



TOWN OF KINGFIELD

SUBDIVISION ORDINANCE

Accepted March 4, 1989

A True Copy

Sandra Jean Orbeton

Town Clerk

SUBDIVISION ORDINANCE OF THE TOWN OF KINGFIELD
ADOPTED

ARTICLE I. PURPOSES

The purpose of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Kingfield; to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Kingfield, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this Ordinance have been met and that the proposed subdivision will meet the requirements established by State law.

ARTICLE II. AUTHORITY, ADMINISTRATION, EFFECTIVE DATE
REPEAL OF EXISTING ORDINANCE

2.1 Authority

- A. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30, M.R.S.A. Section 2151-A.
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Kingfield, Maine."

2.2 Administration

- A. The Planning Board of the Town of Kingfield, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined by this Ordinance within the Town of Kingfield.

2.3 Effective Date

The effective date of this Ordinance is

2.4 Repeal of Existing Subdivision Ordinance

Adoption of this Ordinance shall repeal any and all previous subdivision ordinances.

2.5 Conflict with Other Ordinances

- A. This Ordinance shall not be construed to repeal any existing bylaws or ordinances, other than those specifically identified, or to impair the provisions

of private restrictions placed upon property, provided, however, that where this Ordinance imposes greater restrictions, its provisions shall control.

- B. Where the Town of Kingfield Site Plan Review Ordinance requires approval of a proposed development along with this Ordinance, the applicant will need to comply with this Ordinance only.

2.6 Validity and Severability

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

ARTICLE III. DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Board: The Board is the Planning Board of the Town of Kingfield.

Cluster Development: A subdivision in which the lot sizes are reduced below those normally required which in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

High Intensity Soil Survey: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their eval-

uation shall not be considered to constitute high intensity soil surveys.

100 Year Flood: The flood having a one percent chance of being equalled or exceeded in any given year.

Industrial Park or Development: A subdivision developed exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Mobile Home: Structures, transportable in one or more sections, which, in the traveling mode, are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et. seq. or complies with safety standards contained in the 1987 edition of the BOCA National Building Code.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Kingfield's Planning Board pursuant to the Town of Kingfield's Subdivision Ordinance for the placement of three (3) or more mobile homes.

Net Residential Acreage: The total acreage available for the subdivision, and shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Article 3.

Net Residential Density: The average number of dwelling units per net residential acre.

Official Submittal Date: The date upon which the Board issues a receipt indicating a complete application has been submitted.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Preliminary Subdivision Plan: The preliminary drawings indi-

cating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Required Improvements: Required improvements shall include but not limited to roadways, surface water controls, sewage disposal systems, if appropriate.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Streets: Public and private ways such as alleys, avenues, boulevards, highways, roads and other rights-of-way as well as areas on subdivision plans designated as rights-of way.

Street Classification

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality.

Collector Street: A street servicing at least fifteen (15) lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Minor Street: A street servicing less than fifteen (15) lots or dwelling units.

Industrial/Commercial Street: A street servicing industrial or commercial uses.

Private Right-of-Way: A vehicular accessway serving no more than eight dwelling units which is not intended to be dedicated as a public way.

Subdivider: A subdivider is any person, partnership, corporation or other entity which undertakes the division of a parcel of land for sale as individual lots for any permissible purpose, which project constitutes a subdivision as defined in M.R.S.A. Title 30, ss4956 and this ordinance.

Subdivision: The definition of subdivision for the purpose of this ordinance shall be that definition set forth under Title 30, M.R.S.A. ss 4956 except that any parcel of land 40 or more acres in size shall constitute a lot wherever such parcel or part thereof shall be located in the Town of Kingfield.

Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream,

tidal waters where there is no flow at low tide, or a private road established by the abutting landowners.

ARTICLE IV. ADMINISTRATIVE PROCEDURE

- 4.1 Purpose. The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.
- 4.2 Agenda. The Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ten (10) days in advance of a regularly scheduled meeting by contacting the Chairman.

ARTICLE V. PRELIMINARY AND FINAL PLAN REQUIRED

- 5.1 As to any intended division of land, there shall be prepared and submitted by the sub-divider to the Planning Board both a Preliminary Plan for study and modification and a Final Plan. The Final Plan shall not be prepared until the subdivider has received from the Planning Board written notice of a vote of a majority of the Board approving a Preliminary Plan of such subdivision.
- 5.2 No Work To Be Done Within Subdivision Without Planning Board Approval. No utility installations, no ditching, grading, or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the subdivision until a Final Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as provided in this ordinance, nor until an attested copy of a Final Plan so approved and so endorsed has been duly recorded by the subdivider in the Franklin County Registry of Deeds.
- 5.3 The Preliminary Plan. The Preliminary Plan submitted by the Subdivider shall contain three prints with scales of not more than 100 feet to the inch and not less than 50 feet to the inch, and shall contain the following information:
 1. Name of title of subdivision;
 2. Scale, date, north point;
 3. Boundaries of tract;
 4. Existing zoning;
 5. Name of owner(s) and engineer(s) or surveyor(s)
 6. Names of abutting owners;
 7. Verification of right, title or interest in the property;
 8. A copy of all covenants or deed restrictions, easements, rights-of-way, liens or other encumbrances currently affecting the property;
 9. Name, location, width, profile, cross-section, radius of curves of all existing and proposed

- streets;
- 10. Kind, location, profile and cross-section of all existing and proposed drainage;
- 11. Location of features, natural and man-made, affecting the subdivision, such as water bodies, streams, swamps, wooded areas, railroads, ditches, buildings, etc.;
- 12. Location of utilities--water, electrical lines, etc.;
- 13. Sanitation existing and proposed location, size, profile and cross-section of sanitary sewers; or description, plan, location of other means of sewage disposal with evidence of soil suitability (seepage tests); all proposed systems shall comply with State Plumbing Code standards;
- 14. Lines and dimensions of lots; Topographic map if ground slope is more than 5% or less than 1%.

5.4 Other Studies To Be Made When Required. In addition to the Preliminary Plan the Planning Board may cause to be undertaken by the subdivider or by the Town Engineer or others at the subdivider's expense any studies it deems necessary or desirable to protect and assure the health, safety and welfare of the citizens of the Town of Kingfield including the future occupants of such subdivision, whether residential, commercial or industrial.

5.5 Procedures.

- A. All applications for Preliminary Plan approval for a Subdivision shall be accompanied by an application fee of \$100.00 plus \$10 for each lot or dwelling unit, payable by check to the Town of Kingfield. If the services of outside consulting engineers are required, the costs of such services shall be paid by the applicant and evidence of such payment furnished to the Planning Board before the final plans for the project will be approved.
- B. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- C. Upon receipt of an application for Preliminary Plan approval of a subdivision, the Planning Board shall notify in writing all owners of abutting property to the proposed subdivision.
- D. Within thirty (30) days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- E. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the

Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. Notice of the public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing by the Town of Kingfield.

- F. The Planning Board shall notify the Road Commissioner, School Superintendent, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Planning Board may request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- G. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make finding of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing the findings of fact and reasons for any conditions or denial.
- H. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the Final Plan;
 - 2. The character and extent of the required improvements for waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.
- I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted

for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

ARTICLE VI. FINAL PLAN

6.1 Procedure

- A. The subdivider shall, within 12 months after approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within 12 months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- C. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- D. Prior to approval of the Final Plan application, the following approvals shall be obtained in writing, where applicable.
 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 2. Maine Department of Human Services, if the subdivider proposes to provide a Community Water System as defined by the State of Maine Rules of the Department of Human Services Relating to Drinking Water (10-144A. C.M.R. 231).
 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- E. A public hearing may be held by the Planning Board within thirty (30) days after the issuance of a receipt for the submittal of a complete application.

This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing, and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. Notice of public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing.

6.2 Final Plan

A. **Submissions.** The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Offices, and three copies of the plan shall be submitted. The submission shall contain:

1. All the information required for a Preliminary Plan.
2. Existing and final proposed lines of streets, ways, lots, easements, and public or common areas within the subdivision;
3. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground by means of iron stakes or concrete markers;
4. Profiles of the center lines of proposed streets, on sheets separate from the plan diagram, at a horizontal scale of 1 inch equals 50 feet -- and a vertical scale of 1 inch equals 5 feet, with all elevations referred to U.S.G.S. datum;
5. Location of all permanent monuments properly identified as to whether existing or proposed, one of which shall be a bench marker of concrete or anchored iron post;
6. The Stamp of a Registered Surveyor;
7. A copy of such covenants or deed restrictions as are intended to cover the tract;
8. The Board may require easements for sewage, drainage and other utilities as appropriate.
9. Suitable space to record, on the plan, final

- B. 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.

6.5 Bond

Before voting to release such check or bond, the municipal officers shall determine to their satisfaction in part by a written certification signed by the chief fiscal officer and by the Planning Board Chairman that there have been submitted to them by the subdivider or his agent, written statements signed by:

- A. The Road Commissioner and a registered professional engineer, retained by the Town at the developer's expense stating that all streets and storm drainage have been constructed and completed in conformance with the Final Plan and that the waste disposal system(s), if appropriate, has been constructed and is (are) in conformance with the Final Plan.
- B. The Water District Superintendent stating that the water mains and hydrants have been installed and are in place in conformance with the Final Plan.
- C. A registered civil, paid for by the subdivider, stating that all permanent bounds or monuments on street lines (and on lot lines, if any) have been installed and are accurately in place in the locations designated on the Final Plan.

6.6 Default

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

6.7 Final Approval and Filing

- A. No plan shall be approved by the Planning Board as long as the subdivider has outstanding violations on any approved subdivision plan within the Town of Kingfield.
- B. Upon findings of fact and determination that all

standards in Title 30, M.R.S.A. S4956, Subsection 3, and this Ordinance 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 facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any approved subdivision plan not recorded in the Registry of Deeds by the subdivider within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.

- C. At the time the Board grants Final Plan approval, it may permit the subdivider to implement the plan in two or more phases subject to any conditions the Board deems necessary in order to insure the orderly development of the plan.
- D. No change, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article 8.7. The Board shall make findings that the revised plan meets the standards of Title 30, M.R.S.A. S4956, Subsection 3, and this Ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such area. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Failure to commence substantial construction of the

subdivision within two years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE VII.

MINIMUM STANDARDS FOR STREET DESIGN AND CONSTRUCTION

7.1 Minimum Standards. The design and construction of streets shall provide for proper continuation of streets from adjacent subdivisions and built-up areas and proper projection of streets into adjacent subdivided and open land.

A. Minor Streets shall be designed to discourage through traffic.

B. Design Standards

	Arterial	Collector	Minor	Private	Ind/Com
Minimum Right of Way	80'	65'	50'	50'	60'
Paving Required	yes	yes	yes	no	yes
Lanes Required	two	two	two	one	two
Minimum Land Width	14'	11'	9'	n/a	14'
Paved Shoulders	8'	8'	7'	n/a	8'
Minimum Grade	.5%	.5%	.5%	.5%	.5%
Maximum Grade	7%	10%	14%	14%	6%
Maximum grade within 50' of intersections - 3 percent					

C. Construction Standards

1. Minimum thickness of material after compaction

Materials	Arterial	Collector	Minor	Private	Ind/Com
Aggregate Sub-base					
Course (Max. sized stone 4")	18"	18"	12"	12"	18"
Crushed Aggregate Base Course	4"	3"	3"	3"	4"
Hot Bituminous Pavement					
Total Thickness	3.25"	2.5"	2.5"	n/a	3"
Surface Course	1.5"	1.0"	1.0"	n/a	1.5"
Base Course	1.75"	1.5"	1.5"	n/a	1.75"

2. All streets shall be crowned one quarter inch per foot (1/4 inch per ft).

3. Cul-de-sac and dead end streets shall have a minimum property line radius of 100 feet and a minimum turning radius of 50 feet at the closed end. Use of a T-shaped turn-round shall be permitted as an

alternate. A T-shaped turn-round must meet the following minimum standards; width-24 feet; length-40 feet. It shall be located no more than 100 feet nor no less than 50 feet from the end of the street. (All dimensions cited for the T-shaped turn-round are for traveled way.)

4. There shall be a maximum centerline length of 1,500 feet between street intersections.
5. Property lines at intersections shall be rounded with a minimum radius of 20 feet.
6. Angle of street at intersection shall not be less than 60 degrees.
7. Walking/biking paths and/or sidewalks shall be required at the discretion of the Board and shall be a minimum of four (4) feet wide.
8. In lieu of the paving requirement the developer may provide for and establish an organization for the ownership and maintenance of all streets. Such organization shall be either a nonprofit homeowners corporation or comparable structure. If such organization is formed, it shall be governed by the following:
 - (1) the organization shall be organized by the developer and operating, with financial subsidization by the developer if necessary, before the sale of any lots within the development;
 - (2) membership in the organization shall be mandatory for all purchasers of homes therein and their successors;
 - (3) the organization shall be responsible for maintenance of streets and any and all costs associated therewith;
 - (4) the members of the organization shall share equitably the cost of such maintenance.

~~ARTICLE IX. MINIMUM LOT SIZE AND SETBACK REQUIREMENTS~~

	Lot Size in Square Feet		Frontage in Linear Feet		
	With Water	With Sewer & Water	Without Sewer & Water	Minimum Road	Frontage Shore
Growth	40,000	15,000	40,000	150'	150'
Rural	40,000	40,000	40,000	200'	200'

Minimum Setbacks

Setbacks shall be measured from edge of right-of-way.

	Road/Street	Side	Rear	High Water Mark
Growth	25'	15'	15'	75'
Rural	25'	25'	25'	75'

ARTICLE X. VIOLATIONS AND ENFORCEMENT

- 10.1 No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- 10.2 No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- 10.3 No person, firm, corporation or other legal entity may convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- 10.4 Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punishable by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.
- 10.5 No public utility or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- 10.6 No person shall establish or develop a subdivision without first having a final plan thereof approved by the Planning Board. "Develop" shall include grading or construction of roads, grading of land or lots, or construction of any buildings.
- 10.7 If at any time before or during the construction of the required improvements it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting officials shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes in grade by more than one (1) percent, etc., the subdivider shall obtain permission from the Board to modify the plans.

ARTICLE XI. GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings in each, in addition to standards contained in Title 30, M.R.S.A., Section 4956, Subsection 3, have been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant.

11.1 Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan of the municipality and with the provisions of all pertinent state and local codes and ordinances.

11.2 Open Space Provisions.

A. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas.

B. The Board may require that the subdivider reserve an area equal to ten percent of his total land as an open space and/or recreational area for use by property owners in the subdivision. The developer may instead make a payment in lieu of dedication into a municipal land acquisition fund. A payment in lieu of dedication shall be calculated at the market value of land at the time of the subdivision, as determined by the municipal tax assessor, and deposited in the municipal land acquisition or improvement fund.

11.3 Land Not Suitable for Building. The following lands shall not be included in the calculations of building density for the purpose of meeting the requirements of Cluster Developments and Mobile Home Parks.

A. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least one foot above the 100 year flood level. The elevation of filled or made land shall not be considered.

B. Land which is kpart of a right-of-way, or easement, including utility easements.

C. Land that has been created by filling or draining a pond or wetland.

11.4 Sanitation System. A sanitation system including description, plan and location of sewage disposal with evidence of soil suitability shall be developed. All proposed systems shall comply with the State Plumbing Code standards.

11.5 Variances and Waivers.

- A. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular Plan, it may vary these standards so that substantial justice may be done and the public interest secure; provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan or the Zoning Ordinance, where such exist.
- B. When the Planning Board finds that, due to special circumstances of a particular Plan, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
- C. In granting variances and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

11.6 Cluster Developments

- A. Purpose: The purpose of these standards are to permit greater flexibility and consequently more creative and imaginative design than generally is possible under other provisions of this Ordinance. It is intended to further promote more economical and efficient use of land while providing a harmonious variety of housing choices and preservation of natural qualities and open space.
- B. Basic Requirements: The Planning Board, in reviewing and approving development proposals containing an area of at least ten acres, may modify the minimum requirements for lot area, lot width, road frontage and yard space which would otherwise apply pursuant to existing Town ordinances and regulations provided that the following standards are met:

1. Overall density of the development shall not exceed the number of units on land suitable for buildings which would otherwise be allowed if the land were subdivided in a conventional manner.
 2. Maximum reduction in size of individual lot shall be 50 percent, however, the resulting lot shall not be less than 20,000 square feet. No reduction in lot size shall be allowed within 200 feet of the normal high water mark as defined.
 3. Road frontage requirements shall not apply provided that suitable access for public safety and other vehicles will be provided and properly maintained. Shore frontage shall not be reduced.
- 4.4 Residual open space created by reduction in lot sizes shall be permanently and legally preserved as open space. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. The developer of any cluster development shall make suitable provisions for the permanent maintenance of open space areas, by one of the following methods:
- a) dedication of such open space to public use, if the Town or other public agency accepts such dedication;
 - b) retention of ownership and responsibility for maintenance of such open space; or
 - c) provide for and establish one or more organizations for the ownership and maintenance of all common open space and property. Such organization shall be either a nonprofit homeowners corporation or a community open space trust. If a homeowners corporation or open space trust is formed, it shall be governed by the following: (1) the organization shall be organized by the developer and operating; with financial subsidization by the developer if necessary, before the sale of any lots within the development; (2) membership in the organization shall be mandatory for all purchasers of homes therein and their successors; (3) the organization shall be responsible for

maintenance of common open space and property and for insurance and taxes on such common open space and property; (4) the members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with procedures established by them; and (5) the organization shall administer the common facilities and maintain the common open space.

C. Procedures for application and review of cluster development proposals.

1. The Planning Board shall review any proposal for a cluster development as provided by this Subdivision Ordinance.
2. In addition to information required in other sections of this Ordinance, the following will be provided in the application:
 - a) A legal description of the total site proposed for development including a statement of present and proposed ownership; present zoning, property tax map reference numbers, and the names and addresses of adjacent property owners.
 - b) A description of the character of the proposed development and the rationale behind the assumptions and choices made regarding the development.
 - c) A development schedule indicating the approximate date when construction of the cluster development can be expected to begin and be completed.
 - d) A statement of the applicant's intention with regards to the future selling or leasing of all or portions of the cluster development such as land areas, dwelling units, etc.
 - e) Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures, approximate gross and net residential densities; total amount of improved open space; total amount of unimproved open space.
 - f) Tentative proposal for the maintenance and conservation of common open space.

g) The conditions of dedication of any parcels of land to be dedicated to public use.

D. Common Land Maintenance: After final approval has been granted by the Planning Board, the Selectmen shall review all provisions for upkeep of common or public land or facilities within the cluster development. In cases where land or facilities are to be deeded over to the Town, said transactions shall be finalized or a date for completion of improvements on said land or facilities and the finalizing of said transactions shall be set, and approval shall be granted. In cases where common land or facilities are not to be deeded to the Town, the Planning Board shall grant final approval if the conditions of ownership and maintenance are consistent with those conditions set out and approved in the application.

11.7 Construction in Flood Hazard Areas.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principle structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed in any lot which is included or partially included in the flood hazard area.

11.8 Mobile Home Parks.

Proposed new Mobile Home Parks and expansions to existing mobile home parks which constitute a subdivision as defined shall comply with the provisions of this ordinance and the Town of Kingfield's minimum lot size requirements.

- A. The mobile home park will be designed so that each mobile home is placed on a defined lot clearly marked having access from a roadway within the mobile home park. The roadways and lots will be laid out to provide safe and convenient access to every mobile home lot. The lot layout will be designed so that the vehicular access to each lot is from the internal road system of the mobile home park and not from existing public streets.
- B. Each lot within a mobile home park shall be of such dimensions to provide for two (2) off-street parking spaces. Each park space shall contain a minimum of 200 square feet. The Planning Board may require additional parking areas within the mobile

home park.

- C. Lots within mobile home parks shall not be reduced below the Town of Kingfield's minimum lot size requirements.
- D. Streets and walkways designed for the general use of the manufactured home community residents shall be lighted during the hours of darkness. Lighting shall be provided and maintained to produce a minimum of 0.1 footcandle (1.1 lux) at street level throughout the system.

ARTICLE XII AMENDMENTS

- 12.1 Initiation of Amendments. An amendment to this Ordinance may be initiated by:
 - A. The Planning Board, provided a majority of the Board has voted;
 - B. Request of the municipal officers; or
 - C. Written petition of a number of voters equal to at least 10% of the number of votes cast by Kingfield residents at the last gubernatorial election.
- 12.2 Amendment Public Hearing. The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of local circulation in the municipality at least seven days prior to the hearing.
- 12.3 Adoption of Amendment. An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

ARTICLE XIII APPEALS

- 13.1 Appeal. An aggrieved party may appeal any decision of the Board under this Ordinance within thirty (30) days from the date of that decision to Franklin County Superior Court.