

## ARTICLE 13 - LAND DEVELOPMENT AND SUBDIVISION STANDARDS

### 13.1 General.

#### 13.1.A Purpose

The Buxton Planning Board has the responsibility of planning for sound land use developments that will protect the public health and will enhance the environmental quality of our community and the land and water resources. At the same time the Planning Board has the responsibility to plan so that individuals, landowners, prospective lot owners, taxpayers and the Town are protected from ill-advised development that will add to the tax burden of the people of the Town. The Town strongly favors sound, planned developments that show reasonable promise of providing benefits to the people of our Town without unreasonable expense. Under state law, municipal planning boards are the delegated authority to approve subdivisions.

#### 13.1.B Authority

13.1.B.1 The following standards have been adopted under the authority of Maine Subdivision Law (Title 30-A MRSA, S4401 et seq.), and the Town's home rule authority.

13.1.B.2. These standards shall be cited as "Land Development and Subdivision Standards of the Town of Buxton, Maine" and will be referred to herein as "Land Development and Subdivision Standards".

#### 13.1.C. Administration

13.1.C.1. The Town of Buxton Planning Board, hereinafter called the "Planning Board" or "Board", shall administer the standards of this article. All submission to the Board shall be made through the Code Enforcement Office.

13.1.C.2. The provisions of these standards shall pertain to all the land and buildings proposed for subdivision, as defined under Article 2, within the boundaries of the Town of Buxton.

#### 13.1.D. Planning Board Administrative Procedure

13.1.D.1 The Code Enforcement Office shall prepare an agenda for each regularly scheduled meeting and has the right to limit the number of agenda items to be heard per meeting.

13.1.D.2. Applicants shall be placed on the agenda according to the date of receipt in the Code Enforcement Office of a complete submission, which meets the requirements of the applicable stage of subdivision review.

13.1.D.3. Applicants who are not on the agenda and wish to be heard, may be heard only after all agenda items have been completed and only if a majority of the Board so votes. No substantive review may take place with respect to such matters, which are not on the agenda.

13.1.D.4. The Planning Board shall follow the procedures listed below for each stage of the review process.

## **13.2 Stages of Subdivision Review.**

### **13.2.A Pre-Application Review of Sketch Plan:**

13.2.A.1 An applicant shall present a sketch plan to the Planning Board at least seven (7) days prior to submission of an application. At the meeting, the applicant shall display plans with a laptop/electronic files for overhead display for public viewing via the Town's cable channel and shall appear with information sufficient to:

13.2.A.1.a. Locate the site and identify the zoning classification;

13.2.A.1.b. Describe the site: its area, shape, and existing features, both natural and man-made; and

13.2.A.1.c. Describe the general intent of development.

13.2.A.2. The Planning Board may have questions and comments.

13.2.A.3. The Planning Board may schedule an on-site inspection.

13.2.A.4. Within thirty (30) days of on-site inspection the Planning Board may make design suggestions which the applicant should investigate as part of the development plan.

### **13.2.B Preliminary Plan Review:**

13.2.B.1: Twelve (12) Copies of the preliminary plan together with an application for subdivision review is submitted to the Planning Board. These documents must be received in the Planning Office at least seven (7) days prior to the meeting at which they are scheduled for preliminary review. If an application and a preliminary plan are not submitted to the Planning Board within six (6) months following the pre-application

meeting, another pre-application meeting must be scheduled. Preliminary plan review includes:

13.2.B.1.a. applicant's presentation of preliminary plan to Planning Board;

13.2.B.1.b. Planning Board questions;

13.2.B.1.c. Review comments from Code Enforcement Officer and other technical consultants to the Planning Board;

13.2.B.1.d. Determination by Planning Board of completeness of application plans;

13.2.B.1.e. If application is incomplete, the Planning Board provides a list of items, which need to be addressed and submitted by the applicant prior to complete application. The applicant must have a completed plan (all required submissions) before any further board action is taken;

13.2.B.1.f. When the application is determined complete, the Planning Board schedules a public hearing within thirty (30) days. The Code Office notifies abutters by certified mail at least seven (7) days before the hearing, and files certified mail receipts; and

13.2.B.1.g. Within thirty (30) days of the public hearing, the Planning Board shall act on the plan and shall notify the applicant in writing, of its decisions and reasons therefore.

### **13.2.C. Final Plan Review**

Final plan review includes:

13.2.C.1. Applicant's presentation to the Board. The applicant shall display plans with a laptop/electronic files for overhead display for public viewing via the Town's cable channel;

13.2.C.2. Planning Board review and comments;

13.2.C.3. Final review comments from Code Enforcement Officer and other technical consultants to the Planning Board;

13.2.C.4. Planning Board determination of completeness of application; and

13.2.C.5. Within sixty (60) days of complete application or within thirty (30) days of public hearing, the Planning Board shall act to approve, approve with conditions or deny the final plan application and shall notify the applicant in writing of its decision and reasons therefore.

### **13.3. Submission Requirements and Procedures**

#### 13.3.A. Sketch Plan Review

13.3.A.1. The applicant shall make a complete sketch plan submission to Code Enforcement Office in order to be scheduled on an upcoming agenda. When an application is received, the Code Enforcement Officer shall give the applicant a dated receipt and shall notify by mail all abutting property owners of the proposed subdivision and comply with any other applicable provisions of current state laws regarding the review process (30-A M.R.S.A. §4403). A copy of the application shall also be forwarded to the Town's Department Heads or their assigned designees, Buxton Hollis Historical Society and the Saco River Commission.

#### **13.3.A.2. Submissions**

13.3.A.2.a. Twelve (12) complete copies of the plan and application are required for the Board to proceed with its review.

13.3.A.2.b. The sketch plan shall consist of the following:

- (i) The approximate location, dimensions and areas of all existing and proposed lots and buildings;
- (ii) The approximate location and widths of existing and proposed Streets (intersections within 250 feet of proposed subdivision road should be shown);
- (iii) Approximate topography (USGS) shown at same scale and site layout;
- (iv) Location of significant site features such as streams, wetlands, ledge, tree lines etc.;
- (v) The approximate location, dimensions and area of all parcels of land proposed to be set aside as open space;
- (vi) Perimeter boundaries from deed description or tax map conforming to legal description; and
- (vii) A location map showing the proximity to "certain" areas i.e. historical, deer wintering, open space etc.

13.3.A.2.c. Vicinity map showing streets and existing land uses surrounding area;

13.3.A.2.d. List of the names and mailing addresses of all property owners abutting the proposed site (listed by tax map, lot number);

13.3.A.2.e. If the plan is for a “cluster” subdivision, the submission of twelve (12) copies of the subdivision layout that meets conventional zoning standards is required in addition to the other submission items; and

13.3.A.2.f. Evidence that the sketch plan has been submitted to each of the department heads or their assigned designees, applicable Town Committees/ Boards/ Commissions, and utility companies serving the site.

13.3.A.2.g. An electronic copy of all application materials shall be submitted with the initial and each subsequent submission. Submission should include two (2) electronic files in a file format acceptable to the Code Enforcement Office – one file containing all drawing sheets and one file containing all other supporting documents. Files should be labeled either “drawings” or “documents” with the Property Tax Map and Lot included in the file name.

13.3.A.3. The applicant shall make a presentation to Planning Board. The sketch plan meeting is an informal workshop between the Planning Board and the applicant which is intended to provide guidance to the applicant in order to achieve a more acceptable subdivision proposal. The Planning Board may make design or other suggestions to be addressed by the applicant in subsequent submissions.

13.3.A.4. Site Inspection: The Planning Board shall schedule an on-site inspection with applicant. The applicant shall have the following areas flagged on-site:

13.3.A.4.a. Property corners;

13.3.A.4.b. Edge of wetlands (different color than property corner flags);

13.3.A.4.c. Approximate centerline of proposed street(s); and

13.3.A.4.d. Approximate lot and/or building locations.

Within thirty (30) days of the on-site inspection, the Planning Board shall set the required contour level to be shown on future plan submissions should they determine it necessary and require such other information as deemed necessary at sketch plan meeting. If required, a copy of this determination will be sent to the applicant by the Code Office.

13.3.A.5. If the sketch plan submitted is significantly different from what the zoning would permit or what exists at the development site, then the Planning Board may

require the applicant to submit a revised sketch plan, which more accurately represents the site conditions and/or zoning standards.

### **13.3.B. Preliminary Plan Review**

#### **13.3.B.1. Procedure and Fees.**

The preliminary plan application shall be accompanied by a fee, as provided in Section 5.8. Within thirty (30) days of determination of a complete preliminary plan application, the Board shall hold a public hearing. Notice of the date, time and place of the Public Hearing will be given to the applicant and will be published at least twice in a local newspaper. The date of first publication must be at least seven (7) days before the hearing. In addition, abutting landowners will be notified by Certified Mail at least seven (7) days in advance of the Public Hearing. Notice of the hearing also will be posted at the Buxton Municipal Office. The developer will be responsible for all costs of notification required for the Public Hearing, as provided in Section 5.8

In its evaluation of the proposed subdivision, the Board must determine if the plan provides for compliance with all applicable review standards contained in the Buxton Zoning Ordinance and the relevant state statutes. In addition to the application documents originally submitted, the Board may request in its review other studies deemed necessary or desirable to protect the public convenience, health, safety and welfare of the citizens of the Town including the occupants of the proposed subdivision. The Board may also request independent review of some or all of the application and its supporting documentation. The developer shall be responsible for all costs associated with the review, as provided in Section 5.8.

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

The preliminary plan must contain all of the following information:

13.3.B.2.a. Names of record owner(s), subdivider(s), engineer(s) or surveyor(s);

13.3.B.2.b. Deed reference to the land to be subdivided;

13.3.B.2.c. Graphic scale of not more than 100 feet to the inch, date and north point;

13.3.B.2.d. Boundaries of the tract and zoning district;

13.3.B.2.e. Ownership and location of abutting properties;

13.3.B.2.f. Name, location and width of all streets. All street names shown for proposed streets located in a subdivision must be submitted for approval by the Board of Selectmen

to assure that none are duplicates of existing street names or so similar as to cause confusion;

13.3.B.2.g. Type, location, profile and cross-section of all existing surface water drainage;

13.3.B.2.h. Location of all existing or proposed utilities--water, gas, electricity or other;

13.3.B.2.i. The developer must supply a copy of the medium intensity soil survey covering the site. If on-site inspection or test pit logs indicate the likelihood of poorly or very poorly drained soils on the site, the Planning Board may request that a high intensity soil survey be completed for the project site;

13.3.B.2.j. Location of all existing sanitary sewers showing size, profile and cross-section; or description, plan and location of other means of sewage disposal. When disposal is proposed by use of individual subsurface disposal areas, soil profile logs meeting requirements of section 13.5.H must be submitted for each lot. The location of all test pits must be shown on the plan;

13.3.B.2.k. The general slope of the land must be indicated in five-foot intervals;

13.3.B.2.l. Lot lines and dimensions must be shown;

13.3.B.2.m. Proposed uses of all land, buildings, easements, and rights-of-way including parking, loading and storage must be indicated.

13.3.B.2.n. Proposed public areas, if any;

13.3.B.2.o. Determination whether project plan is subject to Department of Environmental Protection approval;

13.3.B.2.p. Drawings, prepared by a registered professional engineer indicating the plan, profile and cross-section of all proposed streets, sidewalks and parking areas;

13.3.B.2.q. A copy of any deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property;

13.3.B.2.r. Identification of all wetland areas on the property;

13.3.B.2.s. The location of any open space to be preserved and a description of proposed ownership and management;

13.3.B.2.t. Delineation of the boundaries of any flood prone areas which exist on the parcel. All proposals shall include base flood elevations, flood boundaries, and in a

riverine floodplains, the floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency;

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

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate a potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling per 80,000 square feet; and the proposed use of shared or common subsurface waste water disposal systems.

The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 13.5.O.1.a below.

13.3.B.2.v. Identification of any areas of significant wildlife habitat as determined by the Maine Department of Inland Fisheries and Wildlife or the Buxton Comprehensive Plan.

13.3.B.2.w. Location of all existing and proposed permanent monuments.

13.3.B.2.x. Lot numbers in accordance with approved Town numbering policy.

13.3.B.2.y. An erosion and sedimentation control plan that has been prepared by a qualified professional.

13.3.B.2.z. A storm water management plan that has been prepared by a registered professional engineer.

### **13.3.C. Final Plan Review**

#### 13.3.C.1 Procedure

Within thirty (30) days after approval of the preliminary plan or within any other time limit which is mutually agreed to, the applicant must submit a final plan to the Board for inspection to verify that the plan has all the information requested by the Board and required by applicable state laws.

Within sixty (60) days of complete application or within thirty (30) days of public hearing, the Planning Board shall act: (1) to approve the final plan or to approve the final plan with conditions to (a) Satisfy the criteria contained in the Buxton Zoning Ordinance and relevant state laws and (b) protect and preserve the public's health, safety and general welfare; or (2) to deny the final plan application. The Planning Board shall notify the applicant in writing of its decision and reasons therefore.

### 13.3.C.2. Submissions

13.3.C.2.a. All information required for the preliminary plan;

13.3.C.2.b. Completed application form and fee;

13.3.C.2.c. One (1) complete set of one (1) or more maps or drawings and one (1) original mylar of the filing plan, plus two (2) paper copies; of any changed plans; all to be drawn at a scale of not more than 100 feet to the inch. Plans shall be no larger than 24x36 inches in size and shall have a Planning Board signature box;

13.3.C.2.d. The name, registration, seal and signature of the land surveyor, architect, engineer and/or consultant who prepared the plans;

13.3.C.2.e. The final calculations on the total and net residential acreage of the site of each proposed lot, as well as deductions made for each of the following: wetlands, steep slopes, easements, and rights-of-way;

13.3.C.2.f. Landscape and buffer plan if applicable showing what vegetation will remain and what will be planted including botanical name and common names of plants and trees, dimensions, approximate planting time and maintenance schedule;

13.3.C.2.g. Types of existing and proposed monumentation shall be identified and located;

13.3.C.2.h. A Performance bond or letter of credit meeting the standards of 13.5;

13.3.C.2.i. Written evidence of all state and federal approvals;

13.3.C.2.j. Any legal documents which are required to be submitted and reviewed as part of the subdivision review;

13.3.C.2.k. Longitudinal profiles, radii of curves, and angles of intersections for all proposed streets;

13.3.C.2.l. Offers of cession in a form certified as satisfactory by the Town Attorney of all land included in streets, highways, parks or other open space ultimately to be dedicated for public use, or not specifically reserved by the developer; and

13.3.C.2.m. A note on the plan shall state “all plans and documents used to approve this subdivision are made part of and are a condition of plan approval.

**13.3.D. Final Approval; Recording; Lapse of Approval:**

13.3.D.1. The final approval is dependent upon, and limited to, the proposals and plans contained in the application and supporting documents submitted and affirmed by the applicant. Any variation from the plans, proposals and supporting documents, is subject to review and approval by the Planning Board.

13.3.D.2. After completing a findings-of-fact and determining all standards in 30-A M.R.S.A §4404 and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings-of-fact and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Code Enforcement Officer.

13.3.D.3. The applicant shall record the approved plan at the York County Registry of Deeds and a copy of the plan as recorded and stamped by the Registry shall be brought back and filed with the Code Enforcement Office. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Planning Board shall become null and void.

13.3.D.4. No changes, erasures, modifications, or revisions shall be made in any final plan after Planning Board approval unless the revised final plan is first submitted and the Board approves the modifications. The Board shall make finding that the revised plan meets the standards of 30-A M.R.S.A. §4404, and these regulations. In the event that that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall record a notice to that effect at the Registry of Deeds. [SEE SECTION 13.4]

13.3.D.5. Failure to substantially complete construction of the required improvements of the subdivision within five (5) years of the date of approval and signing of plan shall render the plan null and void; unless an alternative phasing schedule was made part of the final plan approval, in which case the time limit shall be five (5) years from the starting date of the last scheduled development phase. The determination of whether or not substantial completion has taken place shall be made by the Planning Board based on evidence presented by the applicant and the town’s Code Enforcement Officer concerning the status of such improvements. Upon determining that a subdivision’s approval has expired under this paragraph, the Board shall have a notice recorded in the

Registry of Deeds to that effect. This section only to those projects which receive final approval after the effective date of this amendment, June 18, 2011.

#### **13.4 Enforcement.**

Any person, firm, corporation or other legal entity who violates the provisions of this Article pertaining to Land Development and Subdivision Standards shall be punished in accordance with Title 30-A M.R.S.A. S4452. After notification from the Code Enforcement Officer in writing of the nature of the violation, the violator has thirty (30) days from that time as a corrective period to ease the violation. Each day the violation exists after the thirty (30) day period shall constitute a separate offense and the violator shall be punished by a fine of \$100 each day the violation exists. All fines collected shall be payable to the Town of Buxton.

The Code Enforcement Officer or the appropriate municipal officers may institute proceedings to enjoin the violations of this Ordinance.

Any person, who after receiving approval from the Planning Board and recording the plan at the registry of deeds, constructs or develops the subdivision or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the Planning Board shall be penalized in accordance with Section 4452.

#### **13.5 General Standards for All Subdivisions.**

The standards in this section are intended to clarify and expand upon the criteria for approval found within the Subdivision Statute (30-A MRSA, S4404). In reviewing a proposed subdivision, the Board must review the application for conformance with the following standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof is upon the applicant to present adequate information to indicate all standards and statutory criteria for approval have been or will be met.

13.5.A. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that the principal structures in the subdivision will not be constructed within the 100-year floodplain.

13.5.B. Each lot that is offered for sale must be such that any buyer, with or without, a knowledge of the physical characteristics, will be able to build thereon a reasonable abode

with adequate access, water supply, sewage disposal system and reserve sites for disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.

13.5.C Soil Erosion.

13.5.C.1. The proposed subdivision must prevent soil erosion from entering water bodies, wetlands and adjacent properties.

13.5.C.2. The procedures outlined in the erosion and sedimentation control plan must be implemented during the site preparation, construction and clean-up stages.

13.5.C.3. Topsoil is considered part of the subdivision and is not to be removed from the site except for surplus topsoil from roads, parking areas and building excavations.

13.5.D. Traffic Conditions.

13.5.D.1. In general, provision must be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:

13.5.D.1.a. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;

13.5.D.1.b. Avoid traffic congestion on any street; and

13.5.D.1.c. Provide safe and convenient circulation on public streets and within the subdivision.

13.5.D.2. More specifically, access and circulation must also conform to the following standards:

13.5.D.2.a. The vehicular access to the subdivision must be arranged to avoid traffic use of existing streets, which the Comprehensive Plan has classified as residential access streets.

13.5.D.2.b. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision must be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.

13.5.D.2.c. Access ways to non-residential subdivisions or to multifamily developments must be designed to avoid queuing of entering vehicles on any street.

13.5.D.2.d. Where topographic and other site conditions allow, provision must be made for street connections to adjoining lots of similar existing or potential use within areas of the Town designated as growth areas in the Comprehensive Plan; or in non-residential subdivisions when such access will

(i.) Facilitate fire protection services as approved by the Fire Chief; or

(ii.) Enable the public to travel between two existing or potential uses, generally open to the public without need to travel upon a public street.

13.5.E Impact on the Town's ability to dispose of solid waste. If the additional solid waste from the proposed subdivision exceeds the capacity of the Town's solid waste facility, causes the facility to no longer be in compliance with its license from the Department of Environmental Protection or causes the Town to exceed its contract with a non-municipal facility, the applicant must make alternative arrangements for the disposal of solid waste. The alternative arrangements must be at a disposal facility, which is in compliance with its license. The Board may not require the alternative arrangement to exceed a period of five (5) years.

13.5.F. All streets in the plan including private roads must be built by the developer under the supervision of the Public Works Director in conformance with the Road Acceptance Regulations. Section 12.4 of the Road Acceptance Regulations must be adhered to at the time the development is fifty percent (50%) completed. When the Code Enforcement Officer determines that the fifty percent (50%) completion stage has been reached, he shall inform the developer by certified mail that the developer has one (1) year from that date to complete the roads as required under Section 12.4 of the Road Acceptance Regulations and that no additional building permits shall be issued for the development until the roads are completed. The provisions of Article 12 are mandatory for all streets in subdivisions regardless of whether or not they are to remain private. All streets within a new or expanded subdivision shall be either public or private, but not a mix thereof. Where the subdivision streets are to remain private roads, there shall be a maintenance agreement for all lots serviced by the road 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 road, and the following words must appear on the recorded plan: amended June 14, 2003

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town. Reference to the status of the roads as private roads shall be included in the deed of each lot. A description of the road, including its status as a private road, must be filed with the Town Clerk as an addendum to the Buxton Road Book"

13.5.G. All lot dimensions shall conform to the requirements of Section 9.6.

13.5.H. Each lot that is to be offered for sale or sold must contain a minimum of one thousand (1,000) square feet of land so located that it is suitable for septic sewage disposal field absorption area with reasonable assurance of functioning adequately, and to comply with state laws. Where the site evaluation indicates a depth of original mineral soil of less than twenty four (24) inches to the limiting factor, a reserve area of an additional one thousand (1,000) square feet for the eventual expansion or replacement of the disposal area shall be indicated on the plan. This reserve area shall not be built upon.

13.5.I. The establishment of reserve strips prohibiting access to streets from adjoining lands will not be permitted.

13.5.J. A permanent marker, meaning a granite monument, a concrete monument, or an iron pin must be established at every corner of each lot. \*In addition, an iron pin must be set on both sidelines of each lot at a distance of 150 ft - 200 ft from the front of the lot and be shown on the plan. (\*6/97)

13.5.K. Sufficient Water.

13.5.K.1. Water Supply.

13.5.K.1.a. Individual wells must be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other sources of potential contamination.

13.5.K.1.b. If a central water supply system is provided by the subdivider, the location and protection of the source, the design, construction and operation of the system must conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).

13.5.K.1.c. When the development of a new or the expansion of an existing subdivision, including any existing lots, contains a total of 5 or more lots, the developer shall be required to install a fire protection water supply within the new or expanded subdivision. The volume and location of the supply(s) shall be determined by the Fire Chief based on the NFPA Codes (rural water supply for fire protection) for the type and use of the buildings. The fire protection water supply shall meet the following standards, along with further standards, located in the Fire Chief's office: amended June 14, 2003

(i.) A 10,000 gallon storage tank, or two 5000 gallon tanks interconnected shall be installed in accordance with the guidelines adopted jointly by the Fire Chief and Code Enforcement Officer, which guidelines shall be kept on file at the Municipal Building. Amended June 15, 2002

(ii) Entire section deleted by Town meeting vote June 14, 2025.

(.iii.) All fire protection water supplies shall be equipped with a dry hydrant system that is designed, located and installed in accordance with the guidelines adopted jointly by the Fire Chief and the Code Enforcement Officer, which guidelines shall be kept on file at the Municipal Building. The dry hydrant shall be located so that fire trucks may connect to the hydrant by means of a 10-foot section of hard suction hose. The area within 37.5' each side of the hydrant, parallel to the road, and extending to the roadway shall be kept clear of all obstacles and shall be posted "NO PARKING FIRE LANE". If a private access road is provided, it shall be a minimum of 12 feet wide; be capable of handling fire trucks in all seasons; be posted "NO PARKING FIRE LANE", and be otherwise in compliance with the above referenced guidelines. If the hydrant is located on a public road, the hydrant shall be located a minimum of 20 feet from the paved portion of the road and, where needed, fill material shall be provided to widen the road shoulder so that fire trucks may connect to the hydrant without interfering with passing traffic.

(iv.) Prior to release by the Town of the signed subdivision plan for recording, an easement in recordable form shall be conveyed to the Inhabitants of the Town of Buxton, which permits the Town to use and maintain the fire protection water supply and dry hydrant. The form of the easement shall be subject to approval of the Town Attorney.

(v.) A detailed plan of the water supply, hydrant, piping overflow and roadway shall be submitted to the Planning Board as part of the preliminary plan submission. The Fire Chief and the Code Enforcement Officer shall review the plan and make their recommendations in writing to the Planning Board.

(vi.) The fire protection water supply and dry hydrant shall be installed by the developer in accordance with the above referenced guidelines. No building permit for any dwelling in the subdivision may be issued unless and until the fire protection water supply and hydrant have been tested and approved as being in working order by the Fire Chief or his designee and the Code Enforcement Officer.

(.vii.) The requirement of compliance with this Section 13.4.K.I.c. shall not apply if the developer, as a written condition of subdivision approval, agrees to install an approved sprinkler system in each and every dwelling in the development. The sprinkler system shall meet the current standards of Section 10.17.B of this ordinance. Amended 6/18/05 and 6/14/25.

### 13.5.K.2. Water Quality.

Water supplies must meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact must be disclosed in a note on the plan to be recorded in the registry of deeds

**13.5.L. Impact on natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas or public access to the shoreline.**

13.5.L.1. Preservation of natural beauty and aesthetics.

13.5.L.1.a. The Board may require that the application include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation and graded contours.

13.5.L.1.b. When a proposed subdivision street traverses open fields the plans must include the planting of street trees.

13.5.L.2. Retention of Open Spaces and Natural or Historic Features.

13.5.L.2.a. If any portion of the subdivision is located within an area designated by the Comprehensive Plan as open space or greenbelt, that portion must be reserved for open space preservation.

13.5.L.2.b. If any portion of the subdivision is located within an area designated as a critical natural area by the Comprehensive Plan or the Department of Economic and Community Development's Natural Heritage Program, the plan must indicate appropriate measures for the preservation of the values which qualify the site for such designation.

13.5.L.2.c. If any portion of the subdivision is designated a site of historic or prehistoric importance by the Comprehensive Plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources must be included in the plan.

13.5.L.2.d. Section 11.6.C. must be adhered to when the subdivision is a clustered development.

13.5.L.3. Preservation of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

(a.) 250 feet of the following areas identified and mapped by the Department Of Inland Fisheries and Wildlife as:

(i.) habitat for species appearing on the official state or federal lists of endangered or threatened species; or

(ii.) high and moderate value waterfowl and wading bird habitats including nesting and feeding areas;

(b.) 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;

(c.) or other important habitat areas identified in the Comprehensive Plan, the applicant must demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by wildlife biologist, selected or approved by the Board, must be submitted. This report must assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and must describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and species it supports.

13.5.L.4. Any existing public rights of access to the shoreline of a water body must be maintained by means of easements or rights-of-way or should be included in the open space with provisions made for continued public access.

### **13.5.M. Financial and Technical Capacity.**

#### 13.5.M.1. Financial Capacity.

The applicant must have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of Section 13.4. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant must have adequate financial resources to construct the total development. In making the above determinations, the Board must consider the proposed time frame for construction and the effects of inflation.

#### 13.5.M.2. Technical Ability.

13.5.M.2.a. The applicant must retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

13.5.M.2.b. In determining the applicant's technical ability, the Board must consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors and the existence of violations of previous approvals granted to the applicant.

13.5.N.Impact on water quality or shoreline. Cutting or removal of vegetation along water bodies must not increase water temperature, result in shoreline erosion or sedimentation of water bodies.

13.5.O.Impact on ground water quality or quantity.

13.5.O.1. Ground Water Quality.

13.5.O.1.a. When a hydrogeologic assessment is submitted, the assessment must contain at least the following information:

- (i.) A map showing the basic soil types.
- (ii.) The depth of the water table at representative points throughout the subdivision.
- (iii.) Drainage conditions throughout the subdivision.
- (iv.) Data on the existing ground water quality either from test wells in the subdivision or from existing wells on neighboring properties.
- (v.) An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation must, at a minimum, include a projection of post development nitrate-nitrogen concentration at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance.
- (vi.) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

13.5.O.1.b. Projections of ground water quality must be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

13.5.O.1.c. A subdivision must not increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. (The Primary Drinking Water Standards have been set by the Maine Department of Human Services for those contaminants which pose a health threat, such as bacteria, nitrate and heavy metals) A subdivision must not increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards. (The Secondary Drinking Water

Standards are for contaminants which pose more of an aesthetic concern than a health concern, such as iron and manganese)

13.5.O.1.d. If ground water contains contaminants in excess of the primary standards and the subdivision is to be served by on-site ground water supplies, the applicant must demonstrate how water quality will be improved or treated.

13.5.O.1.e. If ground water contains contaminants in excess of the secondary standards, the subdivision must not cause the concentration of the parameters in question to exceed 150% of the ambient concentration. (It is not uncommon for natural contamination levels to exceed the secondary standards in Maine, particularly for iron and manganese and occasionally sulfur)

13.5.O.1.f. Subsurface waste water disposal systems and drinking water wells must be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards must be included as a note on the Final Plan and as restrictions in the deeds to the affected lots.

#### 13.5.O.2. Ground Water Quantity.

13.5.O.2.a. Ground water withdrawals by a proposed subdivision must not lower the water table beyond the boundaries of the subdivision.

13.5.O.2.b. A proposed subdivision must not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

#### 13.5.P. Identification of freshwater wetlands.

Freshwater wetlands must be identified in accordance with the 1987 Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers.

#### 13.5.Q. Storm water management.

13.5.Q.1. Adequate provision must be made for disposal of all storm water generated within the subdivision and any drained ground water through a management system of swales, culverts, underdrains and storm drains. The storm water management system must be designed to conduct storm water flows to existing watercourses or storm drains except where retention basins are designed or ground water recharge is desirable.

13.5.Q.2. Where a subdivision is traversed by a stream, river or surface water drainage way or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision

and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

13.5.Q.3. All components of the storm water management system must be designed to limit peak discharge rates to predevelopment levels for the 2-year, 10-year and the 25-year frequency, 24-hour duration storms, based on rainfall data for Portland, Maine.

13.5.Q.4. Outlets must be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

### **13.6 Performance Guarantees.**

13.6.A. Types of Guarantees. With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs:

13.6.A.1. The establishment of an escrow account by means of either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner;

13.6.A.2. A performance bond payable to the Town issued by a surety company approved by the Municipal Officers;

13.6.A.3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the required improvements from which the Town may draw if construction is inadequate, approved by the Municipal Officers; or

The amount of the performance guarantee shall be determined by the Board with the advice of the Public Works Director, Municipal Officers and/or Town Attorney. The performance guarantee shall be for a term not less than three (3) years and shall not expire between October 30 and April 15. The developer shall renew the performance guarantee if development is not complete after three (3) years. If the developer does not renew the performance guarantee, the developer shall be subject to fines as stated in Article 5.3.

No signed subdivision plans shall be released or recorded, and no building permits of any kind shall be issued until a performance guarantee has been accepted by the Town.  
(amended 6/15/19)

13.6.B. Contents of Guarantee. The performance guarantee shall contain a construction schedule, itemized cost estimates for each major phase of construction

taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer and a date after which the developer would be in default and the Town shall have access to the funds to finish construction. (amended 6/12/04)

13.6.C. Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

13.6.D. Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

13.6.E. Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

13.6.F. Release of guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer or whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

13.6.G. Default. If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he/she shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

## **13.7 Revisions to Approved Plans.**

An applicant for a revision to a previously approved plan shall, at least seven days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda.

If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed. If the revision involves only modifications of conditions or notes to the approved plan, the procedures for final plan approval shall be followed with the exception that a complete plan need not be recreated. Upon approval, a notarized document of plan revision shall be provided by the Planning Board. The document of plan revision shall be filed in the York County Registry of Deeds. This filing shall be the responsibility of the applicant.

The applicant shall submit a copy of the approved plan as well as the required copies of the proposed revisions. The applicant shall also include enough supporting information to allow the board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

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