-Income~~ affordable housing development projects shall meet all of the following standards as well as the general performance standards of Article 10:

11.22.A. All parking areas, driveways and other areas subject to vehicular traffic shall be paved with bituminous asphalt, concrete or an equivalent surfacing over a gravel sub-base at least 6" in thickness and shall have appropriate bumper or wheel guards where needed.

11.22.B. Only developments having a total site plan for structures will be considered. Each building shall be an element of an overall plan for site development. The developer shall illustrate the placement of the buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.

11.22.C. The Planning Board may require the construction of storage ponds and dry hydrants for fire protection purposes and may require fencing.

11.22.D. Utilities shall be installed underground wherever possible. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.

11.22.E. For Elderly Housing, each dwelling unit shall have not more than two (2) bedrooms.

11.22.F. An affordable housing development that complies with the requirements of this Section 11.22.F is eligible for a dwelling unit density bonus of 2 ½ times the base density that is otherwise allowed on the lot proposed for affordable housing development. If fractional results occur when calculating the density bonus, the maximum number of allowed units shall be rounded down to the nearest whole number.

11.22.F.1. Location. The affordable housing development must be either (1) located in a designated growth area or (2) served by a public, special district, or other centrally managed water system and a public, special district, or other comparable sewer system.

11.22.F.2. Long-term affordability.

11.22.F.2.1. More than half of the total dwelling units in the affordable housing development must be designated as affordable rental units or affordable homeownership units.

11.22.F.2.2. Prior to the issuance of a certificate of occupancy for a structure to be used for an affordable housing development, the owner of the affordable housing development must execute a restrictive covenant recorded in the York County Registry of Deeds and enforceable by a third party acceptable to the Planning Board, to ensure that for at least thirty (30) years after completion of construction occupancy of all units designated affordable in the development will remain limited to households at or below 80% (for rental housing) or 120% (for owned housing) of the local area median income at the time of initial occupancy. The restrictive covenant must run with the land and encumber the affordable housing development, be binding upon the developer (for rental housing) or the unit owners (for owned housing) and their successors and assigns and inure to the benefit of and be enforceable by the Town of Buxton and a third party acceptable to the Planning Board.

11.22.F.3. Water and wastewater.

11.22.F.3.1. The sanitation and potable water standards in Section 10.18 shall apply to each unit within the affordable housing development.

11.22.F.3.2. The developer of the affordable housing development must make adequate provision for the long-term maintenance, repair, and improvement of any (i) individual private septic system, (ii) comparable sewer systems, (iii) individual private wells, and (iv) public water systems proposed to serve the units within the affordable housing development, including a process of collection and enforcement to obtain capital improvement funds from the developer (for rental housing) or the unit owners (for owned housing).

11.22.F.4. Parking. Notwithstanding any provision of this zoning ordinance to the contrary, no more than two (2) off-street parking motor vehicle spaces shall be required for every three (3) units within the affordable housing development. If fractional results occur, the number of motor vehicle parking spaces shall be rounded down to the nearest whole number.

11.22.F.5. ~~For Low Income Housing~~ There shall be a 2 story limit on height, and ~~4 units per building,~~ a limit of 5 buildings per affordable housing development.

11.22.F.6. Nothing in this Section 11.22.F. exempts an affordable housing development from any other requirements of this zoning ordinance, including without limitation, any subdivision or shoreland zoning requirements.

11.23 Accessory Dwelling Units.

When permitted, ~~a~~An Accessory Dwelling Unit (ADU) ~~must~~ that meets the following standards is not considered a dwelling unit for purposes of (i) applying the minimum lot size and buildable area requirements contained in Table A, Section 9.6; (ii) counting the number of dwelling units when applying the access to lots standards in Section 10.1; (iii) counting the number of dwelling units when applying the subdivision definition in Article 2; or (iv) calculating the maximum net residential density allowable in cluster developments pursuant to Section 11.6. An ADU that does

not meet the following standards is considered a dwelling unit and must meet all applicable standards for a single-family dwelling.

11.23.A. ~~The lot must be a legally conforming or grandfathered lot. The ADU must be located in a zoning district where residential uses are permitted. No more than one ADU shall be permitted on a lot containing one or more single family dwelling units.~~

11.23.B. ~~The ADU may be constructed within or attached to a single-family dwelling or accessory structure, or as a new structure on the lot for the primary purpose of creating an ADU. If the ADU is within or attached to a single-family dwelling, The construction must be in compliance with all street frontage, shore frontage, lot width, and yard dimensions setback requirements contained in Table A, Section 9.6 of the Buxton Zoning Ordinance applicable to single family dwellings. If the ADU is a separate structure or attached to an accessory structure, the ADU must comply with all street frontage, shore frontage, lot width, and yard setback requirements contained in Table A, Section 9.6 applicable to accessory structures.~~

11.23.C. ~~The use will not essentially alter the character or appearance of the property. The ADU must have at least 190 square feet and not more than 500 square feet of living space.~~

11.23.D. ~~The use is confined to expanding or altering existing residential dwellings or garages.~~

11.23.E. ~~The floor area of the alteration or expansion shall not exceed 500 square feet.~~

11.23.FD. ~~The lot on which the ADU is proposed must comply with the parking space requirements of Section 10.7.D. for residential housing. Additional parking and turnaround space must be provided if needed. On street parking will not be permitted. Driveways serving the ADU that are longer than 200 feet from the street must provide an adequate emergency vehicle turnaround.~~

11.23.GE. ~~The use must provide for its wastewater disposal and be in accordance with the Maine Disposal Rules. The ADU must comply with the sanitation and potable water standards in Section 10.18.~~

11.23.HF. ~~The alteration or expansion ADU must be in compliance~~ comply with all state and local fire code safety standards.

11.23.I. ~~No open or enclosed outside stairways shall be permitted above the first story.~~

11.23.G. ~~Except as expressly provided herein, nothing in this Section 11.23 exempts an ADU from any other requirements of this ordinance, including without limitation any shoreland zoning requirements.~~

### **Comments from the public regarding this proposed amendment include:**

Scott Warchol spoke. He questions what we have listed as the designated growth area. The only place in town that the State has designated as our growth area is the triangle between 4A-112 and 202. He feels this area should be included in the growth area.

Mark Blier asked if we are removing the square footage requirement of an ADU (Accessory Dwelling Unit) because it looks like we have. Roger Tracy clarifies that further into the zoning change ADU is defined. The definition was just moved to the section about ADU's.



Paul Richards stated he read over the proposed zoning ordinance, and he is a little confused, because rentals right now include utilities and everything else on the books to meet your low-income section. I don't see how your one-bedroom person can afford the rentals unless they have a really good job. Why aren't you allowing two parking spaces for a one-bedroom unit?

Roger Tracy stated in terms of allowing them this is LD2003 this is the way the law is written and provided to us so we can amend our codes. Paul Richards stated it is your lowest requirement by the state. Roger Tracy stated for ADU no additional spots needed. Paul Richards asked, "are you allowing enough spaces without the tenant parking on the road? Chairman Keith Emery stated he can not see someone putting in an ADU without putting in enough parking spaces. Roger Tracy stated a lot of the board shared the same feelings, but they still need to be following State law. Roger stated it's not that we aren't requiring it. It's the State that's not requiring it. Peter Richards Stated this is a town ordinance proposal states don't require, but we can require it because it solves a problem later down the road for parking. CEO McKenna stated we cannot ask for more than what the ordinance asks for. CEO McKenna added if we are going to be in compliance with LD 2003 prohibits us from asking for more parking spots for ADU.

Paul Richards stated that rentals require two people to live there to afford the rising cost of rentals. The Board might want to consider allowing more parking. Keith Emery stated that as far as ADU's go, he doesn't see someone putting in an ADU and not putting space for them to park.

Peter Richards states that this is a town ordinance proposal. The state might not require more parking but we can to save us a problem later for parking. The town doesn't have to do the minimum, you can come up one step. Peter brings up the difference between Bar Mills Bridge replacement and Salmon Falls bridge replacement. Bar Mills has a sidewalk and Salmon Falls will not have a sidewalk.

CEO McKenna states that LD 2003 state law prohibits the town specifically from asking for more parking for ADUs. If we are going to be in compliance with LD 2003 we cannot require more parking.

Chris Baldinelli adds that just because we can't require more parking doesn't mean the person can't provide the parking. Why wouldn't they provide parking to a rental ADU? Keith Emery adds that if you are building an ADU he thinks you'd add parking without having to be told to.

Mark Blier has a question about section 11.22.F.2.2 where it talks about certificate of occupancy related to affordable housing. He is concerned that it will be the town's responsibility to check the 80% and 120% income levels. If a developer comes in with

an affordable housing complex what kind of responsibility does the town have to make sure people living in the units meet the criteria. That's a lot of work. What are we going to have a yearly inspection of units where they give income verification. His question is, how are we going to achieve the requirements of section 11.22.F.2.2?

Jere Ross states that the last line of that section says the developer would hire a 3rd party acceptable to the Planning Board and would make that part of the developer's responsibility as part of the approval process. The burden would be on the developer or whoever is renting the units.

Mark Blier states that then its up to us to make sure the criteria is met for the next 30 years. Every year we have to do that, that is a cost to our town.

Scott Warchol states that it is his understanding that the tenant only has to meet the requirements for the first year. He believes this is explained better within LD 2003. Scott adds that he doesn't think LD 2003 is going to help the housing market. He doesn't see people building another house to rent. It will be decades before you get a return on your investment. Its his opinion that this is an ill conceived LD.

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**Shall the town vote to amend Article 2 of the Zoning Ordinance as follows:**

*The Zoning Ordinance of the Town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:*

**Accessory Structure:** ~~means a small, detached structure that is incidental and subordinate to the principal structure. —~~ A structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

**Agricultural Structure** ~~– structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.~~

**Automobile Industrial / equipment repair:** ~~the maintenance and repair of mechanical equipment and machinery customarily used in industrial settings, including but not limited to large commercial vehicles, large industrial machines such as conveyor belts and cranes and small equipment such as pumps and motors.~~

**Code Enforcement Officer:** ~~A qualified person duly authorized by the Town of Buxton to enforce the provisions of the Ordinance.~~ A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinance.

**Containment Wall** - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

**Elevated Building:** means a non-basement building.

- a. built, in the case of a building in Zones ~~A1-30 or A or AE~~, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, ~~"stilts,"~~ or shear walls; and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones ~~A1-30 or A or AE~~, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters as required in Section 14.6.N.

**Elevation Certificate:** An official form (FEMA Form ~~81-31, 03/97~~ FF-206-FY-22-152, as amended) that

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. ~~is required for purchasing flood insurance.~~

**Existing Manufactured Home Park or Subdivision** - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

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

**Locally Established Datum:** means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor:** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building

access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section 14.6.P of this ordinance.

**Mean Sea Level:** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

**Minor Development:** means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 14.6.J, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**New Construction:** means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by the Town of Buxton and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)** - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical data used by other North American countries such as Canada and Mexico and was established to replace NGVD because of the constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

**Regulatory Floodway:**

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high-water mark to the upland limit of the floodplain.

**Variance (floodplain management)** - a grant of relief by a community from the terms of a floodplain management regulation.

Comments on this section are as follows:

CEO McKenna stated the only definition we proposed to change is Automobile Industrial repair. All the rest came from the flood management ordinance we must update. They have a different definition for Code Enforcement officer. We must adopt their definition. Jere Ross stated FEMA is coming up with new flood regulations and flood maps. Is this correct CEO McKenna stated yes. Jere Ross If we don't adopt these as written then we will not be able to get FEMA flood insurance in the Town of Buxton. CEO McKenna stated we would be dropped from the FEMA flood insurance program. One of the last amendments proposed here is article 14 Flood Management Ordinance.

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Article \_\_\_\_\_. Shall an ordinance entitled, "Amendments to Zoning Ordinance to Clarify Plumbing and Electric Permit Requirements," be enacted?

#### AMENDMENT TO ZONING ORDINANCE TO CLARIFY PLUMBING AND ELECTRIC PERMITS REQUIREMENTS

*The Zoning Ordinance of the Town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:*

5.4.1 Building Permit Required. Except as provided in Section 5.5, no building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the Code Enforcement Officer. In areas of Special Flood Hazard, as established in Article 3.3, permits shall be issued according to the provisions of Article 14 of this Ordinance, without regard to section 5.5. No building permit shall be issued except in conformity with the provisions of this Ordinance except after written order from the Board of Appeals. All building permits shall be void unless work there under is commenced within six months from the date of issuance. A renewal of the permit shall be required if work is not completed within eighteen (18) months of the date of issuance. Permit may be renewed only upon application with required fees.

#### 5.4.2 Plumbing and Electric Permits Required.

5.4.2.A All plumbing work in any structure requires a valid plumbing permit. All plumbing shall be in accordance with the current version of the adopted State of Maine Plumbing Code.

5.4.2.B. All Electrical wiring in any structure requires an electrical permit. All electrical work shall be in accordance with the current version of the State adopted version of the National Electrical Code. Residential wiring requires a local electrical permit from the

town. Commercial wiring requires a permit from the State of Maine Office of Professional and Occupational Regulation.

1. Supervising Official. The Electric Inspector, who must be licensed by the State of Maine as a Master Electrician is herewith designated as the town official to supervise and enforce Section 5.2.4.B of this Ordinance. The Electric Inspector shall serve under the direction of the Code Enforcement Officer, who will act as his/ her immediate supervisor

2. Hazardous conditions and authority to disconnect. If the Town's Electric Inspector finds a dangerous installation, alteration, or repair of electrical work, the Electric Inspector shall provide written notice that shall be served on the owner and occupant of the premises and the licensee by personal service or first class mail, and may post the property as unsafe. The Electric Inspector, with the prior approval of the Code Enforcement Officer or Fire Chief, may also disconnect public utilities, including electric supply, to any structures or installations on the premises if the Electric Inspector and the Code Enforcement Officer or Fire Chief determine that a hazardous condition that is an imminent threat to public health and life safety. The Electric Inspector or designee shall notify the serving utility and the owner or occupant of the structure or installation of the decision to disconnect prior to disconnecting when possible or as soon as practical after disconnecting.

**Comments regarding this change are as follows:**

Jere Ross states he assume it will be a part-time position and the fees will pay for this person's salary. CEO McKenna commented yes.

Mark Blier states that currently the town is not requiring electric permits. If that gets defeated as it did last year, what happens to this article. CEO McKenna states that this article is how it gets brought back to be voted on. Jere Ross asked about the funding. The articles will be put together on the warrant. The article to vote on whether to require electric permits will be voted on first. Then the article for the budget for the code enforcement office will come next. If the article to require electric permits fails, they can vote to decrease the budget for the inspector's pay by that amount.

Jere Ross asked Mark Blier if all these zoning articles will be voted on the floor of town meeting and not by secret ballot. Mark asks CEO McKenna, who responds that the Planning Board will make a recommendation to the Selectboard who decides how it gets voted on.

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Article \_\_\_\_\_. Shall an ordinance entitled, "Amendments to Zoning Ordinance to Add Practical Difficulty Variance," be enacted?

**AMENDMENT TO ZONING ORDINANCE  
TO ADD PRACTICAL DIFFICULTY VARIANCE**

*The Zoning Ordinance of the Town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:*

**ARTICLE 6 - BOARD OF APPEALS**

**6.1 Appointment and Composition.**

The Municipal officers shall appoint a Board of Appeals consisting of five (5) members all of whom shall be residents of Buxton. The terms of members shall be three (3) years except that initial appointments shall be at least three (3) years and not more than five (5) years such that the terms of office of no more than two (2) members shall expire in any single year. The Board shall elect annually a Chairman, Vice-Chairman and Secretary from its membership. Neither a Municipal Officer nor his or her spouse may be a member of the Board. A quorum shall consist of three (3) members and all questions shall be decided by majority vote.

**6.2 Powers and Duties.**

The Board shall have the following powers and duties.

6.2.A. Administrative Appeals of Code Enforcement Officer Decisions. Any person aggrieved by a decision of the Code Enforcement Officer may appeal such a decision to the Board within 30 days of the written decision. Appeals from decisions of the Code Enforcement Officer are de novo. The Code Enforcement Officer must transmit to the Board the decision and all documents and other evidence on which the decision was based, which may be considered as evidence in the de novo proceeding. The Board must conduct a public hearing. The standard of review is whether, on the basis of the evidence before the Board, the application complies with the requirements of the Zoning Ordinance. The burden of proof is on the applicant for the permit or approval. The Board has the authority to grant, grant with conditions, or deny a permit or approval.

6.2.A.1 Notwithstanding Section 6.2.A, notice of violation, enforcement orders, suspension or revocations of permits or approvals, written determinations of no violation, or any other enforcement decisions of the Code Enforcement Officer are advisory only and may not be appealed to the Board.

6.2.B. Variance Appeals. The Board may grant a Variance only from the term of this

Ordinance which impose restrictions on height, buildable area, lot coverage, lot size or setback and only where strict application of those terms to the petitioner and his property would cause undue hardship to the petitioner, owing solely to conditions peculiar to the property and not the result of actions of the petitioner. A financial hardship shall not constitute grounds for granting a Variance. The crucial points for obtaining a Variance are undue hardship and unique circumstances applying to the property, neither of which are the results of actions taken by the applicant or a prior owner. A Variance shall not be granted unless all four elements contained in the definition of undue hardship in Article 2 are presented to the Board. In granting Variance appeals, the Board may prescribe such conditions and safeguards as are appropriate under the Ordinance. In areas of Special Flood Hazard, as established in Article 3.3, permits shall be issued according to the provisions of Article 14 of this Ordinance, without regard to section 5.5.

6.2.B.1. Notwithstanding the above requirements and the definition of undue hardship in Article 2, the Board may grant a Variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any Variance granted under this paragraph solely to the installation of equipment or the construction of structures necessary for access to or egress from the property 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 on the property. For the purposes of this paragraph, a disability has the same meaning as a physical or mental handicap under Title 5 MRSA, Section 4553 and the term "structures necessary for access to or egress from the property" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

6.2.B.2. Notwithstanding the above requirements and the definition of undue hardship in Article 2, the Board may grant a setback or yard width Variance for a single-family dwelling without the need for the Board to determine that the land in question cannot yield a reasonable return unless the Variance is granted. When considering a request for a Variance under this paragraph the Board shall in addition to determining the remaining three aspects of undue hardship are met, determine that granting the Variance will not substantially reduce or impair the use of abutting property and that granting the Variance is based upon demonstrated need, not convenience and no other feasible alternative is available which meets the setback requirements. A Variance granted under this paragraph is strictly limited to those from setback and yard width requirements for single family dwelling that is the primary year-round residence of the applicant. A Variance granted under this paragraph may not exceed 20% of a setback or yard width requirement and may not be granted if the Variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

6.2.B.3 Notwithstanding the above requirements and the definition of undue hardship in Article 2, The Board may grant a Variance from certain dimensional standards of this



Zoning Ordinance when strict application of the dimensional standards to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- A. The need for the Variance is due to the unique circumstances of the property and not to the general condition of the neighborhood.
- B. The granting of a Variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- C. The practical difficulty is not the result of action taken by the petitioner or a prior owner.
- D. No other feasible alternative to a Variance is available to the petitioner.
- E. The granting of a Variance will not unreasonably adversely affect the natural environment; and
- F. The property is not located in whole or in part within the shoreland areas as defined in 38 M.R.S.A, § 435.

As used in this Section 6.2.B.3:

"Dimensional standards" means and is limited to those provisions of this Zoning Ordinance relating to lot area, lot coverage, frontage, and setback requirements.

"Practical difficulty" means that the strict application of the dimensional standards to the property for which a Variance is sought would preclude the ability of the petitioner to pursue a use of the property which is allowed in the zoning district in which the property is located and would result in significant economic injury to the petitioner.

"Significant economic injury" means the value of the property if the Variance were denied would be substantially lower than its value if the Variance were granted. To satisfy this standard, the petitioner need not prove that denial of the Variance would mean the practical loss of all beneficial use of the land.

6.2.B.3- 6.2.B.4 If the Board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded 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. The applicant is responsible for the recording of this certificate in the York County Registry of Deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval. Added June 15, 2002.

6.2.C Appeals of Planning Board Decisions, Decisions of the Planning Board may not be appealed to the Board. Any person aggrieved by a decision of the Planning Board may appeal such decisions directly to the Maine Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

### **6.3 Appeal Procedure.**

6.3.A. The Chairman shall call hearings of the Board as required. The Chairman shall also call hearings of the Board when requested to do so by a majority of the members or by the Municipal Officers. The Chairman, or in his absence, the Vice-Chairman shall preside at all hearings of the Board and be the official spokesman of the Board.

6.3.B. The Secretary shall maintain a permanent record of all Board hearings and all correspondence of the Board. The Secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records to be maintained or prepared by the Secretary are deemed public and shall be filed in the municipal clerk's office and may be inspected at reasonable times.

6.3.C. Notification of an appeal shall be filed with the Board in writing on forms provided for that purpose. The specific grounds for the appeal shall be set forth on the application. The application shall be accompanied by a fee as provided in Section 5.8. The Board shall hold a Public Hearing within thirty (30) days of receipt of an application.

6.3.D. The Board shall reasonably notify of any hearing, the petitioner, the Code Enforcement Officer and Municipal Officers, and such persons shall be made parties to the action. The Board shall notify by certified mail all owners of property abutting the property for which an appeal is taken of the nature of the appeal and the time and place of the hearing thereon at least seven (7) days prior to the hearing. Owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive such notice of hearing shall not necessitate another hearing nor invalidate any action by the Board. The Board shall publish a notice of appeal at least once in the newspaper of general circulation in the area at least seven (7) days prior to the hearing. The cost of noticing and advertisement shall be paid by the applicant prior to the Public Hearing.

6.3.E. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.

6.3.F. The transcript of testimony, if any, and exhibits together with all papers filed in a proceeding shall constitute the record. All decisions shall be made within thirty (30) days of the hearing and shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of the

Board's decision shall be mailed, or hand delivered to the petitioner, his representative or agent, the Code Enforcement Officer, the Planning Board and the Municipal Officers within seven (7) days of such decision. A copy of all Variances granted by the Board of Appeals within the shoreland zone shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

6.3.G. An appeal from any order, relief or denial of the Board of Appeals may be taken by any aggrieved party to Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

**Comments regarding this change are as follows:**

Jere Ross asks if this is to clean up the appeals process. CEO McKenna responds that currently by our ordinance, to get a variance, you have to meet 4 hardship criteria. State law allows for another set of practical difficulty criteria for variances which is a little easier of a process. In order for us to be able to use this criteria we have to adopt it in our ordinance.

Chris Baldinelli asks about the criteria about creating the actual hardship, and then coming in and asking for a variance for it. CEO McKenna explains that both hardship criteria and practical difficulty criteria say this reason for the variance is not the result of action taken by the owner or prior owner. Jere Ross states that he understands that to mean that if you build something that doesn't meet setback, you can't then come in and ask for a variance.

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**Shall the town vote to amend the land use table of Section 9.6 of the Zoning ordinance as follows:**

***The Zoning Ordinance of the Town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:***

**In the following table, the symbols have the following meanings:**

P - The use is permitted without Board review (except that approval from the Code Enforcement Officer, with the exception of Timber Harvesting, is required in the BC Zone, - see Section 11.28) in conformance with all applicable performance standards, subject to issuance of a certificate of occupancy.

E - Conditional Use, permitted after review and approval by the Planning Board in accordance with Article 8.

N - Use not permitted.

\* - See specific performance standards in Article 11.

TABLE B - LAND USE<sup>9</sup>

| LAND USE                                   | Ord. Ref    | V <sup>6</sup> | Res | Rur              | S              | RP             | BC <sup>6</sup> | LC <sup>6</sup> |
|--|-------------|----------------|-----|------------------|----------------|----------------|-----------------|-----------------|
| Accessory Dwelling Unit*                   | 11.23       | P              | P   | P                | N              | N              | N               | N               |
| Active Outdoor Recreation*                 | 11.19       | E              | E   | P                | P              | N              | N               | E               |
| Agriculture*                               | 11.1        | P              | P   | P                | P              | E              | P <sup>6</sup>  | P               |
| Amusement Centers*                         | 11.2        | E              | N   | N                | N              | N              | E <sup>6</sup>  | E               |
| Animal Husbandry*                          | 11.3        | E              | E   | P/E <sup>1</sup> | E              | E              | E <sup>6</sup>  | E               |
| Auto Repair Garage (#)                     |             | E              | N   | E                | N              | N              | P <sup>6</sup>  | E               |
| Auto Service Station (#)                   |             | E              | N   | N                | N              | N              | P <sup>6</sup>  | E               |
| Automobile Graveyards & Junkyards (#)      |             | N              | N   | N                | N              | N              | E               | N               |
| Automobile Industrial/Equipment Repair (#) |             | N              | N   | N                | N              | N              | E               | E               |
| Bar  |             | E              | N   | N                | N              | N              | P <sup>6</sup>  | P               |
| Bed & Breakfast                            |             | P              | E   | P                | N              | N              | N               | N               |
| Breakwaters & Causeways*                   | 11.13       | N              | N   | N                | P*             | E*             | N               | E               |
| Bulk Fuel Storage (#)                      |             | E              | N   | N                | N              | N              | E <sup>6</sup>  | E               |
| Bus. & Professional Offices(2)             |             | P              | N   | N                | N              | N              | P <sup>6</sup>  | E               |
| Bus. & Professional Offices(3)             |             | E              | N   | N                | N              | N              | E <sup>6</sup>  | E               |
| Campgrounds*                               | 11.4        | N              | N   | E                | E              | N              | N               | E               |
| Cemeteries                                 |             | E              | E   | E                | N              | N              | N               | N               |
| Churches                                   |             | E              | E   | E                | E              | N              | E <sup>6</sup>  | N               |
| Cluster Development*                       | 11.6        | E              | E   | E                | E              | N              | N               | N               |
| Commercial Recreation                      |             | E              | N   | E                | N              | N              | E <sup>6</sup>  | E               |
| Daycare Facility                           |             | E              | N   | E                | N              | N              | E <sup>6</sup>  | E               |
| Daycare Home                               |             | E              | E   | E                | N              | N              | E <sup>6</sup>  | E               |
| Duplexes                                   |             | P              | P   | P                | P              | N              | N               | N               |
| Elderly & Low Income Housing *             | 11.22       | E              | E   | E                | N              | N              | N               | N               |
| Extractive Industry*                       | 11.7, 11.9  | N              | N   | E                | N              | N              | N               | N               |
| Flea Market                                |             | N              | N   | P                | N              | N              | N               | E               |
| Forestry*                                  | 11.5, 11.18 | P              | P   | P                | P <sup>8</sup> | P <sup>8</sup> | P <sup>6</sup>  | P               |
| Function, Reception or Banquet Hall        |             | E              | N   | E                | N              | N              | E <sup>6</sup>  | E               |
| Funeral Homes                              |             | E              | E   | E                | N              | N              | E <sup>6</sup>  | E               |
| Golf Course                                |             | N              | N   | P                | E              | N              | P <sup>6</sup>  | E               |

| Table B. Land Use (continued)  | * Ref | V <sup>6</sup> | Res | Ru | S  | RP | BC <sup>6</sup> | LC <sup>6</sup> |
|--------------------------------|-------|----------------|-----|----|----|----|-----------------|-----------------|
| Home Occupations*              | 11.10 | P              | P   | P  | P  | N  | P <sup>6</sup>  | P               |
| Individual Private Campsites*  | 11.21 | P              | P   | P  | P  | P  | N               | E               |
| Kennels*                       | 11.11 | E              | E   | E  | E  | N  | E <sup>6</sup>  | E               |
| Manufactured Housing Units*    | 11.14 | P              | P   | P  | P  | N  | N               | N               |
| Manufacturing*                 | 11.12 | N              | N   | E  | N  | N  | E <sup>6</sup>  | E               |
| Marinas*(#)                    | 11.13 | N              | N   | N  | E* | N  | N               | E               |
| Mechanized Outdoor Recreation* | 11.19 | N              | N   | N  | N  | N  | E <sup>6</sup>  | E               |

|  |       |                  |                  |                |                |                |                |                |
|--|-------|------------------|------------------|----------------|----------------|----------------|----------------|----------------|
| Medical Marijuana Dispensaries*        | 11.27 | N                | N                | N              | N              | N              | E <sup>6</sup> | E              |
| Medical Offices & Clinics              |       | E                | E                | E              | N              | N              | E <sup>6</sup> | E              |
| Mobile Home Parks*                     | 11.15 | N                | E                | N              | N              | N              | N              | N              |
| Motels, Hotels & Inns*                 | 11.16 | E                | N                | N              | N              | N              | E <sup>6</sup> | E              |
| Motor Vehicle Sales                    |       | N                | N                | N              | N              | N              | E <sup>6</sup> | E              |
| Multi-Family Dwellings*                | 11.17 | E                | E                | N              | N              | N              | N              | N              |
| Municipal Uses                         |       | E                | E                | E              | E              | N              | E <sup>6</sup> | E              |
| Nursing Homes                          |       | E                | E                | E              | N              | N              | N              | N              |
| Passive Outdoor Recreation*            | 11.19 | P                | P                | P              | P <sup>4</sup> | P <sup>4</sup> | P <sup>6</sup> | P              |
| Personal Service Establishments        |       | P                | N                | N              | N              | N              | P <sup>6</sup> | E              |
| Piers Shorter than 20 ft.*             | 11.13 | N                | N                | N              | P*             | P*             | N              | E              |
| Private Clubs                          |       | E                | N                | E              | E              | N              | E <sup>6</sup> | E              |
| Public & Private Parks                 |       | P                | P                | P              | E              | E              | P              | E              |
| Public Utilities                       |       | E                | E                | E              | E              | N              | E <sup>6</sup> | E              |
| Research & Testing Facilities          |       | N                | N                | E              | N              | N              | E              | E              |
| Restaurants                            |       | E                | N                | E              | N              | N              | E <sup>6</sup> | E              |
| Retail Business(2)                     |       | E                | N                | N              | N              | N              | P <sup>6</sup> | E              |
| Retail Business(3)                     |       | E/N <sup>7</sup> | N                | N              | N              | N              | E <sup>6</sup> | E              |
| Schools                                |       | E                | E                | E              | N              | N              | E <sup>6</sup> | N              |
| Single Family Dwellings                |       | P                | P                | P              | P              | N              | N              | E              |
| Small Wind Energy Systems*             | 11.26 | E                | E                | P              | N              | N              | E <sup>6</sup> | E              |
| Solar Energy System, Small Scale       | 11.29 | P                | P                | P              | P              | P              | P              | P              |
| Solar Energy System, Medium Scale      | 11.29 | N                | N                | E              | E              | E              | E              | E              |
| Solar Energy System, Large Scale       | 11.29 | N                | N                | E              | E              | E              | E              | E              |
| Spreading/Storage of Sludge & Septage* | 11.24 | N                | N                | P              | N              | N              | N              | N              |
| Timber Harvesting*                     | 11.8  | P <sup>8</sup>   | P <sup>8</sup>   | P <sup>8</sup> | P <sup>8</sup> | P <sup>8</sup> | P <sup>8</sup> | P <sup>8</sup> |
| Veterinary Clinic                      |       | E                | N                | E              | N              | N              | E <sup>6</sup> | E              |
| Warehouses & Outdoor Storage           |       | N                | N                | N              | N              | N              | E <sup>6</sup> | E              |
| Wholesale Business                     |       | N                | N                | N              | N              | N              | E <sup>6</sup> | E              |
| Wireless Telecommunications Facility*  | 11.25 | N                | N/E <sup>5</sup> | E              | N              | N              | E <sup>6</sup> | E              |

Footnotes:

1 Permitted on three acres or more; Conditional Use on less than three acres.

2 Smaller than 2,000 sq. ft. floor area.

3 Larger than 2,000 sq. ft. floor area.

4 Without any structures only.

5 Not permitted except as conditional use on municipally owned lots larger than 20 acres.

6 Per Section 11.28, Commercial structures and uses in the BC, LC, V, and BCDS-O Zones must conform with the Buxton Business and Commercial Zone Design Standards

Footnotes Continued:

7 Conditional Use if floor area is not more than 3,000 sq. ft.; Use not permitted if floor area is more than 3,000 sq. ft.

8. By repeal of all local provisions that regulate timber harvesting and timber harvesting activities in shoreland areas, statewide standards apply pursuant to 38 M.R.S. 438-B
  9. The Permitted Uses (P), Conditional Uses (E), and Uses not permitted (N) in the BCDS-O Zone shall be the same as the underlying zone(s).
- # Per Section 10.14.G. use may not be allowed over aquifer or recharge areas.

There were no comments from the public about this section.

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Shall the town vote to approve changes to Article 10 to adopt design standards for private roads:

*The Zoning Ordinance of the Town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:*

#### ARTICLE 10 - PERFORMANCE STANDARDS -- GENERAL REQUIREMENTS

The following standards shall apply to all uses as appropriate in the various Zoning Districts:

##### 10.1 Access to Lots.

10.1.A. No building permit shall be issued to erect any structure on a lot without frontage on a public or private way and such lot is not part of a subdivision as defined in Article 2 of this Ordinance unless an access road meeting the following criteria has been constructed within a deeded right-of-way that is fifty (50) feet in width. Any access road serving more than one unit shall have a road maintenance agreement in place prior to the issuance of a permit for a second dwelling. This agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the access road. The finished surface of the access road shall be constructed to a minimum width of twelve (12) feet for the entire length of the road including its most distant terminus if serving one dwelling unit and fifteen (15) feet for the entire length of the road including its most distant terminus if serving two dwelling units. The access road shall contain a minimum depth of fifteen (15) inches of bank-run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than two dwelling units.

10.1.A.1. No building permit shall be issued to erect a structure which is located more than 100 feet from a public or private way unless an access road meeting the construction standards of Section 10.1.A. has been constructed. Any such access road being more than 500 feet in length shall be provided with a 60 foot backing space at the closed end to permit the turning of emergency vehicles.

10.1.A.2 No Access to any lot is permitted by way of the ends of the hammerhead. (Amended 6/18/05) There shall be no parking of boats, trailers, storage or any other vehicles within the hammerhead.

~~10.1.B.4~~ 10.1.A.3 The individual lots served by the private access road must have at least fifty (50) feet of frontage on the access road and must meet the lot width requirement of the zone in which they are located. This applies to access roads serving 1 or 2 lots.

10.1B ~~Gifted Lots~~: An access road serving three or more dwelling units on individual lots, such lots having been ~~gifts to persons related to the donor by blood, marriage or adoption~~ need not be paved ~~provided that~~ legally created but exempt from subdivision review pursuant to the exemptions found in State of Maine subdivision law must comply with the following:

10.1.B.1. The lots and access road must be shown on a plan approved by the Planning Board. The plan must be prepared and signed by a registered professional engineer licensed in Maine and must show the information necessary for the Planning Board to determine if all the standards of the road acceptance regulations, with the exception of paving, and width have been met. At a minimum, the plan must include a plan, profile and cross-sectional view to scale and materials specified to be used.

Lots that fall within this category are not required to be paved. The minimum traveled way width is 16 feet with 2 foot shoulders. In all other aspects, the access road must meet the standards of Article 12 of this ordinance.

Any wetland or stream crossings may require additional permits from Maine D.E.P. or the Army Corps of Engineers.

The individual lots served by an access road serving three or more dwelling units must have the required road frontage of the zone the property is located in.

Make reference to NFPA 1.18 Road Standards:

Private roads shall be maintained for the safe passage of emergency responders in all seasons.

10.1.B.2. The plan must contain the following notation: "The access road shown on this plan is not dedicated to the Town of Buxton. The responsibility for maintenance and plowing the access road is that of the owners of the lots served by the access road. If the access road is ever proposed for acceptance as a town road or public easement, the owners of the lots served by the access road must construct the road to the then current road construction and/or acceptance standards of Article 12. Planning Board approval of an amendment to this plan must also be obtained prior to dedication of the access road."

10.1.B.3. An access road maintenance agreement must be approved by the Planning Board. This agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the access road. The plan with the above notation and maintenance agreement must be recorded at the York County Registry of Deeds and shall be referenced in the Deed of each lot.

~~10.1.B.4 The individual lots served by the private access road must have at least fifty (50) feet of frontage on the access road and must meet the lot width requirement of the zone in which they are located.~~

10.1B.4 No access to any lot is permitted by way of the ends of the hammerhead. (amended 6/12/04, amended 6/14/08) There shall be no parking of boats, trailers, storage or any other vehicles within the hammerhead.

**Comments regarding this amendment are as follows:**

Mark Blier states that he is not against this but he has questions. If someone can subdivide a lot every five years, there is potential to have 10 house lots on a dirt road that is 16 feet wide with 2 foot shoulders. Currently our ordinance requires that the third house and more have to have a tarred road. For the growth of our community should we put a limit on the number of houses that can be on a dirt road?

Jere Ross states that right now for the first and second house, it can be a dirt road. The third house has to build the road to 24 feet wide and tarred. Who pays for that? If you want to live on a private road why do we care?

Mark Blier states that he can see that for 3, 4 or 5 homes but at what point is too many?

Jere Ross states its buyer beware. They have to have a road maintenance agreement. He asks how we enforce the road standards. CEO McKenna states that for the third house, a building permit would not be issued until the road meets the standard.

Mark Blier states he understands why we are presenting this. Is this what we want for the future of our town. He understands we have roads in this condition now, but are they grandfathered? We could have 10-12 houses on a private road.

Keith Emery asks what happens when people want the town to take over their private road? They have to build the road to town specs first.

Craig Lefebvre states this is the caveat of living on a private road.

Peter Richards asks what is the town doing with existing private roads? Are they going to pay landowners back? The existing dirt roads that the town maintains, that is not currently 24 feet wide. The road he lives on is not 24 feet wide. He lives on Elden Road, a town road. The third person in will have to build this to 24 feet wide and he will lose his frontage? If someone builds below him on the dirt road. The Board states that we are only presenting this standard for private roads. If he lives on an existing private dirt road, this may not apply.

There was discussion of the status of the middle part of Elden Road. It is abandoned. It is not the responsibility of the town to build this road.

Paul Richards asks the Board from where Peter's Rd stops (Elden Rd), where the town stops plowing is that considered private. The Board is unsure of the status. It's the middle section of the road the town doesn't maintain. Paul asks if the person who wants to build on the middle section as a private road and rename it, he wouldn't have to build a 24 foot wide road?

The Board states that they can't rename the road. Jere Ross states the owner's rights begins where the town's rights end.



Mark Blier asks a question of CEO McKenna. As to the 16 foot wide with 2 foot shoulders, have we spoken to the Fire Chief so that there is no conflict with NFPA standards. CEO McKenna states that as she has stated in several different meetings with different Boards, she has worked on these standards with the Fire Chief. He is in agreement that these standards do comply with NFPA.

Keith Emery states that it gets concerning when there is snow. Chris Baldinelli states the amendment makes reference to NFPA 1.18 Road standards. CEO McKenna states that wording was added right under that to say private roads shall be maintained for the safe passage of emergency responders in all seasons.

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Shall the town vote to amend Article 2, 10 and 13 of the zoning ordinance as follows to clarify aquifer protection requirements as follows:

*The Zoning Ordinance of the Town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:*

## ARTICLE 2 - DEFINITIONS

Significant Sand and Gravel Aquifer: ~~A deposit of ice-contact and glacial outwash sediment that stores and transmits significant quantities of recoverable water with a projected yield of over 10 gallons per minute, as mapped by the Maine Geological Survey (see Neil, Craig D. (compiler), Gosse, John C. (mapper), 1998, Significant sand and gravel aquifers in the Standish quadrangle, Maine: Maine Geological Survey, Open-File Map 98-142, map, scale 1:24,000. Maine Geological Survey Maps, 1243, available at~~ [http://digitalmaine.com/mgs\\_maps/1243](http://digitalmaine.com/mgs_maps/1243), as may be amended from time to time).

## ARTICLE 10 - PERFORMANCE STANDARDS -- GENERAL REQUIREMENTS

### 10.14 Water Quality.

~~The Planning Board may require an Aquifer Impact Study if in the opinion of the Board a subdivision poses a danger to a Prime Aquifer or recharge area as shown on the Prime Aquifer Map contained in the Comprehensive Plan adopted on June 8, 1991. Before the Planning Board may approve the proposed subdivision, the Board must have determined that the subdivision will not adversely affect the quality or quantity of the ground water in the a significant sand and gravel aquifer and its recharge area.~~

To determine this, the Planning Board may require submittal by the applicant of an ~~A~~ Aquifer Impact Study. This study must be prepared by a ~~State of Maine C~~ certified ~~G~~ Geologist with experience in ~~H~~ hydrogeology. The study must contain the

following components unless waived for a specific stated reason by a vote of the Planning Board.

The Planning Board may require installation and regular sampling of water quality monitoring wells for any use deemed to be a significant actual or potential source of pollutants or excessive drawdown. The number, location and depth of monitoring wells must be determined as part of the ~~Aquifer Impact Study~~ and wells must be installed and sampled in accordance with standard professional practices "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Water quality sample results from monitoring wells must be submitted to the Code Enforcement Officer with evidence showing that contaminant concentrations meet the performance standards for pollution level.

On a significant sand and gravel aquifer or its recharge area, ~~Prime Aquifer or recharge area as shown on the Prime Aquifer Map contained in the Comprehensive Plan adopted June 8, 1991~~, there may be no on-site disposal of wastewater, other than normal domestic wastewater, ~~on-site~~ without prior approval of the Planning Board. Disposal of wastewater must be in strict compliance with Maine Subsurface Wastewater Disposal Rules and other relevant state and local laws, rules and ordinances. Any use or development which proposes to use or store hazardous materials, wastes, or other liquids with the potential to threaten ground water quality must have watertight, concrete floors with watertight, concrete dikes adequate to contain the largest quantity of liquid on site at any time and must otherwise comply with all applicable laws, rules, and ordinances.

The following uses are not allowed on any significant sand and gravel aquifer or its recharge area; ~~in the areas shown as Prime Aquifers or recharge areas on the Prime Aquifer Map contained in the Comprehensive Plan adopted June 8, 1991~~. Auto Service Stations, Auto Repair Garages, Cemeteries, Bulk Fuel Storage, Automobile Graveyards and Junkyards, and Marinas.

When the boundaries of any significant sand and gravel aquifers ~~the Prime Aquifers~~ or recharge areas are disputed, the applicant must submit hydrogeologic evidence to support the claim and the change of the boundaries. The evidence must be prepared by a geologist certified in the State of Maine.

## **ARTICLE 13 - LAND DEVELOPMENT AND SUBDIVISION STANDARDS**

### **13.3.B.2. Preparation of the Preliminary Plan.**

The preliminary plan must contain all of the following information:

13.3.B.2.u. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology when the subdivision:

(i) is located over a significant sand and gravel aquifer or its recharge area ~~as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers" by the Maine Geological Survey, 1985, Map No. 4;~~ or

(ii) has an average density of more than one dwelling unit per 100,000 square feet.

There were no comments from the public regarding this section.

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Article \_\_\_\_ Shall an ordinance entitled, "Amendments to Zoning Ordinance to Limit Number of Medical Marijuana Registered Dispensaries," be enacted?

#### AMENDMENT TO ZONING ORDINANCE

*The Zoning Ordinance of the town of Buxton, Maine is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:*

#### 11.27 Medical Marijuana Registered Dispensaries and Cultivation Facilities

~~11.27 The State of Maine enacted the Maine Medical Marijuana Act, 22 M.R.S.A. § 2421, ET SEQ. The Act contemplates the creation of a not-for-profit dispensaries for the provision of marijuana for medical use as well as the creation of cultivation facilities to provide marijuana to legally qualified individuals. Marijuana has both legitimate medical uses and a history of widespread illegal use and trafficking. In order to preserve the safety, health and welfare of the citizens of Buxton and others, the dispensing and cultivation of marijuana requires careful attention and control, including but not limited to reasonable security and oversight requirements.~~

11.27.1 Local Limit on Number of Registered Dispensaries. The number of medical marijuana registered dispensaries, as that term is defined in 22 M.R.S.A. § 2422(6), within the geographic boundaries of the Town is limited to three. For purposes of this limitation, each parcel of land, including any structures thereon, that is being used for the acquisition, possession, cultivation, manufacture, delivery, transfer, transport, sale, supply, or dispensing of medical marijuana or related supplies and educational materials is counted as one medical marijuana registered dispensary. Planning Board approval of an application for a registered dispensary is prima facie evidence of the existence of a registered dispensary. Notwithstanding 1 M.R.S.A. § 302, and regardless of the effective date of this provision, this provision to limit the number of registered dispensaries shall govern and apply to all proceedings and applications for registered dispensaries pending before any reviewing authority of the Town on or after February 12, 2024.

11.27.2 Performance Standards for Registered Dispensaries and Cultivation Facilities. The following standards apply to registered dispensaries and cultivation facilities associated with such registered dispensaries.

- a. Security and oversight requirements:
  1. There shall be no outdoor cultivation of marijuana.
  2. Alarm Systems - Registered dispensaries and registered cultivation facilities shall have door and window intrusion alarms with audible and police notification components.
  3. Exterior security lighting - registered dispensaries and registered cultivation facilities shall have spotlights with motion sensors covering the full perimeter of the facility.
  4. Video surveillance - registered dispensaries and registered cultivation facilities shall have recorded video surveillance covering all plants and the entire exterior. For registered cultivation facilities, the recorded video surveillance shall operate 24 hours a day, seven days a week and for registered dispensaries shall, at a minimum, operate at all times that the facility is not open to patients. Records of surveillance shall be kept for a minimum of 30 days.
  5. ~~A registered dispensary may not be open to the public between the hours of 8:00 pm and 7:00 am.~~ Sufficient measures must be in place at all times to prevent smoke or odor from exiting a registered dispensary or registered cultivation facility.
- b. Registered dispensaries must be located in area defined as Business/Commercial and Light Commercial Districts as of July 1, 2015 with a minimum of 500 feet from any public or private school, public library, playground, public park, church, chapel, parish house, other place of worship, or daycare measured by straight line from the dispensary property line to the property line of the protected location.
- c. The facility may exist in the Town of Buxton and is limited to 2,500 square feet.
- d. The hours of operation shall be between 8:00 am to 5:00 pm, Monday through Saturday.

**Comments from the public on this are as follows:**

Mark Blier asked why are we doing this? Chris Baldinelli states that we don't want more than three in town. Keith Emery states we don't want to look like Portland. CEO McKenna states that after discussing this, because dispensaries are only allowed in the Business Commercial zone, which is the stretch of Route 202, we didn't want dispensary after dispensary. We have two now. This would allow one more. We felt like three

would serve people. Jere Ross said these are medical marijuana not recreational, which we don't allow.

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**Shall the town vote to repeal Article 14 of the zoning ordinance in its entirety and replace with the following regulations to regulate floodplain management:**

#### **SECTION 14.1 - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Buxton, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Buxton, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Buxton, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Buxton has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Buxton having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Buxton, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of Buxton, York County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – York County, Maine," dated July 17, 2024, with accompanying "Flood Insurance Rate Map" dated July 17, 2024, as amended, are hereby adopted by reference and declared to be a part of this Ordinance.

#### **SECTION 14.2 - PERMIT REQUIRED**

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article 2 of this ordinance), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 14.1, a Flood Hazard Development Permit shall be obtained from the Code

Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Buxton, Maine.

### **SECTION 14.3 - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address, and phone number of the applicant, owner, and contractor.
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing locations of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development.
- E. A statement of the cost of the development including all materials and labor.
- F. A statement as to the type of sewage system proposed.
- G. Specification of dimensions of the proposed structure and/or development.

[Items H-K.2. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zone AE from data contained in the "Flood Insurance Study - York County, Maine," as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Section 14.6.M. and Section 14.8.D.; or,
      - (2) in the absence of all data described in Section 14.3.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Section 14.6.H.2.b., Section 14.6.I.2.a. or b., or Section 14.6.J.2.b.
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building.
  - 3. lowest floor, including basement; and whether or not such structures contain a basement.
  - 4. lowest machinery and equipment servicing the building; and,
  - 5. level, in the case of non-residential structures only, to which the structure will be floodproofed.
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 14.6;
- J. A written certification by:
  - 1. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
  - 2. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.
- K. The following certifications as required in Section 14.6 by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 14.6.I.; and other applicable standards in Section 14.6;
  2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 14.6.N.2.a.;
  3. a certified statement that bridges will meet the standards of Section 14.6.O.;
  4. a certified statement that containment walls will meet the standards of Section 14.6.P.
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Section 14.6 will be met.

#### **SECTION 14.4 - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$25.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### **SECTION 14.5 - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 14.6 (Development Standards) have been, or will be met.
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study - York County, Maine," as described in Article I;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 14.3.H.1.b.(1); Section 14.6.M.; and Section 14.8.D., in order to administer Section 14.6 of this Ordinance; and,
  3. when the community establishes a base flood elevation in a Zone A by methods outlined in Section 14.3.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.

- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance.
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an "under construction" Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction for verifying compliance with the elevation requirements of Section 14.6, paragraphs H., I., or J. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 14.6.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Section 14.6.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 14.9 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Articles Section 14.3, 14.6, and 14.7 of this Ordinance.

#### **SECTION 14.6 - DEVELOPMENT STANDARDS**

All developments in areas of special flood hazard shall meet the following applicable standards:



**A. All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. use construction materials that are resistant to flood damage.
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities, that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

**B. Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

**C. Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

**D. On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

**E. Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

**F. Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within Zones A and AE shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation.

**G. Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zone AE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.
  2.
    - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
    - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
  3. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result

in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.

4. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

**H. Residential - New construction or substantial improvement of any residential structure located within:**

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:
  - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 14.3.H.1.b.(1); Section 14.5.B.; or Section 14.8.D.; or,
  - b. in the absence of all data described in Section 14.6.H.2.a., to at least two feet above the highest adjacent grade to the structure.

**I. Non-Residential - New construction or substantial improvement of any non-residential structure located within:**

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
  - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water.
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated:
  - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 14.3.H.1.b.(1); Section 14.5.B.; Section 14.8.D.; or,
  - b. in the absence of all data described in Section 14.6.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,
  - c. together with attendant utility and sanitary facilities meet the floodproofing standards of Section 14.6.I.1.a., b., and c.

**J. Manufactured Homes - New or substantially improved manufactured homes located within:**

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation.
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (3) All components of the anchoring system described in Section 14.6.J.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Section 14.6.J.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 14.3.H.1.b.(1); Section 14.5.B.; Section 14.8.D.; or,
- b. in the absence of all data as described in Section 14.6.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,
- c. meet the anchoring requirements of Section 14.6.J.1.c.

**K. Recreational Vehicles - Recreational Vehicles located within:**

- 1. Zones A and AE shall either:
  - a. be on the site for fewer than 180 consecutive days; and,
  - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
  - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 14.6.J.1.

**L. Accessory Structures - New construction or substantial improvement of Accessory Structures, as defined in Article 2, shall be exempt from the elevation criteria required in Section 14.6.H. & I. above, if all other requirements of Section 14.6 and all the following requirements are met.**

- 1. Accessory Structures located in Zones A and AE shall:

- \_\_\_\_\_ a. meet the requirements of Section 14.6.A.1. through 4., as applicable.
- b. be limited in size to a one-story two car garage.
- \_\_\_\_\_ c. have unfinished interiors and not be used for human habitation.
- d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area.
- \_\_\_\_\_ e. be located outside the floodway.
- f. when possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- g. have hydraulic openings, as specified in Section 14.6.N.2., in at least two different walls of the accessory structure.

**M. Floodways -**

- \_\_\_\_\_ 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- \_\_\_\_\_ 2. In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 14.6.M.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
  - \_\_\_\_\_ a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - a. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
- \_\_\_\_\_ 3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain.

**N. Hydraulic Openings/Flood Vents -** New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Section 14.6, including the elevation requirements of Section 14.6, paragraphs H., I., or J. and is elevated on posts, columns, piers, piles, or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

- \_\_\_\_\_ 1. Enclosed areas are not "basements" as defined in Article 2;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meets or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area.
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means.
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

**O. Bridges - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:**

1. when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least one foot above the base flood elevation; and,
2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 14.6.M.; and,
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

**P. Containment Walls - New construction or substantial improvement of any containment wall located within:**

1. Zones A and AE shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation.
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 14.3.K.

**Q. Wharves, Piers, and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water, and shall comply with all applicable local, state, and federal regulations.**

#### **SECTION 14.7 - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor for compliance with Section 14.6, paragraphs H., I., or J.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  - 1. review the Elevation Certificate and the applicant's written notification; and,
  - 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

#### **SECTION 14.8 - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Section 14.6 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

#### **SECTION 14.9 - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Buxton may, upon written application of an aggrieved party, 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 Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  - 1. a showing of good and sufficient cause; and,
  - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
  - 3. a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
  - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - 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 circumstances 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 locality; and,
    - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. the criteria of Section 14.9.A. through C. and Section 14.6.M. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  - 1. the development meets the criteria of Section 14.9.A. through C.; and,
  - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
  - 1. the development meets the criteria of Section 14.9.A. through C.; and,

2. the development meets the criteria of Section 14.6.M. and Section 14.6.N.
- G. Any applicant who meets the criteria of Section 14.9.A. through C. and Section 14.9.D., E., or F. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
  2. such construction below the base flood level increases risks to life and property; and,
  3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks, and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- H. Appeal Procedure for Administrative and Variance Appeals
  1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
  2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
  3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
  4. The person filing the appeal shall have the burden of proof.
  5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
  6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
  7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

#### **SECTION 14.10 - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location.



2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance.
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority.
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **SECTION 14.11 - VALIDITY AND SEVERABILITY**

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

#### **SECTION 14.12 - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

#### **SECTION 14.13 - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

#### **SECTION 14.14 - DISCLAIMER OF LIABILITY**

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

**There were no comments from the public regarding this section.**

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**Shall the town vote to approve the Proposed Revisions to the Buxton Solid Waste Ordinance**

Words that are ~~struck through~~ have been eliminated>

Words that are underlined have been added or changed.

These changes are needed due to the implementation of the 2023 curbside trash contract which specifies the use of automated curbside trash pickup trucks.

5.4.3. ~~No more than seven 13-gallon bags, or three 32-gallon cans, or any combination of containers reaching a total of 96 gallons of Acceptable Curbside Waste shall be picked up per week per household. Each container of Acceptable Curbside waste must weigh thirty-five pounds or less.~~ Acceptable Curbside Waste must be sealed in a trash bag and placed in a Town Provided trash can with the lid of the can closed in order to be picked up by the trash truck. Trash cans must be placed curbside in a manner that allows access for the trash

truck. No more than 96 gallons of Acceptable curbside waste will be picked up per household unit per week.

#### 5.4.7. Eliminate entire section

~~5.4.7. Acceptable Curbside Waste must be in a sealed trash bag in order to be picked up, this includes waste in a garbage can. Loose waste in a garbage can is not considered Acceptable Waste and will not be picked up. Non-traditional garbage bags such as grain feed bags may be used if sealed in a manner that prevents trash from escaping. Non-traditional garbage bags smaller than a bulk grain feed bag are not acceptable.~~

#### **Comments regarding this section are as follows:**

Chairman Keith Emery stated the reason we are changing this is because we are in violation of our own ordinance. The other ordinance stated bag or barrel now with the new arm truck it must be in one barrel of one size. If we stay in violation, we will be fined.

Hearing no further comments from the public Jere Ross made the motion to close the public hearing at 8:00 p.m. Craig Lefebvre seconded. The motion passed with a vote of 5-0 in favor.

#### **CEO Report:**

CEO McKenna stated she had placed two letters in the planning board packets for the board to be aware of. Two businesses that need conditional use permits being notified that they need a permit. Chris, you asked me about nomination papers available March 4<sup>th</sup> and due back by 4:30 on April 12<sup>th</sup>.

#### **Approval of Minutes:**

Craig Lefebvre made a motion to except the minutes of the February 26, 2024  
Chris Baldinelli seconded the motion. The motion passed with a vote of 5-0 in favor.

#### **Approval of Bills:**

There were no bills.

#### **Communications:**

Chairman Keith Emery stated he had received the magazine of the Maine Town and City publication. The magazine would be kept in the office of code enforcement if anyone would like to look at it.

#### **Other Business:**

Roger Tracey stated the pickle ball community reached out about who they should approach for having one of the courts relined for pickle ball. Board members suggested to contact Parks and Recreation. CEO McKenna stated that Estes Park association is working on updating the park and one of the things they mentioned was pickle ball. They

are in the planning stages right now so maybe I can put you in contact with them to work something out.

Chris Baldinelli asked if people are aware about the round about planned for Route 22 and Broadturn Road. And Gorham is looking to construct a connector to the turnpike.

Jere Ross asked if DOT was going to have a meeting about the traffic diversion when the Salmon Falls Bridge is replaced.

Cliff Thomas states that hearing what was said that this Board will make a recommendation to the Select Board to whether zoning amendments will be by town meeting floor or secret ballot vote. That the Select Board decides. His recommendation is that it is by secret ballot.

**Adjourn:**

Jere Ross made a motion to adjourn at 8:15 p.m. Chris Baldinelli second the motion. The motion passed unanimously 5-0.

**Next meeting - March 25, 2024 at 7p.m.**

Date Approved: 4-8-24

Signed: Keith Emery  
Keith Emery, Chairman