

**TOWN OF BUCKFIELD
APPEALS BOARD
ORDINANCE**

Section 1: Reestablishment

The Town of Buckfield hereby reestablishes a Board of Appeals. The Board which has been acting as a Board of Appeals is hereby reestablished as the Appeals Board. The actions which it has taken prior to the adoption of this Ordinance are hereby declared to be the acts of the legally constituted Board of Appeals of the Town of Buckfield.

Section 2: Appointment

- A. Members of the Appeals Board shall be appointed by the Board of Selectmen and be sworn by the Town Clerk or other person authorized to administer oaths.
- B. The Appeals Board shall consist of five (5) members.
- C. Each member shall serve a three (3) year term with the intent of creating staggered terms.
- D. When there is a vacancy, the Board of Selectmen, at a Meeting duly called, shall appoint a person who has submitted an application in accordance with the *Town of Buckfield Appointment Policy*, to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member fails to attend four (4) consecutive regular meetings without a reasonable excuse, or when a member ceases to be a registered voter of the Town. The Board of Selectmen may, for just cause and after proper notice and hearing, remove members of the Appeals Board by majority vote at a Meeting duly called.
- E. In accordance with M.R.S.A., Title 30-A, §2691, neither a Selectman nor a spouse of a Selectman may be a member of the Appeals Board. In accordance with common law, a Code Enforcement Officer, a Plumbing Inspector nor a Planning Board Member may be a member of the Appeals Board.

Section 3: Organization, Rules and Procedures

- A. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
- B. The Chairperson shall call one regular meeting each month, provided there is business to conduct. Public notice, at least seven days prior to the date of the Meeting shall at least include the date, time and location of the Meeting. Notice shall also be provided to the Code Enforcement Officer and the chairman of the Planning Board.
- C. A quorum is required to conduct any business of the Appeals Board. A quorum is defined as a majority of those members appointed to the Appeals Board but never less than two (2).
- D. The Chairperson may call a Special Meeting providing a twenty-four (24) hour public notice is given. Public notice may be achieved by informing a newspaper of general circulation.

- E. Notice of all Public Hearings shall be published in a newspaper of general circulation. The date of publication shall be at least seven (7) days before such Hearing and the notice shall also be posted at least seven (7) days before such Hearing in at least three (3) conspicuous public places, posted on the Towns' Web Page and posted on the Towns' Public Access Channel. The notice shall set forth the purpose of the Hearing, the time, date and the place of the Hearing.
- F. All abutters of the property being considered by the Appeals Board as well as all property owners who own across a public road and share common road frontage of the property being considered by the Appeals Board shall be notified by certified mail return receipt requested at least seven (7) days prior to the Appeals Board meeting.
- G. All meetings of the Appeals Board shall be open to the public, except executive sessions. Executive sessions shall be held in accordance with M.R.S.A., Title 1, Section 405, as amended.

Section 4: Officers, Duties and Powers

I. Officers

- A. The Appeals Board shall annually elect a Chairperson who shall serve for a one (1) year term from July 1 to June 30. The Chairperson, in conjunction with Town Office staff, shall develop the agenda, shall provide for distribution of all materials to other members of the Appeals Board prior to the meeting, ensure proper notification to the appellants, local newspapers and abutters, and be responsible for the proper conduct of the meetings.
- B. The Appeals Board shall annually elect a Vice Chairperson who shall serve for a one (1) year term from July 1 to June 30. The Vice Chairperson shall assume all the same responsibilities as the Chairperson when the Chairperson is unable.
- C. The Appeals Board shall annually elect a Secretary who shall serve for a one (1) year term from July 1 to June 30. The Secretary shall ensure that a record of all pertinent discussions and votes of the Appeals Board are properly recorded in the form of minutes, shall ensure that any Decisions and Findings of Fact are well documented, and shall endorse all documents as required.

II. Duties and Powers

- A. The Appeals Board shall perform such duties and exercise such powers as are provided by Ordinance and the laws of the State of Maine.
- B. The Appeals Board may adopt rules and procedures in addition to Section 3 for transaction of business and the Secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations.
- C. The Appeals Board shall file all rules and procedures and subsequent revisions with the Town Clerk. Copies shall be provided to the Board of Selectmen for their information.
- D. The Appeals Board may obtain goods and services necessary to its proper function within the limits of appropriations made for their purpose.

- E. The Appeals Board may reconsider any decision. The Appeals Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within thirty (30) days of its prior decision. The Appeals Board may conduct additional Hearings and receive additional evidence and testimony. Reconsideration should be for one of the following reasons:
- a. The record contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or
 - b. The Appeals Board misinterpreted the Ordinance, followed improper procedures, or acted beyond its jurisdiction.

Section 5: Jurisdiction

To hear and decide administrative appeals, on any appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Planning Board in the administration of Ordinances under their governance, and to hear and decide administrative appeals, on a *de novo* basis, 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 in his/her review of and action on a permit application under Ordinances within his/her governance.

Section 6: Fees

A \$30.00 application fee plus a \$70.00 administrative fee shall be paid with the submission of the application for appeal. The appellant is also responsible to pay all expenses of any and all professional services required by the Appeals Board.

Section 7: Severability Clause

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

Section 8: Effective Date

This Ordinance shall take effect immediately upon its approval at the Annual Town Meeting of the Town of Buckfield on June 18, 2003. Any amendment shall take effect immediately upon approval of the Town Meeting.

Note: Amended at June 15, 2013 Annual Town Meeting – Warrant Article #43

Note: Amended at June 18, 2016 Annual Town Meeting – Warrant Article #38