

ARTICLE 2 - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Abutting Property Owners: The owners of parcels of property having one or more common boundaries, and shall include owners of property located directly across the road such that the lots would have a common boundary if there were no road.

Acre: 40,000 square feet.

Accessory Dwelling Unit (ADU): A self-contained dwelling unit located within, attached to or detached from a single family dwelling located on the same lot.

Accessory 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.

Accessory Use or Buildings: A use or structure on the same lot with and customarily incidental and subordinate to the principal use or building. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) related to the principal use or structure. Such accessory uses or structures, shall not subordinate the alleged principal or structures use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Active Outdoor Recreation: Recreational activities which necessitate some degree of structural or mechanical components for participation in the activity such as ball fields, tennis courts and/or swimming pools.

Adjacent Grade: means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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.

Aggrieved Party or Aggrieved Person: A person who participated in a public hearing, if one is held under this Zoning Ordinance, and (i) whose property is directly or indirectly affected by the grant or denial of a permit, approval or variance under the Zoning Ordinance; (ii) whose land abuts land for which a permit, approval, or variance has been granted under this Zoning Ordinance; or (iii) who suffers a particularized injury as a result of the grant or denial of a permit, approval, or variance under this Zoning Ordinance.

Agriculture: Agriculture includes the cultivation of the soil for food products or other useful or valuable growth of the field or garden, nursery stock and greenhouse, but does not include animal husbandry, forest management, timber harvesting activities, or the growing of marijuana.

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.

Amusement Center: Any private commercial premises which are maintained or operated for the amusement, patronage or recreation of the public containing a total of four or more pinball machines, table sports, video games or similar mechanical or electronic games, whether activated by coins, tokens, discs or by remote control by the management.

Animal Husbandry: Raising, breeding or keeping of more than ten fowl or any number of other animals except customary household pets.

Antenna: Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

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.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 14.1 of this Ordinance.

Automobile Graveyard: A yard, field or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A M.R.S.A. Section 101 or parts of such vehicles. "Automobile Graveyard" does not include any area used for temporary storage, not exceeding six (6) months, by an establishment or place of business, which is primarily engaged in doing auto body repair work.

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.

Auto Repair Garage: A place where, with or without the attendant sales of engine fuel, the following services may be carried out: general repair; engine rebuilding; rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and under-coating of automobiles, as a full or part time business.

Auto Service Station: A place where gasoline, or any other automobile engine fuel, kerosene or motor oil and lubricants or grease (for the operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unregistered vehicles and not including body, frame or fender straightening and repair.

Bar: A place or business where the principal activity is the sale, consumption or dispensation of alcoholic beverages for consumption on the premises. Included but not limited to bars, function or meeting halls or profit and non-profit organizations where alcoholic beverages are served, taverns, pubs, brewpubs, cocktail lounges, bottle clubs, B.Y.O.B. functions halls, on premise catering facilities where alcoholic beverages are served and similar types of facilities. Specifically not included in this definition are businesses or places that are Class A restaurants as defined in Title 28-A, Section 2 of the Maine Revised Statutes Annotated or bed and breakfast establishments that sell alcoholic beverages for consumption only to overnight guests.

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.

Base Flood: means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement: Any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50% of its volume below the existing ground level. Basement: (for the purpose of flood plain management) means any area of the building having its floor sub grade (below ground level) on all sides.

Bed & Breakfast: An owner-occupied residential structure in which no more than six rooms are made available for a fee to overnight travelers and which may provide guests with a morning meal. Such establishments are further distinguished from a motel or hotel in that they do not provide guests with the independent living quarters and eating facilities normally associated with a motel or hotel.

Boarding, Rooming or Lodging House: Any dwelling in which lodging is offered for compensation to three or more persons either individually or as families with or without meals.

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area and parking spaces for vehicles and trailers.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or personal property.

Buildable Area: The area of the site, which may be altered, disturbed or re-graded for development purposes. The buildable area may contain buildings, parking areas, septic systems and storm water management facilities. The buildable area may not contain required open space, Resource Protection Districts or those items subtracted in determining Net Residential Acreage, as defined herein.

Building Inspector: A person duly authorized and qualified to inspect buildings for the Town of Buxton and also to enforce the provisions of this Ordinance. This person shall also be known as the Code Enforcement Officer (CEO).

Bulk Fuel Storage: The storage of gasoline, diesel fuel, heating oil or other liquid fuels in a tank or storage container of 1,000 gallons or more for private use or for resale to the public.

Business and Professional Offices: A building in which there is located the offices of a profession or business including, but not limited to, banks, insurance offices, realtors, barber shops or beauty salons. Added 6-14-03

Campground: Any premises established for overnight use for the purpose of temporary camping for which a fee is charged.

CEO: Code Enforcement Officer/Building Inspector.

Cemetery: A burial ground maintained by the town or other public or non-profit body or private individual. Added 6-14-2003

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

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.

Church: A building or structure designed and used primarily for conducting organized religious services regardless of religious denomination. The term “church” includes customary accessory facilities located within the principal building, such as meeting rooms, assembly space, administrative offices, classrooms for religious education and living quarters for clergy.

Class A Cluster Subdivision Map: A map that meets the following requirements:

- 1) Mapping units to the soils series of 1/8 acre or less;
- 2) Scale is 1 inch equals 100 feet or larger;
- 3) Ground control base line and test pits accurately located either under the direction of a registered land surveyor or qualified professional engineer or by a sub-meter accuracy GPS unit; and
- 4) Base map with 2 foot contour lines, with ground survey or aerial survey with ground control.

Cluster Development: A residential development by a single developer which is undertaken in a manner that treats the developed area as an entirety to promote the use of land including keeping common open space, a reduction in the size of road and utility systems, and the retention of the natural characteristics of the land.

Code Enforcement Officer:—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.

Co-location: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Commercial Recreation: Recreational activities operated in return for a fee from the participants.

Commercial Use: The use of lands, buildings or structures other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

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*.

Conditional Use: A use that would not be appropriate generally or without restriction throughout the land use district but which, if controlled as to number, location or relation to the neighborhood would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in land use districts where specific provision for such conditional use is made in this Ordinance.

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

Daycare Facilities: A facility that provides care during the day for 3 or more individuals.

Daycare Home: The primary residence of the Daycare provider as certified by the Department of Human Services to care for 3 – 12 children under 13 years old as defined in P.L. 1997, Chapter 494 (L.D. 1893). The provider must live full time at the residence.

Designated Growth Area: Any area within the Village District.

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

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two lots or less.

Duplex: A building containing only two dwelling units having a common separation wall or floor between them.

Dwelling: A fixed structure containing one or more dwelling units.

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, no dwelling unit shall contain less than 480 square feet of 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.

Elderly Housing: A building or buildings containing dwelling units constructed or reconstructed specifically for occupancy by families in which at least one member is 62 years of age or older.

Elevated Building: means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or shear walls
- 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 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 FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

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

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

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.

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

Expansion of Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Extractive Industry: The excavation, processing or storage of twenty-five cubic yards of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits from a lot in any twelve month period.

Family: One or more persons living as a single housekeeping unit as distinguished from a group occupying a motel or boarding house.

Fisheries: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority or Department of Marine Resources as having significant value as fisheries and any areas so identified in the Comprehensive Plan.

Flea Market: An occasional or periodic market held in a structure or open area where vendors offer goods for sale to the public.

Flood or Flooding - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

Flood Insurance Study: see Flood Elevation Study.

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

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

Floodplain Management Regulations: means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood proofing: means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway Encroachment Lines: mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Flood Way: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway: see Regulatory Floodway.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forestry: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

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

Freeboard: means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Frontage, Street: The linear distance of the line separating the lot from a public or private road which is a traveled thoroughfare open to the public. All lots created after the effective date of this definition shall have frontage on a road. Any lot which has frontage on two or more roads shall have the required minimum frontage on at least one road.

Frontage, Shoreline: The linear distance measured in a straight line between the points of the lot lines with the shoreline at the normal high water elevation.

Function Hall, Reception Hall, or Banquet Hall: is a room or building for the purpose of hosting a party, banquet, wedding or other reception, or other social event.

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

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, waters and which cannot be located away from these waters. The uses include, but are not limited to boating facilities, marinas, industrial uses requiring large volumes of cooling or processing water

and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to waters.

Hammerhead - A roadway termination that provides a “T” shaped three-point turn around for emergency and snow removal equipment, being no narrower than the road that serves it. The hammerhead shall be located on the right hand side as you approach it.

High Intensity Soil Survey: A soil map prepared by a soils scientist certified in the State of Maine showing soil types, compositions and limitations at a scale detailed enough to provide important information for the development of engineering, storm water management, septic and other design components for the subdivision process. The surveys are divided into four (4) levels or classes, depending on intensity desired.

Height of Building: The vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.

Historic or archaeological resources: Areas identified by a governmental such as the Maine Historic Preservation Commission as having significant value as historic or archaeological resource and any areas so identified in the Comprehensive Plan.

Historic Structure: means any structure that is:

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

Home Occupation: An occupation or profession which is: customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Individual Private Campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fireplaces or tent platforms.

Junkyard: Shall be defined as in 30-A MRSA § 3752.

Kennel: An establishment where five (5) or more dogs or other domesticated animals over the age of 6 months are kept for commercial purposes, including but not limited to grooming, breeding, training or selling.

Living Space: The space in a dwelling unit used for living, sleeping eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered living space.

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.

Lot: A parcel of land described on a deed, plan or similar document.

Lot, Corner: A lot having two or more street frontages.

Lot Depth: The required depth of a lot from front lot line to rear lot line in the shoreland zone.

Lot Lines:

Front Lot Line: The line separating the lot from the street or road on which the lot has frontage.

Rear Lot Line: The line opposite the front lot line. On irregularly shaped lots, the rear lot line shall be that imaginary line, not less than ten feet in length, which is parallel to and farthest from the front lot line.

Side Lot Line: Any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimension of which is recorded on a document or map on file with the County Registrar of Deeds.

Lot Size: The horizontally projected area of a lot computed exclusive of any portion of a right-of-way for any thoroughfare or easement other than utility easement and any land below the normal high-water line of a water body or upland edge of a wetland.

Lot Width: the horizontal distance parallel to the street frontage measured at the required building setback.

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.

Manufactured Home: (for the purpose of flood plain management) means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision: (for the purpose of flood plain management) means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured Housing Unit: Structures, transportable in one or two sections, which were constructed in a manufacturing facility on a permanently attached chassis and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. Amended 6/18/05

Marina: A place adjacent to waters which offers, for rent or sale to the public, moorings, dock space, boats or marine equipment, and gasoline and other related oil products, and where boats may be hauled, stored, repaired and/or constructed, and subject to the performance standards in Article 11.13.

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

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.

Mechanized Outdoor Recreation: Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity.

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.

Mobile Home Lot: A part of a mobile home park which has been reserved for the placement of a manufactured housing unit and appurtenant structures or additions within a mobile home park.

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of three or more manufactured housing units.

Modular Unit: Structures, transportable in one or more sections, which were constructed in a manufacturing facility and are transported on removable frames/trailers to a building site for placement on a permanent foundation. For the purpose of this Ordinance a Modular Home is considered a Single Family Residence.

Motel, Hotel or Inn: A building or group of buildings containing guest rooms kept, used, maintained or offered to the public as a place where lodging and/or meals are provided for compensation. A motel, hotel or inn may also contain such accessory services and facilities for the benefit of its guests, and only incidental to the general public, as newsstands, personal grooming facilities and restaurants. These terms shall also include motor or tourist courts, cabins and motor lodges.

Multi-Family Dwelling: A building containing three or more dwelling units.

Municipal Uses: A facility which is open to the public and which is owned by the municipality and operated under its direction or supervision including, but not limited to, schools, libraries, offices and garages. Added 6-14-2003

Natural communities and natural areas: Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas so identified in the Comprehensive Plan.

National Geodetic Vertical Datum (NGVD): means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

Net Residential Acreage: The area of any parcel generally suitable, in its natural state, for development and theoretically related to the natural capacity of the land to support a certain intensity of use. Net residential acreage shall be determined by subtracting the following from the gross site area:

1. The area located within the full width of the right-of-way (ROW) of any proposed public or private street or access drive. If a ROW is not delineated, an area equal to a minimum 50 foot ROW shall be deducted;
2. Any land area which is regularly covered by water, including ponds, rivers and streams;
3. Any land area identified as having soil that is very poorly drained in accordance with the classifications of the National Cooperative Soil Survey;
4. Any land area with sustained slopes of 20% or more;
5. Any land area with identified wetlands or 100 year floodplains, as defined herein; and
6. Any land located within utility easements or ROW's if the restrictions preclude use of the land for development.

Net Residential Density: The number of dwelling units per net residential acre. The net residential density shall be determined by dividing the net residential acreage by the minimum buildable area required in the zoning district in which the project is located.

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.

Non-Conforming Lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the lot size, street frontage or lot width requirements of the district in which it is located, but is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

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

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.

Nursing Home: Any dwelling in which three or more aged, ill, chronically ill or incurably ill persons are housed and furnished with meals and nursing care for compensation.

100-year flood: see Base Flood.

Passive Outdoor Recreation: Outdoor recreation activities which involve no motorized equipment, structural or mechanical components for participation in the activity, such as hiking, cross-country skiing, hunting, fishing, etc.

Personal Services: A retail business which provides services but not goods, such as hairdressers, shoe repair, etc.

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

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.

Principal Structure: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Piers, Docks, Wharfs, Bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:

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

Principal Use: A use other than one which is wholly incidental or accessory to another use on the same premises.

Private Club: Any association of persons organized for social, religious, benevolent or academic purposes whose facilities are generally open only to members and their guests, including fraternities, sororities and social organizations, but not including golf clubs, swimming clubs and commercially operated establishments.

Privies: A facility used for the direct disposal and storage of human waste into a vault or pit.

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

Public Utility: A facility, whether publicly or privately owned, which provides direct or indirect utility service to the public, such as, but not limited to, sewage and water pumping stations and treatment facilities, telephone electronic equipment structures, electric power sub-stations and transformer stations, and major electrical power lines or pipelines whose major purpose is transport through a municipality. Local utility transmission lines are excluded from this definition. Wireless telecommunications facilities, as defined in this section, are not considered public utility facilities.

Recreational Vehicle: (for the purposes of flood plain management) means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle: A vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons, and which is not a dwelling. The term may include pick-up campers, travel trailers, tent trailers and motor homes. In order to be considered as a vehicle and not as a structure subject to the requirements of this Ordinance the vehicle must: 1) remain with its tires on the ground; 2) possess a current registration

sticker or plate from any State Division of Motor Vehicles; and 3) not be occupied for more than 90 consecutive days, or more than 120 days in any calendar year.

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.

Replacement System: A subsurface sewage disposal system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

Required Improvements: Sidewalks, drainage facilities, parking areas, lighting, signs, landscaping and buffer areas plus any other improvements necessary to meet the performance standards of this ordinance.

Restaurant: a commercial establishment where food and drink are prepared, served and consumed primarily within the principal structure.

Retail Business: Any business engaged primarily in the sale, rental or lease of goods and/or services individually or in small quantities to the ultimate consumer for direct consumption and/or use, and not for resale. The term retail business shall not include auto service stations, auto repair service garage, and all types of restaurants, or any use that is specifically defined elsewhere.

The term retail business shall include furniture/ large appliance showrooms, which are retail business establishments where the major activity is display area for furniture such as but not limited to tables, chairs, bureaus and sofas, and/or large appliances such as but not limited to refrigerators, stoves, washers, and dryers. The furniture and large appliances are large pieces, which are placed on the floor for customers to view.

Riprap: Rocks, irregularly shaped and at least six (6) inches in diameter used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Riverine: means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roads: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

School: A building, the principal use of which is conducting educational classes, including nursery schools. Added 6-14-2003

Setback from Water or Wetlands: The nearest horizontal distance from the normal high-water line of a body of water or upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

Shoreland Zone: The land area located within two hundred and fifty (250) feet, horizontal distance of the normal high-water line of Bonny Eagle Pond, Saco River or the upland edge of a freshwater wetland; and also including the land area located within seventy-five (75) feet, horizontal distance of the normal high water line of all streams, as defined. The shoreland zone is divided into two districts; the Resource Protection District and Shoreland District.

Sign: An attached or free-standing structure or part of a structure designed to convey to persons not on the premises some information. The area of a sign shall not be construed to be poles, standards or other parts which perform solely a weight-bearing function.

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, as may be amended from time to time).

Single Family Dwelling: A building containing only one dwelling unit.

Small Wind Energy System: A residential wind energy conversion system consisting of a wind turbine, a tower, and supporting structures (e.g. guy wires, if needed), and associated control or conversion electronics, which has a rated capacity of not more than 25Kw and which is primarily intended for the production of energy on site consumption.

Solar Collector: A solar energy system cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation of electricity.

Solar Energy System: A complete assembly of collectors and associated mounting hardware, solar energy system electrical equipment, transmission and distribution

lines, and related infrastructure that uses photovoltaic (PV) technology to collect, convert, store, and deliver electricity for on-site or off-site consumption. A solar energy system may be roof-mounted, building-mounted, or ground-mounted, and includes dual-use solar energy systems and solar microgrids.

Exempt – Solar energy system footprint is 80 square feet or less.

Small Scale – Solar energy system footprint is greater than 80 square feet and less than 2,000 square feet.

Medium Scale – Solar energy system footprint is 2,000 square feet or greater, and less than 40,000 square feet.

Large Scale – Solar energy system footprint is 40,000 square feet or greater.

Solar Energy System, Dual-Use: A solar energy systems where photovoltaic panels are attached to structures or buildings without any material impact on primary use, such as photovoltaic panels on structures cantilevered over parked cars or benches and solar panels located on a piece of infrastructure such as a sign or light.

Solar Energy System Electrical Equipment: Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended location.

Solar Energy System Expansion: Any physical modification to an existing solar energy system which alters the total rated capacity, size, type, or location of the system or its associated equipment.

Solar Energy System Footprint: The aggregate area of surface area (land or roof) occupied by a solar energy system, including but not limited to: (i) solar panels and associated mounting hardware and equipment, (ii) all inter-panel space, and (iii) all impervious surfaces associated with the solar energy system. Solar energy system footprint does not include parking lots, driveways, or roadways used to access the solar energy system or any areas adjacent to the solar energy system that are vegetated by grasses and must, by virtue of a legal instrument, be kept free of structures, trees, or shrubs in order for the solar energy system to capture sunlight.

Solar Energy System, Ground Mounted (also known as free-standing solar energy system): A solar energy system that is structurally mounted to the ground. The photovoltaic panels may be stationary or revolving.

Solar Energy System, Roof Mounted or Building Mounted: A solar energy system in which solar panels are mounted on top of a roof and/or a building façade or awning, either as a flush-mounted system or as modules fixed to frames which can be tilted.

Solar Energy System Total Rated Capacity: The maximum rated output of electrical power production of the solar energy system in watts of direct current (DC).

Solar Microgrid: A solar energy system with a footprint of any size that is designed to operate independently of the electric grid to generate, store, and deliver electricity primarily for on-site consumption by multiple principal uses or structures located on one or more parcels of land within a geographically defined area that does not extend beyond the geographic scope of the Town of Buxton.

Special Flood Hazard Area: see Area of Special Flood Hazard.

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

Stream: A free-flowing body of water which is either the outlet of Bonny Eagle Pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map to the point where the body of water becomes a river.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or an attachment to something having a fixed location on the ground including buildings, billboards, signs, commercial park rides and games, carports, porches and other building features but not including fences, access stairs, landings and handicap ramps. **Structure:** means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Subdivision: A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor as long as the donor has held the property for a continuous period of 5 years prior to the division, or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift is to avoid the objectives of subdivision review. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five (5) year period. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purpose of this definition. In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless both such dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence that has been the subdivider's principal residence for a period of at least five (5) years immediately preceding the second division. A lot of forty (40) or more acres shall not be counted as a lot except when the lot or parcel from which it was divided is located entirely or partially within any shoreland zone. For the purpose of this definition, a tract or parcel of land is defined as all contiguous land in the same ownership provided that lands located on the opposite side of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof. If the real estate exempt under this definition by a gift to a person related to the donor is transferred within five years to another person not related to the donor of the exempt real estate then the previously exempt division creates a lot or lots for the purposes of this definition. Notwithstanding the provisions of this definition, leased dwelling units are not subject to subdivision review if the municipal review is at least as stringent as that required under this subchapter. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision as a gift to a relative or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest does not create a lot for the purpose of this definition unless the intent of the transferor is to avoid the objectives of this subchapter.

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

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

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

Substantial Start: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s) or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. Section 414, any surface wastewater disposal system licensed under 38 M.R.S.A. Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13 Subsection 1.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber Harvesting: The cutting and removal of trees from their growing site and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Total Height: The vertical distance from the ground level to the tip of the rotating blades at their highest point.

Tower Height: The distance from the base to the system hub shall be no greater than 100 feet in height or no greater than 35 feet above any surrounding canopy.

Town (Municipality): The Town of Buxton.

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

Undue Hardship: A situation where owing to the conditions peculiar to a property:

- 1.The land in question cannot yield a reasonable return under the requirements of this ordinance;
- 2.The need for a variance is due to the unique circumstances of the property and not the general condition in the neighborhood;
- 3.The granting of a variance will not alter the essential character of the locality; and
- 4.These conditions are not the result of action taken by the applicant for a variance or a prior owner.

Hardship is not, therefore, a condition experienced by an individual. It is a characteristic of the property itself.

Upland Edge: The boundary between upland and wetland.

Variance: A relaxation in the terms of this Ordinance which imposes restrictions on height, buildable area, lot coverage, lot size or setback as permitted by section 6.2.B of this Ordinance.

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

Vegetation: All live trees, shrubs, ground cover and other plants including without limitation, trees both over and under 4 inches in diameter measured at 4 1/2 feet above ground level.

Veterinary Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight stays. The overnight boarding of healthy animals shall be considered a kennel.

Violation: means the failure of a structure or development to comply with the ordinance.

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

Water Body: Any great pond, river or stream.

Warehouse and outdoor storage: A land area where goods or materials are stored in a warehouse facility and/or in specific outdoor areas.

Warehouse Facility: An enclosed structure used primarily for the storage of goods or materials. Added 6-14-2003

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

Wetland: Freshwater swamps, marshes, bogs and open waters less than six (6) feet deep, other than forested wetlands, as shown on either a U.S. Geological Survey Map (at 1:24000 or 1:25000 scale), or a National Wetlands Inventory Map (at 1:24000 or 1:25000 scale), or a FEMA (Federal Emergency Management Agency) floodplain map, or as identified by a professional wetland delineation based on vegetation, soils and hydrology are:

1. Ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body excluding any river, stream or brook such that in a natural state the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support and which under normal circumstances do support a prevalence of wetland vegetation typically adapted for life in saturated soils.

Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

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

Wholesale Business: One that buys large quantities of goods and resells to other distributors rather than the ultimate consumers.

Wildlife habitat: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas so identified in the Comprehensive Plan.

Wireless Telecommunications Facility: Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, common carrier wireless exchange access services, and personal communications service (PCS) or pager services. The Federal Telecommunications Act exempts amateur “ham” radio station antennas from municipal regulation.

Wireless Service: Any service using antenna to send or receive electromagnetic waves of any bandwidth.

Yard: The area of land on a lot not occupied by buildings.

Front yard: The area between the street line and the nearest part of a building. For the purpose of this Ordinance, a corner lot shall be deemed to have two or more front yards.

Side yard: The area of land between the side lot line and the nearest part of a building.

Rear yard: The area of land between the rear lot line and the nearest part of a building.

Amended 12/1/21 adding Solar definitions

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