**Article 2 Definitions**

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

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

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

Article 8

Section 8.1.G.A Conditional Use Permit secured under the provisions of this Section shall expire if the work or change involved has not commenced within ~~one~~ ~~year~~  two years of the date on which authorization is given.

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**Plumbing and Electric Permits Required**

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

7.5.2 Residential Electric Services - All electric work requires a valid electric permit. All electric installations shall be in accordance with the current version of the State of Maine adopted Electric Code.

A. 1. No residence, nor any associated accessory structure or garage of the residence, or any combination thereof may install, activate, or receive more than a single 200 AMP combined electric service for such structures.

2. The limitation of a single combined 200 AMP service is meant and intended for each residence and accessory structure or garage in combination on that structure’s parcel.

3. A person or party may apply for an electric service greater than 200 AMP if the intended use is permitted by town zoning, and following review and approval of electric load calculations by the town’s Electric Inspector; and, after on-site-review and separate approval by the Code Enforcement Office. **If electric service increases beyond 200 amps and an upgraded transformer is required, that transformer may only service the buildings wired to receive the increased amperage.**

4. It shall be a violation of this code for any person or party, including a licensed or non-licensed electric or general contractor, to install or activate any electric services that does not meet these conditions and requirements. Further, it shall be a violation of this code for any property owner to install, maintain, activate or operation of any electrical service that does not meet these conditions or requirements.

B. Hazardous conditions and authority to disconnect

1. If the Electric Inspector finds a dangerous installation, alteration, or repair of electrical work, the Electric Inspector shall provide notice that shall:

Be served on the owner and occupant of the premises and the licensee by: • Telephone, • Personal service, • first class mail or posting the property as unsafe; and

2. The Electric Inspector, with the approval of the Code Enforcement Officer or Fire Chief may disconnect public utilities, including electric supply, to a building, structure, or system regulated by this section if:

• Repairs are not made under this section; or

• Hazardous condition exists that threatens or may threaten the public health and safety.

3. The Electric Inspector or his designee shall notify: • The serving utility; and • The owner and occupant of the building, structure, or service system of the decision to disconnect; • Where possible, prior to disconnecting; or • As soon as practical, after disconnecting.

4. Supervising Official. The Electric Inspector who must be licensed by the State of Maine as a master electrician is herewith designated as the town official to supervise and enforce this section. The Electric Inspector will be under the direction of the Code Enforcement Officer, who will act as his/ her immediate supervisor.

7.5.3 No building permit for a new residential or commercial building shall be issued without first being issued a subsurface wastewater disposal system permit in conformance with the current state adopted version of State of Maine Subsurface Wastewater Rules

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Section Performance Standards for Medical Marijuana Caregiver/ Home Occupation

Purpose:

The purpose of this section of the ordinance is to ensure that all cultivation, processing, storage, and distribution of medical marijuana does not have an adverse impact on the health, safety, and general welfare of the residents of the Town of Buxton, while still allowing for treatment and alleviation of a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition. Exemptions: As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient’s residence or any medical marijuana caregiver’s primary year-round residence in every zone following the rules of Home Occupation Section 11.10.

Medical marijuana caregivers not required to register with the State and qualifying patients are not regulated under this section.

Section A: Medical Marijuana Home Production Facilities are permitted within the caregiver’s primary year-round residence as a home occupation subject to the following performance standards, in addition to the requirements of the districts in which the caregiver use is located:

1. The caregiver shall be least twenty-one (21) years of age;

2. The caregiver resides in the dwelling unit as his/her primary year-round residence in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statutes and/ or administrative rules;

3. A caregiver who does not own his or her primary residence shall obtain notarized written permission from the property owner prior to cultivating marijuana and shall make the written permission available to the Town.

4. Caregivers shall cultivate medical marijuana within an enclosed, locked building.

Medical marijuana caregivers growing for their own personal use and one qualifying patient may grow outside of a building. This is limited to 12 adult plants.

No exterior evidence of cultivation, including signs, shall be visible from a public way or area. Marijuana plants shall be entirely screened from common visual observation from a public way or area by natural objects, plantings, or a solid fence at least six (6) feet or taller in height, density and depth sufficient to accomplish complete screening of plants from ordinary view. Should the plants grow higher than the screening such they are visible from a public way or area, either the plants shall be cut to not extend higher than the screening or the individual who is authorized to cultivate the marijuana shall install additional screening sufficient to conceal the plants from public view within ten (10) days of notification of the violation by the Code Enforcement Officer.

5. Medical Marijuana shall be distributed to medical marijuana patients within an enclosed building. Drive thru, drive-up or window service is prohibited.

Caregivers who dispense to more than 6 patients including themselves, must do so at an approved retail location or dispensary. This is to avoid high traffic in conformance with section 11.10.C.5.

6. Compliance with health and safety codes. The primary residence, outbuilding, garage, or other structure where marijuana is grown, cultivated, processed, and/or stored shall meet all applicable requirements of the adopted building code, electric, fire and other health safety and technical codes.

7. Ventilation and odor management. Any primary residence, outbuilding, garage, or other structure used for cultivation shall have proper ventilation to prevent mold damage and to prevent odors or particles from becoming a nuisance to surrounding properties or the public.

8. Gases. The use of gas products for extraction processes, including but not limited to carbon dioxide, sulfur dioxide and butane, and ozone generators are prohibited

9. Dispensing of medical marijuana to medical marijuana patients shall not take place prior to 7:00 a.m. or later than 8:00 p.m. on any day.

10. If electric service increases beyond 200 amps and an upgraded transformer is required, that transformer may only service the buildings wired to receive the increased amperage.

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**Proposed by Town Attorney**

**AMENDMENTS TO THE BUXTON ZONING ORDINANCE TO ESTABLISH UNIFORM APPLICATION FEES (regarding Peer Review)**

DRAFT 10/14/2022

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| *Article 5, Section 5.8 of the Town of Buxton Zoning Ordinance is proposed to be amended by adding the words shown in underline and deleting the words shown in strikethrough, as set forth below:* |

**5.8 Permit Application and Review Fees.**

5.8.A. Permit Fee Required.

Any application, license, petition, and permit, including but not limited to building permit, conditional use permit, subdivision permit, permit renewal or amendment, and administrative appeal (hereafter, “Application”) submitted to the Town of Buxton under this Ordinance shall be accompanied by a fee.

5.8.B. Fee Schedule.

The Municipal Officers shall establish a schedule of fees, which bear a substantial relationship to the cost of processing, reviewing, and administering Applications. The fee schedule may be amended from time to time by order of the Municipal Officers as they deem necessary, fair, and reasonable. For administrative ease, the fee schedule may also identify Town-imposed fees, costs, rents, assessments, fines, and penalties other than those associated with the processing, review, and administration of applications (including but not limited to fees, costs, rents, fines, and penalties related to cemetery plots, assessing records, parking tickets, public drains, common sewers, photocopying and printing, recreational programming, facility rentals, and statutorily mandated fees) to which this Section 5.8 shall not apply.

5.8.C. Review Fees.

5.8.C.1. The Code Enforcement Officer, Planning Board, or Board of Appeals, as applicable, (hereafter, the “Reviewing Authority”) may, in its discretion, assess a review fee in addition to any applicable fees established by the fee schedule, ordinance, or law. The review fee shall not exceed the actual costs associated with processing, reviewing, and administering the Application. The review fee may include, without limitation, the actual costs of advertising, legal notices, mailings, postage, photocopies and other document reproductions, public hearings, specialized computer software, legal fees, in-house or third party professional or technical reviews of the Application (including technical reviews of traffic impacts, roadway and parking design and construction, stormwater management, and erosion and sedimentation control), or other expert or consulting fees. The Reviewing Authority shall provide the applicant with a written estimate of the review fee. The applicant shall pay to the Town the estimated review fee within 14 days of receipt of the notification; otherwise, the Application shall be returned as incomplete. If the estimated review fee is depleted prior to the completion of processing, reviewing, and administering the Application, the Reviewing Authority may provide the applicant with a revised estimate of the review fee from time to time, and the applicant shall pay to the Town the revised estimate, less any prior estimate already paid, within 14 days of receipt of the notification. The Town shall deposit the review fee into an escrow account and may draw on the account to pay for the actual costs associated with processing the Application. After the Reviewing Authority renders its final decision on the Application, the Town shall provide the applicant with an accounting of the actual costs of processing the Application, and shall return any unspent portion of the review fee to the applicant within 60 days.

5.8.D. Refunds, Waivers.

The Municipal Officers, in their sole discretion, may refund, reduce, or waive any permit fee or review fee assessed under this Ordinance when the person requesting the refund, reduction, or waiver demonstrates to the satisfaction of the Municipal Officers that an extreme hardship or injustice would result from payment of the fee.

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| *Article 6, Section 6.3.C of the Town of Buxton Zoning Ordinance is proposed to be amended by adding the words shown in underline and deleting the words shown in strikethrough, as set forth below:* |

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

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| *Article 8, Section 8.1.D of the Town of Buxton Zoning Ordinance is proposed to be amended by adding the words shown in underline and deleting the words shown in strikethrough, as set forth below:* |

8.1.D. The Planning Board shall hold a Public Hearing within thirty (30) days of the submission of a completed application. The application shall be accompanied by a fee, as provided in Section 5.8.

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| *Article 13, Section 13.3.B.1 of the Town of Buxton Zoning Ordinance is proposed to be amended by adding the words shown in underline and deleting the words shown in strikethrough, as set forth below:* |

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.

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**AMENDMENTS TO THE BUXTON ZONING ORDINANCE TO CLARIFY ADMINISTRATIVE APPEAL PROCEDURES**

DRAFT 11/22/2022

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| *Article 2 of the Town of Buxton Zoning Ordinance is proposed to be amended by adding the following definition:* |

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

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| *Article 6 of the Town of Buxton Zoning Ordinance is proposed to be amended by adding the words shown in underline and deleting the words shown in strikethrough, as set forth below:* |

**ARTICLE 6 - BOARD OF APPEALS**

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**6.2 Powers and Duties.**

The Board of Appeals shall have the following powers and duties.

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

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

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

**6.3 Appeal Procedure.**

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

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

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| *Article 8.1.I of the Town of Buxton Zoning Ordinance is proposed to be deleted in its entirety, as set forth below:* |

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| *Article 14.9 of the Town of Buxton Zoning Ordinance is proposed to be amended by adding the words shown in underline and deleting the words shown in strikethrough, as set forth below* |

**14.9 Appeals And Variances**

The Board of Appeals of the Town of Buxton may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer in the administration of the provisions of this Ordinance pursuant to Article 6 of the Zoning Ordinance.

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Discussion item: How would the Board feel about notifying abutters by certified proof of mailing instead of registered letter?

We would have to change every reference in the ordinance.

The difference is:

* regular letter cost . 57 vs. 7.85 certified cost to applicant
* the time it takes a registered letter to be delivered or picked up and sometimes never gets to the person we are trying to notify.
* Certified proof of mailing is a form the post office uses that we will out, to verify that on this day, the town mailed letters to these people. It goes out regular mail, and saves time and money and takes out the element of people who refuse to pick up certified letters from the town.