

APPENDIX D
FLOODPLAIN MANAGEMENT ORDINANCE

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FLOODPLAIN MANAGEMENT ORDINANCE

Section 1. Purpose

- 1.1** The purpose of this ordinance is to establish a Flood Hazard Development Permit system and review procedures for recognizing and evaluating flood hazards affecting development activities in the designated flood hazard areas of the town.

Certain areas within the town of Bucksport are subject to periodic flooding that can cause serious damages to properties. The National Flood Insurance Program, established in the National Flood Insurance Act of 1968 (P.L. 90-488, as amended), provides that these areas be identified by the Federal Emergency Management Agency as having a special flood hazard and that development activities taking place within these areas be subject to floodplain management measures.

To assure that flood insurance is available to property owners, the town has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements in the aforesaid Act, as delineated in this Floodplain Management Ordinance.

Section 2. Authority

- 2.1** The Town of Bucksport has legal authority to adopt land use and control measures to reduce future flood losses pursuant to 30-A M.R.S.A. §§3001-3007, §4352, §§4401-4407 and 38 M.R.S.A §440.

Section 3. Applicability

- 3.1** This ordinance applies to development activities in areas of special flood hazard in the Town of Bucksport, Hancock County Maine, which are identified as Zones A, AE and VE in a report published by the Federal Emergency Management Agency entitled "Flood Insurance Study - Hancock County Maine," dated July 20, 2016 with accompanying "Flood Insurance Rate Map" dated July 20, 2016 with panels: 510D, 512D, 513D, 514D, 516D, 520D, 530D, 535D, 536D, 537D, 538D, 539D, 541D, 542D, 543D, 544D, 676D, 677D, 679D, 681D, 682D, 683D, 684D, 703D, and 705D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Hancock County, Maine." These documents are hereby adopted by reference and declared to be a part of this ordinance.

Section 4. Severability and Conflict

- 4.1** In the event that any provision of this ordinance is ruled to be invalid by a court of competent jurisdiction, the remaining provisions will continue in full force and effect.
- 4.2** In the event any provision of this ordinance conflicts with or is inconsistent with another provision of the ordinance or any other ordinance, regulation or statute, the more restrictive provision will govern.
- 4.3** This ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law.

Section 5. Effective Date

- 5.1** This ordinance is effective 30 days after the date of adoption by the Bucksport Town Council.

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Section 6. Administration

- 6.1** This ordinance shall be administered by the Code Enforcement Officer who, after receiving an application for a Flood Hazard Development Permit, must conduct a review to determine if the proposed development is reasonably safe from flooding and if all pertinent requirements of this ordinance have been, or will be met.
- 6.2** Base flood data required by this ordinance must be obtained from the “Flood Insurance Study - Hancock County, Maine,” as described in Section 3.1. When base flood elevation data are not provided by said study, any federal, state, or other technical flood data sources must be reviewed and utilized as may be appropriate, including information obtained pursuant to Section 8.4; Sections 9.12, 9.13, 9.14 and Section 10.1.4, in order to administer Section 9 of this ordinance.
- 6.3** Interpretation of boundary locations of special flood hazard areas as shown on the maps described in Section 3 of this ordinance shall be the responsibility of the Code Enforcement Officer.
- 6.4** Adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program must be notified prior to any alteration or relocation of a watercourse and copies of such notifications must be submitted to the Federal Emergency Management Agency.
- 6.5** When base flood elevation data in a Zone A flood hazard area are established by methods outlined in Section 8.4.2, such data must be submitted to the Maine Floodplain Management Program.
- 6.6** No land in a special flood hazard area may be occupied or used and no structure that is constructed or substantially improved may be occupied until the Code Enforcement Office issues a Certificate of Compliance.
- 6.7** Before a Certificate of Compliance may be issued, the following requirements must be met:
- 6.7.1** For new construction or substantial improvement of any elevated structure, the applicant must submit to the Code Enforcement Officer an Elevation Certificate completed by a professional land surveyor, registered professional engineer, or architect, documenting compliance with Section 9.2, 9.3, 9.4 9.5, 9.6 or 9.7 as applicable.
- 6.7.2** For structures in Zone VE, the applicant must submit certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Section 9.20.
- 6.7.3** The applicant must submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- 6.7.4** The Code Enforcement Officer shall review the Elevation Certificate and the applicant’s written notification within 10 working days and, upon determining that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.
- 6.8** The Planning Board shall hear and decide upon applications for conditional uses provided for in this ordinance, in accordance with the following procedures:
- 6.8.1** The applicant must submit to the Planning Board a Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in this ordinance will be satisfied.
- 6.8.2** The Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

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- 6.8.3** The Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing if the application satisfies all relevant requirements of the ordinance.
- 6.8.4** A Conditional Use Permit issued under the provisions of this ordinance shall expire if the work or change involved is not commenced within 180 days of the date of approval of the conditional use by the Planning Board.
- 6.8.5** The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.
- 6.8.6** No existing building or use of premises may be expanded or enlarged without Planning Board approval if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this ordinance.

Section 7. Permits

- 7.1** Before any construction or other development (as defined in Section 13), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 1, a Flood Hazard Development Permit must be obtained from the Code Enforcement Officer, except as provided for in Section 6.8. This permit is in addition to any other permits that may be required pursuant to the codes and ordinances of the Town of Bucksport, Maine.
- 7.2** Before a Flood Hazard Development Permit may be issued, the Code Enforcement Officer must determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 7.3** If the application satisfies the requirements of this ordinance, the Code Enforcement Officer shall approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 - 7.3.1** A two-part Flood Hazard Development Permit for elevated structures. Part I authorizes the applicant to build a structure to and including the first horizontal floor only above the base flood level. Upon completion of that work, the applicant must provide the Code Enforcement Officer with an Elevation Certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, verifying that the structure, as built, complies with the elevation requirements of Section 9.2, 9.3, 9.4 9.5, 9.6 or 9.7, as applicable. Within 72 hours of receipt of the completed Elevation Certificate the Code Enforcement Officer must determine if all Part 1 requirements have been met and, upon making such determination, issue Part II of the Flood Hazard Development Permit that authorizes the applicant to complete the construction project; or,
 - 7.3.2** A Flood Hazard Development Permit for flood-proofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated, but that meet the flood-proofing standards of Sections 9.5.1, 9.5.2 and 9.5.3. The application for this permit must include a Flood-proofing Certificate signed by a registered professional engineer or architect; or,
 - 7.3.3** A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the

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structure. Minor development also includes, but is not limited to, accessory structures as provided for in Section 9.11, 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. Also included are non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

- 7.4** Any Flood Hazard Development Permit Application for a conditional use, as provided for in this ordinance, must be reviewed and approved by the Planning Board in accordance with Section 6.8, before a permit may be issued by the Code Enforcement Officer.
- 7.5** The Code Enforcement Officer shall maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 11 of this ordinance, and copies of Elevation Certificates, Flood-proofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Sections 6, 8 and 9 of this ordinance.

Section 8. Application Requirements

- 8.1** Any application for a Flood Hazard Development Permit must be submitted to the Code Enforcement Officer and must include the following information:
- 8.1.1** The name, address and phone number of the applicant, owner, and contractor;
 - 8.1.2** An address and a map indicating the location of the construction site;
 - 8.1.3** A site plan showing the location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
 - 8.1.4** A statement of the intended use of the structure and/or development;
 - 8.1.5** A statement of the cost of the development including all materials and labor;
 - 8.1.6** A statement as to the type of sewage system proposed;
 - 8.1.7** Dimensions of the proposed structure and/or development;
 - 8.1.8** A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and
 - 8.1.9** A statement of construction plans describing in detail how each applicable development standard in Section 9 will be met.
- 8.2** In addition to the requirements of Section 8.1, any application for a Flood Hazard Development Permit for new construction or substantial improvement must also include the following information:
- 8.2.1** The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of:
 - 8.2.1.1** The base flood at the proposed site of all new or substantially improved structures;
 - 8.2.1.2** The highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 8.2.1.3** The lowest floor, including basement, and whether or not such structures contain a basement; and
 - 8.2.1.4** The level to which any non-residential structure will be flood-proofed.
 - 8.2.2** A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 9;

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- 8.2.3** A written certification by a professional land surveyor, a registered professional engineer or an architect, that the base flood elevation and grade elevations shown on the application are accurate;
- 8.2.4** The following certifications by a registered professional engineer or architect as required in Section 9:
 - 8.2.4.1** A Flood-proofing Certificate (FEMA Form 81-65, as amended), to verify that the flood-proofing methods for any non-residential structures will meet the flood-proofing criteria of Section 9.5 and other applicable standards in Section 9;
 - 8.2.4.2** A V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Section 9.20 and other applicable standards in Section 9.
 - 8.2.4.3** A Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 9.15.3.
 - 8.2.4.4** A statement from a registered professional engineer or architect certifying that bridges will meet the standards of Section 9.16; and
 - 8.2.4.5** A statement from a registered professional engineer certifying that containment walls will meet the standards of Section 9.17.
- 8.3** Base flood elevation data for Zone AE and VE shall be obtained from the “Flood Insurance Study-Hancock County Maine,” as described in Section 3;
- 8.4** Base flood elevation data for Zone A must be obtained from any of the following sources:
 - 8.4.1** Base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265), including information obtained pursuant to Sections 9.12, 9.13 and 9.14;
 - 8.4.2** The contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or,
 - 8.4.3** In the absence of all other data, the elevation of the ground at a point on the floodplain boundary that intersects with a line projecting in a perpendicular direction from the shoreline and passing through the site of the proposed building.
- 8.5** A non-refundable application fee must be paid to the town at the time the application is submitted. The permit fee shall be determined as follows:
 - 8.5.1** A fee of \$50.00 is required for a permit issued pursuant to Section 7.3.1 or 7.3.2.
 - 8.5.2** A fee of \$25.00 is required for a permit issued pursuant to Section 7.3.3.
- 8.6** The applicant may be charged additional fees for professional consultants required by the Code Enforcement Officer, Planning Board or Board of Appeals to assist in determining compliance with the requirements of this ordinance. Fees are due within 10 days after submittal of a bill by the town. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

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Section 9 Development Standards

9.1 All development in areas of special flood hazard must meet the following requirements:

- 9.1.1** The development must be appropriately designed or modified and adequately anchored to prevent flotation (except floating piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 9.1.2** Construction materials must be resistant to flood damage, and construction methods and practices must minimize flood damage;
 - 9.1.3** Electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities must be designed and located so as to prevent water from entering or accumulating within the components during flooding conditions;
 - 9.1.4** New and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems;
 - 9.1.5** New and replacement sanitary sewage systems must be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into floodwaters;
 - 9.1.6** On site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during floods; and
 - 9.1.7** All development associated with altered or relocated portions of a watercourse must be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- 9.2** New construction or substantial improvement of any residential structure located within Zone AE must have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.
- 9.3** New construction or substantial improvement of any residential structure located within Zone A must have the lowest floor, including basement, elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 6.2, Section 8.4 or Section 10.1.4.
- 9.4** New construction or substantial improvement of any residential structure located within Zone VE shall meet the requirements of Sections 9.19 and 9.20.
- 9.5** New construction or substantial improvement of any non-residential structure located within Zones A and AE must comply with the following flood-proofing standards:
- 9.5.1** In Zone AE, the lowest floor, including basement, must be elevated to at least one foot above the base flood elevation; or
 - 9.5.2** The non-residential structure, together with attendant utility and sanitary facilities, must be flood-proofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls constructed of structural components that are substantially impermeable to the passage of water and that are capable of resisting the effects of buoyancy and hydrostatic and hydrodynamic loads; and
 - 9.5.3** A registered professional engineer or architect has certified that the flood-proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification must be provided with the application for a Flood Hazard Development Permit, as required by Section 8.2.4.1 and must include a record of the elevation above mean sea level to which the structure is flood-proofed.

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- 9.5.4** In Zone A, the lowest floor, including basement, must be elevated to at least one foot above the base flood elevation utilizing information pursuant to Section 6.2, Section 8.4 or Section 10.1.4; or
- 9.5.5** Together with attendant utility and sanitary facilities the lowest floor, including basement, must meet the flood-proofing standards of Section 9.5.2 and 9.5.3.
- 9.6** New construction or substantial improvement of any non-residential structure located within Zone VE must meet the requirements of Sections 9.19 and 9.20.
- 9.7** New or substantially improved manufactured homes located within Zones A and AE must comply with the following standards:
- 9.7.1** In Zone AE, the lowest floor, including basement, must be at least one foot above the base flood elevation;
- 9.7.2** In Zone A, the lowest floor, including basement, must be at least one foot above the base flood elevation, utilizing information obtained pursuant to Section 6.2, Section 8.4 or Section 10.1.4;
- 9.7.3** The manufactured home must be installed on a permanent foundation, which may be a poured masonry slab or foundation walls with hydraulic openings, or it may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- 9.7.4** The manufactured home must be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
- 9.7.4.1** Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or
- 9.7.4.2** Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
- 9.7.5** All components of the anchoring system described in Sections 9.7.4.1 and 9.7.4.2 must be capable of carrying a force of 4800 pounds.
- 9.8** New construction or substantial improvement of any manufactured home located within Zone VE shall meet the requirements of Sections 9.19 and 9.20.
- 9.9** Recreational Vehicles located within Zone A and AE must comply with the following standards:
- 9.9.1** Recreational vehicles may be parked on the site for no more than 120 consecutive days; and
- 9.9.2** Recreational vehicles must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- 9.9.3** As an alternative to meeting the requirements of Sections 9.9.1 and 9.9.2, recreational vehicles may be permitted in Zone A and AE in accordance with the elevation and anchoring requirements in Section 9.7.
- 9.9.4** Recreational vehicles may not be occupied for year-round residential use.
- 9.10** Recreational vehicles located within Zone VE shall meet the requirements of Sections 9.9.1 and 9.9.2 or Sections 9.19 and 9.20.

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- 9.11** Accessory Structures, as defined in Section 13, located only within Zones AE and A are exempt from the elevation criteria required in Sections 9.2, 9.3, 9.4, 9.5, 9.6 and 9.7 if all other applicable requirements of Section 9 and all the following requirements are met:
- 9.11.1** An accessory structure must have unfinished interiors and not be used for human habitation;
 - 9.11.2** An accessory structure must have hydraulic openings, as specified in Sections 9.15.2 through 9.15.3, in at least two different walls of the accessory structure;
 - 9.11.3** An accessory structure must be located outside the floodway;
 - 9.11.4** An accessory structure must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed farther from the source of flooding than the primary structure whenever possible; and,
 - 9.11.5** An accessory structure must have only ground fault interrupt electrical outlets. The electric service disconnect must be located above the base flood elevation and when possible, outside the special flood hazard area.
- 9.12** In Zone AE riverine areas for which a regulatory floodway is designated on the community's Flood Insurance Rate Map, encroachments, including fill, new construction, substantial improvement, and other development may not be permitted within the floodway unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 9.13** In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development may not be permitted in the regulatory floodway as defined in Section 13, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community and is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
- 9.14** In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined 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.
- 9.15** New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Section 9, including the elevation requirements of Sections 9.2, 9.3, 9.5 or 9.7 and that is elevated on posts, columns, piers, piles, stilts or crawlspaces may include enclosed areas below the base flood elevation requirements provided all the following criteria are met or exceeded:
- 9.15.1** Enclosed areas are not basements, as defined in Section 13;
 - 9.15.2** Enclosed areas are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater; and,
 - 9.15.3** Designs meeting the requirement of 9.15.2 are engineered and certified by a registered professional engineer or architect, or meet or exceed the following minimum requirements:

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- 9.20** All new construction or substantial improvement of any structure located within Zone VE must comply with the following requirements:
- 9.20.1** Structures must be elevated on posts or columns such that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation.
 - 9.20.2** The pile or column foundation and the elevated portion of the structure attached thereto must be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.
 - 9.20.3** Water loading values used must be those associated with the base flood. Wind loading values used must be those required by applicable state and local building standards.
 - 9.20.4** The space below the lowest floor must be free of obstructions or enclosed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns. Areas of less than 300 square feet may be enclosed with non-supporting breakaway walls that have a designed safe loading resistance of not less than 10 or more than 20 pounds per square foot.
 - 9.20.4.1** A registered professional engineer or architect must develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55).
 - 9.20.4.2** A registered professional engineer or architect must certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Section 9.21.
 - 9.20.5** The use of fill for structural support in Zone VE is prohibited.
 - 9.20.6** Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
 - 9.20.7** The area below the lowest floor may only be used for parking vehicles, building access, and storage.
- 9.21** Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Section 9.4 only if permitted as a conditional use as provided for in Section 6.8, and if all the following requirements and those of Sections 9.1, 9.12, 9.13, 9.14 and 9.15 are met:
- 9.21.1** The conditional use must be limited to low value structures such as metal or wooden sheds 200 square feet or less and may not exceed more than one story;
 - 9.21.2** The structure must be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components;
 - 9.21.3** The structure will not adversely increase wave or debris impact forces affecting nearby buildings;
 - 9.21.4** The structure must have unfinished interiors and may not be used for human habitation;
 - 9.21.5** Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or flood-proofed to one foot above the base flood elevation; and,

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- 9.21.6** All electrical outlets must be ground fault interrupt type. The electrical service disconnect must be located on shore above the base flood elevation and, when possible, outside the special flood hazard area.

Section 10 Subdivisions and Developments

- 10.1** This section is applicable to any proposed subdivision, any proposed manufactured home park as defined in Section 13, any project involving 5 or more acres of disturbed soils, and any other project requiring local Planning Board approval that is also subject to review under federal or state regulation or law. When reviewing any of the above-described proposed projects that are located on land that is either partially or entirely within a special flood hazard area, the Planning Board must assure that:
- 10.1.1** All such proposals are consistent with the need to minimize flood damage;
 - 10.1.2** All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages;
 - 10.1.3** Adequate drainage is provided so as to reduce exposure to flood hazards;
 - 10.1.4** All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations must be based on engineering practices recognized by the Federal Emergency Management Agency; and
 - 10.1.5** The subdivision or development plan includes a condition of approval that requires structures to be constructed in accordance with Section 9 of this ordinance. Such requirement must be included in any deed, lease, purchase and sale agreement, or document transferring or expressing intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition must clearly articulate that the municipality may enforce any violation of the construction requirement and that fact must also be included in the deed or any other document previously described. The construction requirement must also be stated on any map, plat or plan to be signed by the Planning Board as part of the approval process.

Section 11 Appeals

- 11.1** The Board of Appeals of the town of Bucksport shall, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of the provisions of this ordinance.
- 11.2** The Board of Appeals may grant a variance from the requirements of this ordinance upon determining that:
- 11.2.1** There is good and sufficient cause;
 - 11.2.2** If a flood comparable to the base flood should occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances;
 - 11.2.3** The issuance of the variance will not conflict with other state, federal or local laws or ordinances; and
 - 11.2.4** Failure to grant the variance would result in undue hardship, which in this sub-section means:
 - 11.2.4.1** The land in question cannot yield a reasonable return unless a variance is granted;
 - 11.2.4.2** The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

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- 11.13** The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
- 11.14** The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
- 11.15** Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

Section 12 Enforcement

- 12.1** The Code Enforcement Officer shall enforce the provisions of this ordinance pursuant to Title 30-A MRSA §4452.
- 12.2** The penalties contained in Title 30-A M.R.S.A. §4452 apply to any violation of this ordinance.
- 12.3** In addition to any other actions, the Code Enforcement Officer, upon determining that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of the following information:
- 12.3.1** The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - 12.3.2** A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 - 12.3.3** A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 - 12.3.4** Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 - 12.3.5** A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Section 13 Definitions

- 13.1** 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” and “must” are mandatory and not discretionary.

Accessory Structure - A small, detached structure that is incidental and subordinate to the principal structure.

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

Area of Special Flood Hazard - 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 3 of this ordinance.

Effective: July 20, 2016

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

Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see “Structure”.

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.

Code Enforcement Officer –A person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - A use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Sections 6.8, 7.4 and 9.16.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development - A manmade change to improved or unimproved real estate. This includes, but is not limited 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.

Digital Flood Insurance Rate Map (FIRM) – see Flood Insurance Rate Map

Elevated Building - In Zones AE or A, a non-basement building built to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or “stilts;” and 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 Zones AE or A, 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 9.11.

In Zone VE, a non-basement building built to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or stilts; and 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 Zone VE, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Section 9.20.4

Elevation Certificate - An official form (FEMA Form 81-31, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program and is required for purchasing flood insurance.

Effective: July 20, 2016

Flood or Flooding -A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

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.

Flood Elevation Study - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - 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 community.

Flood Insurance Study - See **Flood Elevation Study**.

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

Floodplain Management - 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 -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 - 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 - See “Regulatory Floodway”.

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

Freeboard - 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.

Functionally Dependent Use - A use that 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.

Effective: July 20, 2016

Historic Structure – Any structure that is:

1. 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;
2. 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;
3. 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
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

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

Lowest Floor - 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 9.11 of this ordinance.

Manufactured Home - 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 - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

Minor Development – 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 9.7, 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.

National Geodetic Vertical Datum (NGVD) - The national vertical datum, based on a standard 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)".

Effective: July 20, 2016

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

North American Vertical Datum (NAVD)- means 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 vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - See “Base Flood”.

Recreational Vehicle - A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection (not including slide-outs), designed to be self-propelled or towed by a motor vehicle and designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use and not for a permanent dwelling.

Regulatory Floodway –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, when not designated on the community’s Flood Insurance Rate 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.

Riverine - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - See “Area of Special Flood Hazard”.

Start of Construction - 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, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Effective: July 20, 2016

Substantial Damage - 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 - 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 that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. 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
2. 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.

Variance - A grant of relief by a community from the terms of a floodplain management regulation.

Violation - The failure of a structure or development to comply with a community's floodplain management regulations.

Section 14. Abrogations and Amendments

14.1 This ordinance, Appendix D, Floodplain Management Ordinance, was originally adopted on September 11, 1975 and last abrogated or amended on April 28, 2016.

14.1.1 Appendix D, Floodplain Management Ordinance has been abrogated or amended as follows:
April 9, 1987 (repealed and replaced)
October 27, 1988
July 11, 1996 (repealed and replaced)
March 17, 2005 (repealed and replaced)
December 13, 2007: A revision of panel # 230065 0015 B of the town's Flood Insurance Rate Map to correct an error of the location of Mill Stream. (Letter of Map Revision issued by FEMA, dated 5-07-08)
April 28, 2016: Adoption of digital flood maps, flood insurance study and updates to ordinance language in compliance with FEMA requirements. Changes made effective July 20, 2016.