

# Town of Kingfield

## Zoning Ordinance

**February 2023**

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# **TOWN OF KINGFIELD**

## **ZONING ORDINANCE**

### **SECTION 1. PURPOSE, AUTHORITY, SCOPE, AMENDMENTS, SEVERABILITY**

#### **A. PURPOSE**

The purpose of this Ordinance, pursuant to the Kingfield, Maine, Comprehensive Plan, is to promote the health, safety, and general welfare of the residents of the Town; to encourage the most appropriate use of the land throughout the Town; to promote traffic safety; to provide safety from fire, flooding and and severe storms; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to provide an allotment of land area for new developments sufficient for all the requirements of community life; to conserve natural resources; to provide for adequate public services; to prevent and control water pollution; to protect spawning grounds, fish, aquatic life, birds, other wildlife habitat; to conserve the shore cover and to enhance visual and physical points of access to inland waters; and retain natural beauty.

The content and subsequent enforcement of this Ordinance are not intended to penalize persons or businesses but rather to assure appropriate uses of land, buildings and structures satisfy the intent of this Ordinance.

#### **B. Authority**

This ordinance is adopted pursuant to Article VII-A of the Maine Constitution and Title 30-A, M.R.S.A., Section 3001, and shall be known and may be cited as the “Town of Kingfield Zoning Ordinance.”

#### **C. Scope**

All buildings or structures hereinafter erected, reconstructed, expanded or moved, and uses of premises in the Town of Kingfield shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose not permitted in Section 5 (G) (Table of District Uses), or in any manner except as permitted within the district in which such building, structure, land or water area is located, and no new lot shall be created unless in conformity with all of the regulations herein specified for the District in which it is located unless a variance is granted.

#### **D. Amendments**

1. Initiation of Amendments: An amendment to this Ordinance may be initiated by:
  - a. The Planning Board provided a majority of the Board has so voted;
  - b. Request of the municipal officers; or
  - c. Written petition of a number of voters equal to at least ten (10) percent of the number of votes cast in the municipality by residents of the Town of Kingfield at the last gubernatorial election.
2. The Planning Board shall hold a public hearing on the proposed amendment at least fourteen (14) days prior to the meeting of the Governing Body. Notice of the hearing shall be published in a newspaper of general circulation in the area, at least two (2) times, the date of the first publication to be at least twelve (12) days prior to the hearing and the date of the second publication must be at least seven (7) days before the hearing. Additional notice to affected property owners shall be as provided by 30-A M.R.S.A. Section 4352.
3. Adoption of Amendment: An amendment to this Ordinance may be adopted by a majority of voters present at a duly called Town Meeting.

**E. Validity and Severability**

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.

**F. Conflict with Other Ordinances**

This Ordinance shall not be construed to repeal any other, or to impair the provisions of private restrictions placed upon property. Should any provision of this Ordinance conflict with or be inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

**G. Effective Date**

The effective date of Ordinance shall be the date of its adoption or amendment at Town Meeting.

**SECTION 2. DEFINITIONS**

## A. Construction of Language

In this Ordinance, certain terms or words should be interpreted as follows:

1. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word “shall” is mandatory, the word “may” is permissive; the words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied”, and the word “dwelling” includes the word “residence”. In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.
2. Terms not defined shall have the customary dictionary meaning.

## B. Definitions

In this Ordinance, the following terms have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

**Accessory Use or Structure:** a use or structure of a nature customarily incidental and subordinate to those of the principal use or structure.

**Agriculture:** the cultivation of soil, producing or raising crops, including gardening, horticulture, and silviculture, as a commercial operation. The term shall not include home gardens, lawns, or landscaping.

**Aquifer:** an underground body of earth, sand, gravel, or rock that contains sufficient saturated permeable material to conduct and yield economically significant quantities of groundwater to wells and springs. The term “aquifer” as used in this Ordinance includes all areas specifically mapped or identified in the Town of Kingfield Comprehensive Plan, as amended, or on Maine Geological Survey Significant Sand and Gravel Aquifer Maps, as groundwater aquifers.

**Aquifer-Dependent Industry:** a commercial or industrial water bottling facility that involves the extraction of groundwater in an amount greater than five thousand (5,000) gallons in any day. The term “Aquifer-Dependent Industry” as used in this Ordinance includes, but is not limited to, accessory uses such as wells, springs, water storage tanks, water treatment, packaging and shipping, piping, and pumping stations, and all structures and utilities needed to house or accommodate such accessory uses.

**Automobile Graveyard:** as defined by 30-A M.R.S.A. Section 3752.

**Beds and Breakfast:** a single-family dwelling in which lodging or lodging and meals are offered to the general public for compensation.

**Boardinghouse:** any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two weeks, and where a family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room.

**Boathouse:** a nonresidential structure designed for the purpose of protecting or storing boats for noncommercial purposes.

**Building:** a structure designed for habitation, storage, trade, manufacture, religion, business, education or shelter of persons, animals, goods, or property of any kind.

**Business Entity:** a business with separate ownership or a business located on separate noncontiguous premises or a business outside the curtilage of a dwelling house or a business with separate product, management and staff.

**Campgrounds:** any premises established for temporary overnight accommodation with or without shelter, such as a tent and recreational vehicle, for which a fee is charged.

**Commercial:** involving the buying, selling, exchange or provision of goods, services, or entertainment to the general public on a regular basis.

**Comprehensive Plan:** Developed in 1988, with minor amendments in 2002, reflects the community's values for the Town of Kingfield. The plan presents information, trends and characteristics of the town in its writing and in the 10 year future. Strategies and proposed actions to carry out the plan are identified (short, mid-term and long term).

**Construction:** includes building, erecting, moving upon or any physical operations on the premises, which are required for construction. Excavation, fill, paving, drainage and the like shall be considered part of construction.

**Contract and Conditional Zoning:** contract and conditional zoning is the process whereby the municipal legislative body (in this case the Town of Kingfield Select Board), rezones property to allow its use subject to conditions not generally applicable to other properties with similar zoning. The conditions are imposed by the legislative body as a condition of the rezoning and become part of the ordinance (added as an appendix); there is no separate written agreement. Contract and conditional zoning is enabled by State of Maine statute 30-A M.R.S.A. 4352 (8). Details of how this process works is contained in Section 5 A6.

**Discontinuance:** the cessation of a use causing the land, building or structure to be defined as nonconforming.

**Disposal:** any direct or indirect discharge, deposit, injection, dumping, leaking, spilling, or placing of any hazardous noxious waste into the air, into the water, or onto the land, except in connection with agriculture.

**Dwelling:** a building designed and/or used exclusively for residential occupancy, including one-family, two-family and multi-family but excluding hotels, motels, lodging houses, boarding houses or tourist homes.

**Dwelling, Apartment:** a dwelling unit for rent or lease within multi-family buildings providing separate, independent living and sleeping. An apartment dwelling may include an efficiency unit where no specific bedroom is provided or a unit including one or more bedrooms.

**Dwelling, Multi-Family:** a building or portion thereof containing three or more dwelling units.

**Dwelling, Single Family:** a building designed for or occupied by one family, constructed on the site, attached to a permanent foundation.

**Dwelling, Two Family:** a building designed for or occupied by two families, constructed on the site, attached to a permanent foundation.

**Dwelling Unit:** a building or entirely self-contained portion thereof designed for residential use for only one (1) family and including provisions for sleeping, living, cooking, and eating. A boarding house, hotel, inn, lodging or rooming house, nursing or other similar house or other similar structure shall not be deemed to constitute a dwelling unit.

**Expansion:** in relation to a building, expansion shall include: enlargement or relocation of floor area; construction of a basement; enlargement of building enclosure; moving a building; and, also in relation to a building, expansion shall not include repairs, maintenance and improvements. In relation to a use, expansion shall mean extension, enlargement, or relocation. In relation to a structure, expansion shall mean extension, enlargement, relocation, or increase in height.

**Filling:** depositing or dumping any matter on or into the ground or water.

**Flea Market:** a shop or open market, selling antiques, used household goods, curios, and the like at a frequency of more than four (4) days in any six (6) month period. Flea markets, as distinguished from yard or garage sales, shall be considered to be retail businesses under this Ordinance.

**FloodPlain Management Ordinance:** Certain areas of the Town of Kingfield are subject to periodic flooding, causing serious damage to properties within these areas. This ordinance identifies these flood hazard areas and invokes land use requirements that may be more strict than the town's other land use ordinances. A Flood Hazard Development Permit is required to be submitted to the Code Enforcement Officer before any construction or other development begins in these designated areas.

**Floor Area:** the sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls.

**Footprint of improvement area:** That area of ground directly beneath a structure.

**Frontage:** the horizontal distance between side lot lines as measured along the front lot line. Frontage shall be continuous and under one ownership. For corner lots, frontage may be the total distance along more than one street as long as it is continuous.

**Frontage, Shoreline:** the horizontal distance, measured in a straight line, between the intersection of the side lot lines with the shoreline at normal high water elevation.

**Generation:** the production of one hundred (100) kilograms or more, of hazardous waste in a calendar month.

**Ground Water:** underground water located in an Aquifer or unconsolidated sediment or rock below the Water Table.

**Hazardous Waste:** a waste substance or material, in any physical state, designated by the Maine Board of Environmental Protection under Title 38, M.R.S.A. Section 1319-0.

**Hazardous Waste; use, generation, storage of:** A land use involving use, generation, and storage of hazardous waste as a primary use. This definition does not include use, generation or storage of hazardous waste normally ancillary to a permitted use.

**Home Occupation:** an occupation or profession which is: accessory to a residential use and is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

**Hotel:** a building in which lodging with or without meals are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as newsstands and restaurants.

**Industrial:** any activity which includes the fabrication, servicing, manufacturing, storage, processing or shipping of products, resources, or commodities. This use does not include timber harvesting; agriculture; or sand, gravel and topsoil extraction.

**Institutional:** a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Inn:** a building which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house.

**Junkyard:** a yard, field or other area used as a place of storage for:

- a) Junk or scrap automobiles;
- b) Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment; appliances, furniture, and other personal property;
- c) Discarded, scrap and junked lumber;
- d) Old or scrap copper, brass, rope, rags, batteries, paper trash, garbage, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; or .
- e) Used tires, discarded tires, or worn-out tires which may or may not be usable now or in the future.
- f) Municipally owned-transfer stations, garbage dumps, waste dumps and sanitary fills will not be considered junkyards for the purpose of this Ordinance.

**Kingfield Water District:** An independent organization that manages the Town of Kingfield's public water supply.

**Legal Description:** a description of Real Property complete enough that a particular parcel of land can be located and identified.

**Lot:** a parcel of land in single or common ownership, described in a deed or similar legal document. A parcel divided by a street shall be considered as two (2) separate lots.

**Lot of Record:** a lot, a legal description of which is recorded on a document or map on file with the County Register of Deeds.

**Manufacturing:** the processing and converting of raw, unfinished, or finished materials or products, or any of these into an article or substance of different character, or for use for a different character, or for use for a different purpose; also, industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles. This use does not include groundwater or surface water extraction for an Aquifer-Dependent Industry.

**Marina:** a shore front commercial facility with provisions for one (1) or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

**Mining of Land:** the removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone. This use does not include groundwater or surface water extraction for an Aquifer-Dependent Industry.

**Mobile Home:** a structure constructed at least twelve (12) feet wide designed as a dwelling unit of not more than eighteen (18) feet in width when assembled; designed to be transported after fabrication; and whether or not designed for location on a permanent foundation. Transportation design is not limited to movement upon stationary or permanent wheels or tracks. A mobile home shall contain not less than five hundred (500) square feet of gross floor area. Additions not part of the transportable basic structure shall not be included in the measurement of width.

**Mobile Home Park:** a parcel of land under unified ownership approved by the municipality for the placement of three or more manufactured homes.

**Motel:** a building or group of buildings in which lodging is offered to the public for compensation, and where entrance to rooms is made directly from the outside of the building. Motel includes such terms as tourist cabins and tourist court. Any transient accommodations which do not meet the definitions of Beds and

Breakfast, Hotel or Inn shall be deemed to be a motel for the purpose of this Ordinance.

**Nonconforming Building or Use:** a building, structure, use of land, or portion thereof existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance but which conformed to any and all applicable provisions of the ordinance or ordinances amended or repealed by this Ordinance or which was legally nonconforming therewith.

**Nonconforming Lot of Record:** a lot of record existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance but which conformed to any and all applicable provisions of this Ordinance or Ordinances amended or repealed by this Ordinance or which was legally nonconforming therewith.

**Normal High-water Line:** that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

**Open Space Use:** a use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.

**Parking Space:** a minimum area of one hundred eighty (180) square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

**Principal Building:** the building in which the principal use of the lot is conducted. A lot may contain two (2) principal buildings if there are two (2) principal uses.

**Principal Structure:** the structure in which the principal use of the lot is conducted. A lot may contain two (2) principal structures if there are two (2) principal uses.

**Principal Use:** the primary use to which the premises are devoted, and the main purpose for which the premises exist.

**Recreational Facilities:** the following types of recreational facilities are recognized for the purpose of this Ordinance.

**a) Public Recreational Facility:** an area or structure dedicated and set aside for recreational use by the general public or for the townspeople of Kingfield, not including any facility for which a user fee is charged.

**b) Commercial Recreational Facility:** an area or structure established for recreational use for which a fee is charged or the enjoyment of which is not open to the general public or all the townspeople of Kingfield.

**Recreational Vehicle:** a vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer or motorhome.

**Residential Building:** a building providing living accommodations.

**Retail Business:** a business establishment engaged in the sale, rental, or lease of goods to the end consumer for direct use or consumption and not for resale.

**Right of Way:** an easement to pass over another's land.

**Road:** a strip of land improved for public or private travel.

**Road Frontage:** the frontage of a lot along a road which is located on a right of way sufficient for the purpose for which the lot is used, or the frontage along a street.

**Sand, Gravel, Topsoil and Other Solid Earth Extraction:** the mining of land for commercial use outside of or within a lot in quantities exceeding ten (10) cubic yards in any two (2) year period.

**Service Establishment:** a business establishment engaged in the sale of non-material services beyond the scope of that allowed as a home occupation.

**Setback:** the minimum horizontal distance from the nearest part of a structure to the centerline of a traveled way, lot line or normal high-water line.

**Shoreland Common Area:** a parcel of land containing shore frontage, which parcel is a part of a planned development such as a subdivision or a landowner's association or similar organization and which parcel provides access to the shoreland zone of water bodies for non-shoreland or shoreland lot owners in the development, subdivision or association. Access for lot owners to such common areas may be by formal easement, rights-of-way, informal agreement, adoption of bylaws or development covenants.

**Shoreland Zoning Ordinance:** A Town of Kingfield land use ordinance established to further protect our water bodies. It applies to all land within 250 feet of any great pond or river, upland edge of a freshwater wetland and all land areas within 75 feet of a stream. This ordinance identifies these shoreland areas and invokes land use requirements that may be more strict than the town's other land use ordinances.

**Sign:** a name, identification, description, display or illustration for advertising or information purposes painted or represented upon any surface.

**Solid Waste:** discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

**Street:** a right-of-way owned or accepted and required to be maintained by the town, county or state for public travel. Also, a right-of-way dedicated for public travel and shown on a subdivision plan. I'm

**Structure:** anything constructed or erected, for the support, shelter, or enclosure of persons, animals, goods, or property of any kind the use of which requires location on the ground or attachment to something on the ground but not including a boundary wall, fence, sign or landscaping.

**Subdivision:** subdivision is defined as per Title 30-A, M.R.S.A. Section 4401, as amended, and the Subdivision Ordinance for the Municipality of Kingfield.

**Subdivision Ordinance:** A Town of Kingfield land use ordinance established to manage the development of subdivisions. This ordinance establishes an orderly, equitable and expeditious procedure for reviewing subdivisions by the Code Enforcement Officer and Planning Board.

**Timber Harvesting:** the cutting, removal, and primary processing with mobile equipment of trees from their growing site and the attendant operation of cutting, skidding, chipping and sawing machinery but not the construction or creation of roads or structures. Timber harvesting does not include the clearing of land for approved construction.

**Trailer, Utility:** a vehicle without motive power, designed to be towed by another vehicle, but not designed for human occupancy, and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

**Traveled Way:** the portion of a roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

**Use:** the purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

**Utilities:** gas, electrical, communication facilities, steam, fuel, or water transmission, collection, supply or distribution systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire

alarm and police call boxes, traffic signals, hydrants and similar accessories, and the buildings which are necessary for the furnishing of such services.

**Vacant:** in connection with the merger of nonconforming lots, a vacant lot is a lot having no principal structure on it.

**Variances:** a relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance.

As used in this Ordinance, variance is authorized only for height, area, and size of structures. Establishment of a prohibited use shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Land Use District, or uses in adjoining Land Use Districts. Variances shall not be granted for land uses in wellhead protection areas of the Town of Kingfield as defined in appropriate Town of Kingfield ordinances.

**Water Table:** the underground water surface at which the pressure is equal to that of the atmosphere. The water table changes throughout the year in response to precipitation recharge and the level of nearby surface waters. The water table fluctuates naturally in response to recharge by precipitation and discharge to surface water.

**Wellhead Protection Ordinance:** A Town of Kingfield land use ordinance established to protect the public water supply from land uses which pose a threat to the quality and quantity of the ground water being extracted from the wells which serve the public water supply. Wellhead protection zones are identified on the Town of Kingfield Wellhead Protection Area Map. This ordinance identifies these areas and invokes land use requirements that may be more strict than the town's other land use ordinances.

**Wetlands:** freshwater wetlands include those identified on the U.S. Interior, Department of Fish & Wildlife map as well as any other wetlands identified by the Town of Kingfield. Wetlands include all lands between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have all of the following attributes: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is non soil and is saturated with water or covered by shallow water at some time during the growing season of each year.

**Wholesale:** for resale, not for consumption by the end consumer.

**Yard or Garage Sale:** a sale, conducted indoors or out of doors, of used household goods, curios and the like, at a frequency of less than four (4) days in any six (6) month period.

### SECTION 3. ADMINISTRATION AND ENFORCEMENT

#### A. General

This Ordinance shall be administered and enforced by a Code Enforcement Officer appointed or reappointed by the Selectmen.

#### B. Permit Required

1. A permit shall be obtained from the Code Enforcement Officer prior to the commencement of construction, reconstruction or placement of any structure or the expansion of the footprint or increase in height of an existing structure; prior to the establishment of a use or change of a use on a premises and prior to the renewal of a discontinued use. No permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals; and except for the issuance of a permit by the Code Enforcement Officer to the owner of a dwelling unit for the purpose of making the dwelling unit accessible to a person with a disability who resides in or regularly uses the dwelling (MSA 30-A §4353-A).

Any permit granted under this Ordinance shall only be issued to an applicant who has proven the right to receive the permit or to an agent authorized by them in writing.

The following accessory structures, when **not** located in the Shoreland Zone or Special Flood Hazard Area, and not used as a dwelling unit, do not require a permit: structures of less than two hundred (200) square feet; temporary fabric shelters and greenhouses; seasonal structures, such as inflatable pools, tents and screen houses. Even though a permit is not required all applicable setbacks must be met.

A permit is not required for the normal maintenance and upkeep of a structure or use including repairs and renovations that do not involve expansion and such other changes as federal, state, or local safety codes may require.

2. Permits for construction shall expire three (3) years from date of issuance. All external construction on a project must be completed by that date. Permits for a use are for the life of the project once construction is completed.

3. A use which is discontinued for a period of five (5) years may not be resumed without a new permit from the appropriate permitting authority shown in Section 5.G.

**C. Use Permits - Application**

1. A permit application for a building, structure, or use on any lot as prescribed in Section 5.GF. shall be in the name of the owner of record thereof.
2. Any person required and entitled by any provision of the Ordinance to obtain a permit for any building, structure, or use, shall file a written application with the permitting authority as designated in Section 5.G District Uses. Such application shall be made on a form provided for that purpose. Any application for a permit described in Section 3.B.1 above shall be accompanied by a fee based on the schedule of fees adopted by the Board of Selectmen after notice and public hearing.
3. Applications for permits, along with their accompanying plans and any permits issued or other decisions shall be maintained as a permanent record by the Municipality
4. If the Code Enforcement Officer determines that the building, structure, or use for which a permit is sought is one that may be allowed by this Ordinance and for which the Code Enforcement Officer ~~he~~ is listed in Section 5 as the permitting authority-then the Code Enforcement Officer shall approve, approve with conditions, or deny the permit within twenty (20) working days after receipt of a complete application. The failure to approve the permit within the required period shall constitute denial of the permit.
5. If the Code Enforcement Officer determines that the building, structure, or use for which a permit is sought is one that may be allowed by this Ordinance, and requires a Site Plan Review by the Planning Board, as ~~is~~ listed in Section 5, ~~he~~ then the Code Enforcement Officer shall refer the application to the Planning Board.
6. No permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a valid Internal Plumbing Permit has been issued to the applicant or his authorized agent by the Local Plumbing Inspector.
7. Any permit application for a building, structure or use that is not allowed by this Ordinance shall be denied.

## **D. Enforcement**

**1. Nuisances:** Any violation of this Ordinance shall be deemed to be a nuisance.

**2. Code Enforcement Officer:**

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, the Code Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.

(b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with this Ordinance and with conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, Board of Appeals variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

**3. Legal Action:** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Municipal Officers are also authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. **Fines:** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452. Each day a violation continues constitutes a separate offense. If the Municipality prevails at trial such persons shall also be liable for court costs and attorney fees incurred by the municipality

## SECTION 4. NONCONFORMING USES & STRUCTURES

### A. Nonconforming Uses

1. **Continuance:** Except as provided in Paragraph 3 below, the use of land, buildings, or structures, lawful at the effective date of this Ordinance, may continue, although such use does not conform to the provisions of this Ordinance.
2. **Resumption:** Whenever a nonconforming use of land and/or a structure is superseded by a permitted use, such structure and/or land shall thereafter conform to the provisions of this Ordinance and the nonconforming use may not be resumed.
3. **Discontinuance:** A nonconforming use which is discontinued for a period of five (5) years may not be resumed. The uses of the land, building, or structure shall thereafter conform to the provision of this Ordinance.
4. **Expansion of Use:** A nonconforming use, not located in the Shoreland Zone, may be expanded to increase its total floor or footprint of improvement area, existing at the time of adoption or subsequent amendment of this Ordinance, by up to thirty (30) percent.

### B. Nonconforming Structures

1. **Maintenance:** A structure in existence as of the effective date of this Ordinance and that does not meet the minimum setback, maximum lot coverage, or maximum height requirements of the district in which it is located, may be repaired, maintained, and improved without a permit so long as its overall size or height is not enlarged.
2. **Enlargement:** A structure that is not located in the Shoreland Zone may be enlarged with a permit and accessory structures may be added to the site with a permit, but without a variance, provided that;
  - a. the enlargement in combination with the existing structure does not exceed, or worsen any existing infraction of, the prescribed maximum lot coverage;

- b. the enlargement or accessory structure does not itself or in combination with the existing structure exceed the prescribed height standard; and
- c. the enlargement or accessory structure itself meets the prescribed setback requirements; or, if located within the same yard as the nonconforming part of the existing structure, is no closer to the front, side, or rear lot line than the nonconforming structure and contains no more than fifty (50) percent of the ground floor area of the nonconforming structure existing as of the effective date of this Ordinance, notwithstanding the provisions of Section 3.B-1.

**3. Reconstruction:** Any nonconforming structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed after obtaining a permit within the following constraints:

- a. Reconstruction must be initiated within twenty-four (24) months of such fire or act;
- b. Reconstruction must be completed within twenty-four (24) months of its initiation;
- c. If a nonconforming structure is demolished or willfully destroyed by the owner or his agent, any replacement structure and/or associated use shall thereafter conform to the provisions of this Ordinance and neither may the nonconforming use thereafter be resumed nor may the structure be rebuilt except that:

A nonconforming structure may be demolished and replaced by the owner under the following conditions:

- 1) Upon reconstruction, such structure may house only the nonconforming use, business or enterprise housed prior to demolition of the predecessor structure;
- 2) Such structure shall not be made more nonconforming in its reconstructed state than had been the case prior to demolition.

No reconstruction and/or use shall be more nonconforming than the prior nonconforming use, building or structure.

- 3) Paragraphs a and b-above are complied with.

**C. Transfer of Ownership**

A structure or use of land which remains lawful but becomes nonconforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the nonconforming use or structure subject to the provisions of this Ordinance.

**D. Nonconforming Lots of Record**

1. A vacant nonconforming lot of record at the effective date of the ordinance may be built upon provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met.
2. A nonconforming lot that was built upon prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions.
  - a. The structure(s) may be repaired, maintained, or improved, and may be enlarged with a permit if they conform with all dimensional requirements of this Ordinance except those of lot area, lot width or lot frontage;
  - b. Any improvement or enlargement must meet performance standards specified by Section 6 of this Ordinance;
  - c. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this Ordinance, a variance shall be obtained from the Board of Appeals prior to initiating the desired enlargement.
3. Two (2) or more contiguous lots or parcels in the same, single, joint, or common ownership of record at the time of adoption of this Ordinance
  - a. either, any, or all of which do not meet the dimensional requirements stated in this Ordinance, and
  - b. on each of which a different principal use may be conveyed separately or together providing there is compliance with the requirements of the State Minimum Lot Size Law and Subsurface Wastewater Disposal rules.
4. If two (2) or more principal uses or principal buildings existed on a single lot or contiguous lots of record on the effective date of this Ordinance, each may be sold as a separate lot providing each lot complies with the State Minimum Lot Size Law and Subsurface Wastewater Rules.

5. When there are two (2) or more contiguous lots or parcels in single, common, or joint ownership of record at the time of or since adoption or amendment of this Ordinance, and when one (1) or more of such lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments; then the lot or lots that do not meet the dimensional requirements of this Ordinance shall be combined to the extent necessary to meet the dimensional standards of this Ordinance or subsequent amendments, except as provided in paragraph 4 above.

**E. Restoration of Unsafe Property**

Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any part of any conforming or legally nonconforming building declared unsafe by the Code Enforcement Officer.

**SECTION 5. ZONING DISTRICTS AND OVERLAY ZONES**

**A. Establishment of Districts**

To implement the provisions of this Ordinance, the Town of Kingfield, Maine, is hereby divided into the following districts:

1. Village District
2. Growth District
3. Rural 1 District
4. Rural 2 District
5. Roadway Approach Overlay District
6. Contract Zoning

B. Said districts are located and bounded as shown on the zoning map entitled “Zoning Map of Kingfield” attached to this Ordinance as Appendix I.

C. Village, Growth, Rural 1, and Rural 2 Districts are defined as follows:

1. The Village District is defined as the area bounded as follows:

Beginning at southeast corner of Map 13, Lot 50, and extending westerly along the southerly boundary of said Lot 50 to the northeast corner of Map 13, Lot 51, thence southerly along the easterly boundary of Map 13, Lots 51, 53, and 54, thence westerly along the southerly boundary of said Lot 54 to the intersection of said boundary with Main Street, thence southerly along said Main Street to the intersection with School Street, thence westerly and northerly along said School Street to the southeast corner of Map 13, Lot 56, thence westerly along the southerly boundary of said Lot 56,

thence northerly along the westerly boundary of said Lot 56 and Map 13, Lot 57 to the Northwest corner of said Lot 57,  
thence westerly along the southerly boundary of Map 13, Lots 58 and 58-1,  
thence northerly along the westerly boundary of said Lot 58-1 to the intersection of said boundary with Curve Street,  
thence westerly and northerly along said Curve Street to the intersection with Salem Road and the westerly boundary of Map 13, Lot 7,  
thence easterly along said Salem Road to the southeast corner of Map 15, Lot 1,  
thence northerly along the westerly boundary of said Lot 1 and Map 15, Lot 2,  
thence easterly along the northerly boundary of said Lot 2 to the intersection of said boundary with Pleasant Street/Depot Street, thence northerly along said Pleasant Street/Depot Street to the southwesterly corner of Map 15, Lot 4,  
thence northerly along the westerly boundary of said lot 4 to the intersection of said boundary with the southerly boundary of Map 15, Lot 3-1,  
thence westerly and northerly by the southerly and westerly boundary of said Lot 3-1 and northerly by the westerly boundary of Map 15, Lot 8 to the intersection of said boundary with the West Branch of the Carrabassett River,  
thence easterly along said West Branch to the southwesterly corner of Map 15, Lot 22,  
thence northerly along the westerly boundary of said Lot 22 to the intersection of said boundary with West Branch Street,  
thence easterly along said West Branch Street to the southwesterly corner of Map 18, Lot 5,  
thence northerly along the westerly boundary of said Lot 5 and Map 18, Lot 6 to the southeasterly corner of Map 18, Lot 11,  
thence westerly and northerly along the southerly and westerly boundaries of said Lot 11 to the intersection of said boundary with West Kingfield Road,  
thence easterly along said West Kingfield Road to the southwest corner of Map 18, Lot 12,  
thence northerly along the westerly boundary of said Lot 12 and northerly and easterly along the westerly and northerly boundary of Map 18, Lot 14, to the southwesterly corner of Map 18, Lot 16,  
thence northerly along the westerly boundary of said Lot 16 and Map 18, Lot 17, to Mt. View Road,  
thence westerly along said Mt. View Road to the southeasterly corner of Map 18, Lot 20,  
thence northerly along the westerly boundary of said Lot 20 and Map 21, Lots 1 and 2 to the intersection of said boundary with Narrow Gauge Street,  
thence easterly along said Narrow Gauge Street to the intersection with Main Street,  
thence northerly along said Main Street to the northwest corner of Map 18, Lot 21-2,  
thence easterly along the northerly boundary of said Lot 21-2 and southerly along the easterly boundary of said Lot 21-2 and Map 18, Lots 21-1, 21, 22, and 23 to the northwesterly corner of Map 18, Lot 27,  
thence easterly along the northerly boundary of said Lot 27 to the Carrabassett River,  
thence southerly along the said Carrabassett River to the point of beginning.

The Growth District is defined as the area bounded as follows:

Beginning at the Intersection of the Carrabassett River with the southerly boundary of the Town of Kingfield and extending westerly along said boundary to the southwesterly corner of Map 2, Lot 26,  
thence northerly along the westerly boundary of said Lot 26 to a point 500 feet south of the centerline of Salem Road,  
thence westerly along a line 500 feet southerly of said Salem Road to the intersection of said line with the easterly boundary of Map 2, Lot 15,  
thence northerly along said boundary to the intersection of said boundary with said Salem Road,  
thence easterly along said Salem Road to the southwest corner of Map 2, Lot 22-1,  
thence northerly along the westerly boundary of said Lot 22-1 to intersection of said boundary with the West Branch of the Carrabassett River,  
thence westerly along said West Branch intersection of said West Branch with the westerly boundary of Map 2, Lot 85,  
thence northerly along the westerly boundary of said Lot 85 and westerly along the southerly boundary of Map 2, Lot 84 to the intersection of said boundary with the Christen Road,  
thence northerly along said Christen Road to the intersection with West Kingfield Road,  
thence westerly along said West Kingfield Road to the southwest corner of Map 2, Lot 70-4,  
thence northerly along the westerly boundary of said Lot 70-4 and easterly along the northerly boundary of said Lot 70-4 to a point 500 feet east of the centerline of West Kingfield Road,  
thence north and east along a line 500 feet east of the centerline of said West Kingfield to the intersection of said line with the easterly boundary of Map 2, Lot 52,  
thence northerly along said easterly boundary of said Lot 52 to the northeast corner of said Lot 52,  
thence via a direct line to the southwest corner of Map 5, Lot 32-5,  
thence northerly along the easterly boundary of Map 2, Lot 49 to the northeasterly corner of said Lot 49,  
thence easterly along the northerly boundary of Map 5, Lots 10 and 11, to the northeasterly corner of said Lot 11,  
thence easterly along the southerly boundary of Map 19, Lot 47, to the intersection of said southerly boundary with Beech Lane,  
thence northerly along said Beech Lane to the Northwest corner of Map 19, Lot 66,  
thence easterly along the northerly boundary of said Lot 66 to a point 500 feet west of Main Street,  
thence northerly along a line 500 feet west of Main Street to the intersection of said line with the northerly boundary of Map 8, Lot 37-4,  
thence easterly along the northerly boundary of said Lot 37-4 and the extension thereof to the Carrabassett River,  
thence southerly along said Carrabassett River to the intersection of said Carrabassett River with the westerly boundary of Map 6, Lot 5-1-1,  
thence northerly along the westerly boundary of Map 6, Lots 5-1-1, 5-1-3 and 5-1-4 and easterly along the boundary of Map 6, Lots 5-1-4 and 5-1-2 to the northeast corner of said Lot 5-1-2,  
thence southerly along the easterly boundary of said Lot 5-1-2 to the intersection of said boundary with Maple Street,  
thence southerly along said Maple Street to the intersection with the northerly boundary of Map 6, Lot 19,

thence easterly along the northerly boundary of said Lot 19 and easterly along the northerly boundary of Map 6, Lot 20 to a point 500 feet east of Cedar Street,  
thence southerly along a line 500 feet easterly of Cedar street to the intersection with a line 500 feet easterly of Maple Street,  
thence southerly along said line 500 feet easterly of Maple Street to the intersection of said line with the northerly boundary of Map 16, Lot 5,  
thence easterly along said northerly boundary of said Lot 5 to the northeasterly corner of said Lot 5,  
thence via a direct line to the southeasterly corner of Map 3, Lot 21,  
thence southerly along the easterly boundary of Map 3, Lots 23, 22, 49, and 50 to the southeasterly corner of said Lot 50,  
thence via a direct line to the northeasterly corner of Map 3, Lot 57-2,  
thence southerly along the easterly boundary of said Lot 57-2 and westerly along the southerly boundary of said Lot 57-2 and Map 3, Lots 57-1-1, 55-2, 55-3 and 52 to the Carrabassett River,  
thence southerly along said Carrabassett River to the point of beginning.

Excepting that portion of the area described heretofore as "village district".

The Growth District also includes the area bounded as follows:

Beginning at the intersection of the Carrabassett River with the northerly boundary of the Town of Kingfield and extending easterly along said boundary to the northeasterly corner of Map 12, Lot 1,  
thence southerly along the easterly boundary of said Lot 1 to the northeasterly corner of Map 9, Lot 7,  
thence via a direct line to the northeasterly corner of Map 9, Lot 5-5,  
thence westerly along the northerly boundary of said Lot 5-5 to the southeasterly corner of Map 9, Lot 7-1,  
thence westerly along the southerly boundary of said Lot 7-1 to the intersection of said boundary with said Carrabassett River,  
thence northerly along said Carrabassett River to the point of beginning.

3. The Rural 1 District includes all land in the Town of Kingfield not included in the areas described as "Village District", "Growth District", or "Rural 2 District".

4. The Rural 2 District is defined as the area bounded as follows:

Beginning at the northeasterly corner of Map 12, Lot 1, and extending easterly along the northerly boundary of the Town of Kingfield and southerly along the easterly boundary of the Town of Kingfield to the northeasterly corner of Map 12, Lot 3-1,  
thence westerly along the northerly boundary of said Lot 3-1 and southerly along the westerly boundary of said Lot 3-1 to the intersection with the northerly boundary of Map 12, Lot 4,  
thence westerly, southerly, and easterly along the northerly, westerly and southerly boundaries of said Lot 4 to intersect the easterly boundary of the Town of Kingfield,  
thence southerly along said easterly boundary of the Town of Kingfield to the southeasterly corner of Map 9, Lot 3,

thence westerly and northerly along the southerly and westerly boundaries of said Lot 3 line to the northeasterly corner of Map 9, Lot 5-5,  
thence via a direct line to the northeasterly corner of Map 9, Lot 7,  
thence northerly along the easterly boundary of Map 12, Lot 1, to the point of beginning.

The Rural 2 District also includes the area bounded as follows:

Beginning at the northwesterly corner of Map 11, Lot 4 and extending southerly along the westerly boundary of said Lot 4 and Map 11, Lot 7, and easterly along the southerly boundary of said Lot 7 to the intersection of said boundary with Main Street,  
thence southerly along said Main Street to the northeast corner of Map 11, Lot 11,  
thence westerly and southerly along the northerly and westerly boundaries of said Lot 11 to the intersection of said boundary with the northerly boundary of Map 8, Lot 26,  
thence westerly along the northerly boundaries of said Lot 26 and Map 8, Lot 23, to the intersection with Tufts Pond Road,  
thence northerly along said Tufts Pond Road to the northeast corner of Map 8, Lot 24-3,  
thence westerly along the northerly boundaries of said Lot 24-3 and Map 8, Lots 24 and 24-1 to the northwest corner of said Lot 24-1,  
thence southerly along the boundary of Map 4, Lot 10, to northwest corner of Map 5, Lot 6,  
thence easterly and southerly along the northerly and easterly boundary of said Lot 6 to the northwest corner of Map 5, Lot 7,  
thence easterly, southerly and westerly along the northerly, easterly, and southerly boundaries of said Lot 7 to the southwest corner of said Lot 7,  
thence westerly and southerly along the northerly and westerly boundaries of Map 5, Lot 1, to the northwesterly corner of Map 4, Lot 12,  
thence via a direct line to the northwesterly corner of Map 4, Lot 11,  
thence southerly along the easterly boundary of Map 4, Lot 10, to the northeast corner of Map 1, Lot 4,  
thence southerly along Rapid Stream to the southerly boundary of the Town of Kingfield,  
thence westerly, northerly, and easterly along the southerly, westerly, and northerly boundaries of the Town of Kingfield to the point of beginning.

## **D. Contract Zoning**

### SECTION A CONTRACT ZONING 6

#### 6A: PURPOSE

Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations,

more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change. In consideration of a change in zoning classification for a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that certain conditions, limitations or restrictions be made or imposed on the use or development of the property for which a change in zoning classification is otherwise appropriate. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners and the neighborhood, all other property owners and citizens of the Town of Kingfield, and to secure appropriate development consistent with the Town's Comprehensive Plan.

#### 6B: AUTHORIZATION

Pursuant to 30-A M.R.S.A. § 4352 (8), the Town of Kingfield hereby authorizes contract zoning for the conditional zoning of property, where for reasons such as the unusual nature or the unique location of the property, the Town finds it is necessary or appropriate to impose, by agreement with the property owner, certain conditions or restrictions in order to ensure that the conditional zoning is consistent with the Town's Comprehensive Plan. Contract zoning shall be limited to property for which a rezoning is requested by the owner or other person with sufficient right, title and interest. Nothing in this section shall be interpreted to permit an amendment that is not consistent with the Town's Comprehensive Plan. Areas conditionally zoned under this provision shall be consistent with, but not limited to, the existing and permitted (whether permitted or conditional) uses within the original zone of the affected property or properties. Contract zoning is permitted in all zones except the Resource Protection and Stream Protection Districts as defined in our Shoreland Zoning Ordinance. A lot within our Shoreland Zoning Ordinance: Limited Protection, Limited Commercial and General Development Districts may be rezoned under this section only after approval by the Commissioner of Environmental Protection as required by 38 M.R.S.A. 438-A(3). By "contract zoning" this section means both contract and conditional zoning as enabled in 30-A M.R.S.A. § 4352 (8).

#### 6C: APPLICATION CONTENTS

A request for contract rezoning shall include a written petition to the Planning Board requesting a rezoning, including the following.

- A. Evidence of right, title or interest in the affected property;
- B. A plot plan showing the boundaries of the parcel and its dimensions, as well as the existing and proposed buildings and structures;
- C. A plan showing the location of existing streets and driveways within two hundred (200) feet of the affected property;

D. A detailed statement of the proposed use of the property and the precise zoning change requested; including the beneficial effects on the town which would not result if the property were developed under the existing zoning requirements.

E. A statement explaining how the rezoning is consistent with the Town's Comprehensive Plan, as well as a listing of the permitted and existing uses within the original zone.

F. A description of the property's unusual nature or unique location;

G. A statement setting forth the conditions or restrictions that the applicant proposes. The Planning Board and Select Board may propose additional conditions or restrictions.

Note: Applicant must address all Town of Kingfield related ordinances, such as, but not limited to: Shoreland Zoning Ordinance, Subdivision Ordinance, Flood Plain Management Ordinance and Wellhead Protection Ordinance in addressing paragraphs D and E, above.

#### H. Fees

Any request for contract zoning shall be accompanied by a filing fee established by the Select Board and administered by the Code Enforcement Officer (CEO).

#### 6D: HEARING AND NOTICE

A. The Planning Board shall conduct a public hearing before forwarding its recommendation to the Select Board under this provision.

B. Notice of the hearing shall be posted in Town Hall at least fourteen (14) days before the public hearing.

C. Notice shall also be published twice in a newspaper of general circulation, the date of first publication to be at least seven (7) days before the hearing.

D. Public hearing notices shall be mailed to the owner of the property to be rezoned and all abutters to that property at their last known address. If the property is on the town's municipal water supply, notice must be sent to the Kingfield Water District. Such notice shall be sent out at least seven (7) days prior to the public hearing, and must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.

E. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board or Select Board.

F. The cost of publishing and mailing the notices shall be borne by the applicant(s).

#### 6E: CONDITIONS AND RESTRICTIONS

1. Conditions and restrictions imposed under this section shall relate only to the physical development and operation of the property and may include, by way of example:
  - A. limitations on the number and types of uses permitted;
  - B. conditions on the scale and density of development, including the height, lot coverage and other space and bulk provisions;
  - C. specifications for the design and layout of buildings and other improvements;
  - D. schedules for commencement and completion of construction;
  - E. performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
  - F. preservation of open space and buffers, and protection of natural areas and historic sites;
  - G. provision of municipal services required by the development;
  - H. provisions for enforcement and remedies for breach of any condition or restriction, including the timing of the effective date of the change and its repeal should conditions not be met;
  - I. the dedication of conveyance of property for public purposes, including but not limited to, streets, easements, parks and utility systems.
2. The Select Board may impose conditions under this section that are more restrictive than the applicable requirements of this section.

#### 6F: RECOMMENDATION

Before forwarding a recommendation for a contract zoning amendment to the Select Board, the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Select Board requires a positive finding on all four standards. If the Planning Board makes a negative finding on any of the standards, its recommendation shall be a negative recommendation. The Planning Board shall base its recommendation on whether the rezoning:

- A. is for land with an unusual nature or location;
- B. is consistent with the Town's Comprehensive Plan;

C. is consistent with, but not limited to, the existing uses and permitted uses within the original zone; and

D. the conditions proposed are sufficient to meet the intent of this section.

Note: In addition, the Planning Board includes a list of restrictions and conditions in its recommendation report. The Planning Board will also include its “Finding of Facts” as it relates to a subdivision application.

#### 6G: FINAL ACTION

Notwithstanding the provisions of Section 5 6A of the Zoning Ordinance, the Select Board shall be authorized to approve a contract zone amendment to the Ordinance, but only after the Select Board shall have adopted the findings Planning Board recommending such amendment or making other findings indicating that the rezoning is consistent with all four standards set forth above.

#### 6H: STATUS OF AMENDMENTS

1. Amendments to the zoning map and ordinance made under this section may be amended or repealed by the Select Board or by majority vote of the Town Meeting.
2. Contract zoning actions/amendments by the Select Board will be recorded in the Tax Office and the Code Enforcement Office with the Map and Lot number of the property, street address, the owner’s name at that time, and the date of the Select Board's action. In addition, these contract zoning actions/amendments will become part of the Town of Kingfield Zoning Ordinance as Appendix items. Such amendments will be recorded in the Franklin County Registry of Deeds.
3. The conditions and restrictions set forth in the amendment shall run with the land and bind all future owners of the land and any other person who claims an interest in the property and may be removed only by subsequent action of the Select Board expressly removing, relieving or discharging one (1) or more of the specific conditions or restrictions.

#### 6I: OTHER PERMITS

1. All applications for contract zoning are subject to site plan review.
2. A contract zoning amendment shall be in addition to, and not in lieu of, other permits that may be required for a particular project or use. An applicant may seek other permits at the same time as he, she, or it is seeking the contract zoning as if the contract zoning were already in effect, or may seek such other permits after the Select Board has approved the zoning amendment. If the applicant seeks approval before final action by the Select

Board on the amendment, the Planning Board shall make its approval of these other permits contingent on the Select Board's approval of the contract zoning amendment.

**E. Interpretation of Districts**

1. Unless otherwise indicated, district boundary lines are the centerlines, plotted at the time of adoption of this Ordinance, of streets, alleys, parkways, waterways, or rights-of-way of utilities and railroads or such lines extended.
2. Boundaries indicated as following plotted lot lines shall be construed as following such lot lines. Lot lines are those in effect as of the Town of Kingfield Tax Map of 2006.
3. Other district boundary lines which are not listed in the preceding paragraphs shall be considered as lines paralleling a street at distances from center lines of such streets as indicated by the zoning map entitled "Zoning Map of Kingfield" attached to this Ordinance as Appendix I. In the absence of a written dimension, the graphic scale of said zoning map shall be used.
4. The Board of Appeals shall make interpretations, where needed, as to the exact location of District boundaries.

**F. Division of Lots by District Boundaries**

Where a district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than fifty (50) feet into the more restricted portion of the lot. This paragraph does not apply to lots in the Roadway Approach Overlay District.

**G. District Purposes and Criteria**

1. Village Area shall be the area appropriate for a mixture of land uses suited to the traditional village and expanded village locations that will maintain village and town character.
2. Growth Area shall be the area suitable for orderly residential, commercial and industrial development forecast over the ten-year period following adoption of this Ordinance.
3. Rural Area 1 shall be those areas suitable for year-round and second home residential development in more rural locations of the town while maintaining the rural/woodland character

4. Rural Area 2 shall be those areas characterized by large blocks of forest and undeveloped land and lack of public roads or adequate private roads which would be required for delivery of normal public services.
5. Roadway Approach Overlay District shall be that area which lies within one hundred fifty (150) feet, horizontal distance, of the center lines of the traveled way of all State Roadways within the boundaries of the Town of Kingfield that are not located in the Village district, including Routes 16, 27 and 142.

## H. District Uses

Land uses are permitted in each district as shown in the following table in conformance with the Performance Standards of Section 6:

KEY: Yes - Permitted (No permit necessary)

No - Prohibited

PB - Requires permit from Planning Board in compliance with applicable ordinance and/or regulation. Subdivision, Site Plan Review, Shoreland, Floodplain or other as may be adopted.

CEO - Permit from Code Enforcement Officer required

Land Uses	Village	Growth	Rural 1	Rural 2
Open space uses	yes	yes	yes	yes
Timber Harvesting	yes	yes	yes	yes
Agriculture	yes	yes	yes	yes
Keeping of animals	yes	yes	yes	yes
Yard or garage sale	yes	yes	yes	yes
Filling or earth moving of more than 100 cu yds	yes CEO	yes CEO	yes CEO	yes CEO
Road construction and commercial parking areas	PB	PB	PB	PB
Sand, Gravel, Topsoil and other Solid Earth Extraction	PB	PB	PB	PB
Commercial and Public recreation facilities	PB	PB	PB	PB
Campgrounds	PB	PB	PB	PB
Single family dwelling, including driveway	CEO	CEO	CEO	CEO
Two-family dwelling, including driveway	CEO	CEO	CEO	CEO
Multi-family dwelling	PB	PB	PB	no

Congregate housing	PB	PB	no	no
Day care center	CEO	CEO	PB	no
Structures accessory to permitted uses	CEO	CEO	CEO	CEO
Nonprofit clubs, lodges and other community buildings	PB	PB	PB	PB
Home occupation	yes	yes	yes	yes
Bed and Breakfast	PB	PB	yes	yes
Hotels & Motels	PB	PB	PB	no
Automobile Graveyards and Junkyards	no	no	PB	no
Automobile Race Tracks	no	no	no	no
Waste processing or disposal facility	no	no	PB	no
Industrial, manufacturing and warehousing facilities	PB	PB	PB	no
Research facilities	PB	PB	PB	PB
Aquifer-dependent Industry	PB	PB	PB	PB
Commercial Utilities	CEO	CEO	PB	PB
Commercial Retail, service or wholesale businesses	PB	PB	PB	no
Flea Market	CEO	CEO	PB	no
Gasoline station and/or repair garage	PB	PB	PB	no
Institutional facility or use	PB	PB	PB	PB
Use, generation, storage of hazardous waste	no	PB	PB	no
Disposal of hazardous waste	no	no	PB	PB
Uses similar to uses reviewed by CEO	CEO	CEO	CEO	CEO
Uses similar to uses reviewed by PB	PB	PB	PB	PB
Uses similar to prohibited uses	no	no	no	no

## I. Dimensional Requirements

Lots in all districts shall meet or exceed the following minimum requirements.

**MINIMUM SIZE  
(square feet)**

Zoning District	W/Public Sewer	W/O Public Sewer	Road Frontage	Shore Frontage
Village	10,000	20,000	75 ft.	NA ft.
Growth	10,000	40,000	100 ft.	NA ft.
Rural 1	NA	40,000	200 ft.	200 ft.
Rural 2	NA	200,000	200 ft.	200 ft.

If more than one use, other than an accessory use, occurs on a single lot the minimum size requirement shall be met or exceeded for each use.

Lots located in the mapped Shoreland Zone shall have the lot size and shore frontage specified by the Shoreland Zoning Ordinance.

**Minimum Setback<sup>±</sup> And Maximum Lot Coverage**

Zoning District	Road/ Street	Side Yard	Rear Yard	High Water Line-	Lot Coverage
Village	35 feet	10 feet	10 feet	25 feet	75 percent
Growth	40 feet	15 feet	15 feet	75 feet	50 percent
Rural 1	50-feet	50 feet	25 feet	75 feet	50 percent
Rural 2	100 feet	50 feet	25 feet	75 feet	15 percent

Setbacks from public or privately owned roads or streets shall be measured from the centerline of the traveled way. Lots located in the mapped Shoreland Zone shall have the maximum lot coverage and high-water line setback specified by the Shoreland Zoning Ordinance. High waterline setbacks on lots that are not in the Shoreland Zone may be reduced to less than seventy-five (75) feet if an approved Permit by Rule is obtained from the Maine Department of Environmental Protection.

**I. Roadway Approach Overlay District**

**1. Applicability**

This section applies to all land areas, not in the Village District, that is within one hundred fifty (1250) feet, horizontal distance, of the centerline of the traveled way of Routes 142, 16 and 27.

## **2. Setback from State Roadways**

Notwithstanding district regulations to the contrary, structures erected after the effective date of this Ordinance shall be setback a minimum of seventy-five (75) feet from the centerline of the traveled way of Routes 142, 16, and 27 subject to the following:

- a. Structures between five thousand (5,000) and seven thousand five hundred (7,500) square feet in total floor area shall be set back a minimum of one hundred (100) 75 feet from the centerline of the traveled way
- b. Structures of more than seven thousand five hundred (7,500) square feet in total floor area shall be set back a minimum of one hundred twenty-five 125 feet from the centerline of the traveled way

## **3. Access to State Roadways**

- a. Safety of entrance to and exit from roadways shall be the primary consideration in all matters relating to such access.
- b. Residential lot access shall be subject to the following:
  1. A residential lot fronting on Routes 142, 16 and 27 and which is a part of an approved subdivision shall have access by a roadway constructed to serve all lots within the approved subdivision and shall not have access directly onto Routes 142, 16 and 27.
  2. Access to Routes 142, 16 and 27 from residential lots not covered under “b-1” above shall, to the degree possible, be via other public ways.
  3. Access to Routes 142, 16 and 27 from a residential lot shall be limited to single curb cuts which shall not exceed thirty (30) feet in width.

- c. Nonresidential lot access to Routes 142, 16 and 27 shall be subject to the following:

A nonresidential lot which fronts on such roadways shall be limited to two curb cuts, neither of which shall exceed forty (40) feet in width. Such curb cuts shall be separated by at least one hundred (100) feet at their closest points.

- 4. **Scenic Character** - The scenic character of the Route 142, 16 and 27 corridors shall be governed by the following:

- a. It is the policy of the Town of Kingfield that clearing of trees within a twenty-five-foot-wide buffer that begins twenty-five (25) feet from the centerline of the traveled way of Routes 142, 16 and 27 be discouraged.
- b. Except for approved curb cuts vegetation shall be maintained in this buffer area.
- c. Use of the buffer area described above shall be limited to parking for single-family detached homes and such signs or signs as may be permissible under Section 6.E.
- d. Notwithstanding the foregoing, clear visibility shall be maintained from all access points. Distances required for such visibility shall be based on the speed limit in effect at the access point and the Maine Department of Transportation Access Management Rules

## **SECTION 6. PERFORMANCE STANDARDS**

Section 6.A to 6.X shall apply to all Districts

### **A. Erosion Control**

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following “best management practices” and following the requirements set forth below:

- 1. Stripping of vegetation, soil removal, and regrading and similar practices shall not exceed that necessary to execute the project. It shall be accomplished in such a manner as to minimize erosion.
- 2. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to control surface water runoff.

3. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum. Disturbed soils shall be stabilized as quickly as practical. Temporary mulch will be placed on all disturbed areas where seeding or other construction or stabilization activities will not take place for over fourteen (14) consecutive days.
4. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by debris basins, sediment basins, silt traps, or other acceptable methods as approved by the Code Enforcement Officer.
5. The permanent (final) vegetation and structural erosion control measures shall be installed in reasonable time periods as approved by appropriate authority (the Planning Board or the Code Enforcement Officer)
6. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense.
7. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the landowner.
8. The standards set forth in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices (March 1991 and as amended) shall be employed.

**B. Buffer Areas**

1. Any residential and/or commercial setback abutting a residential area shall be maintained as a buffer strip by the developer. Such buffer area shall be for the purpose of eliminating any adverse effects upon the environmental or aesthetic qualities of abutting properties.
2. When natural features such as topography, gullies, stands of trees, shrubbery, or rock outcrops do not exist or are insufficient to provide a buffer, the developer shall landscape or otherwise provide fencing or screening.
3. Fencing and screening shall be durable and properly maintained at all times by the owner.
4. Fencing and screening shall be so located within the developer's property line to allow access for maintenance on both sides without intruding upon abutting properties.

5. All buffer areas shall be maintained in a tidy and sanitary condition by the owner.

### C. Off-Street Parking and Loading Requirements

The following standards shall apply to all new or expanded uses and structures:

1. **Basic Requirements:** Required off-street parking for all uses shall be located on the same lot as the principle building or use of premises or within eight hundred (800) feet measured along lines of access. An area of one hundred eighty (180) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as an off-street parking space.
2. Schedule of Minimum Off-Street Parking Requirements
  - a. Two (2) spaces per dwelling unit.
  - b. One (1) space for each sleeping room in an inn, bed & breakfast, motel or hotel plus one (1) space per four hundred (400) square feet of public meeting rooms and restaurants.
  - c. One (1) space for each recreational vehicle, tent or shelter site in a campground.
  - d. One (1) space for each four (4) beds for institutions devoted to the board, care or treatment of persons and one (1) space for each four hundred (400) square feet of floor area for other institutions.
  - e. One (1) space for each two hundred (200) square feet of floor area of any retail, wholesale or service establishment or office or professional building.
  - f. One (1) space for each three (3) seats, permanent or otherwise, for patron use for restaurants, and other places serving food or beverage and for theaters, auditoriums and other places of amusement or assembly.
  - g. One (1) space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial or other permitted uses.
  - h. Adequate spaces shall be provided to accommodate customers, patrons, and employees at other permitted uses not specifically enumerated.

### 3. Off-Street Loading:

In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way.

### D. Sanitary Provisions

The installation of all water supply systems and private sewage disposal systems in all districts shall conform to the provisions of the Maine State Internal Plumbing Code and the Maine State Wastewater Disposal Rules and any local regulations or ordinances.

### E. Signs

All signs shall comply with State law. The following additional provisions shall apply to signs.

1. With the exception of those signs listed in Section E-3 a permit shall be required prior to installation of a sign or sign structure. An application on forms provided by the Town, together with a fee of \$10 for each sign, payable to the Town of Kingfield, shall be submitted to the Code Enforcement Officer. The application shall include the name and address of the sign owner, an accurate drawing defining the proposed location relative to lot lines and roadway(s), design, dimensions and position of the sign.
2. Any change in size, construction, location or lighting of a sign in existence at the time of the adoption of this Ordinance shall constitute a new sign. Therefore, such change shall be governed by the terms of this section. Nonconforming signs may receive normal maintenance and repair.
3. The following signs do not require a permit; **signs installed by the Town**, house addresses, no trespassing, **and** spraying or no spraying **signs and** temporary signs that do not remain in place for more than ninety (90) days in any calendar year also do not require a permit. Temporary signs include: For Sale signs, customary holiday decorations, signs promoting town sanctioned community activities, garage sale signs, signs associated with political campaigns, posters located inside premise windows provided the aggregate area of all such posters within windows on one exterior wall, combined with the area of other signs on that particular exterior building wall, do not exceed twenty-five (25)% percent of the total area of said wall including window area. Any signs exempted from permitting in this Section must still meet the size, location and illumination standards of this Ordinance.

4. Location and Illumination

- a. No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
- b. Signs shall be setback a minimum of thirty (30) feet from the centerline of the traveled way and ten (10) feet from side and rear lot lines. The Code Enforcement Officer may reduce these setbacks in cases where nonconforming lots or structures dictate such reduction.
- c. Illumination of signs shall be limited to shielded, non-flashing lights, cut/off downward shielded lights as to prevent lights from shining onto or into adjacent properties or public rights of way. No signs shall be back or internally lit with constant lights where the face and letters/characters are translucent, and with any moving words or colors.

5. Size

- a. No sign shall exceed twenty (20) feet in height.
- b. No single permanent sign shall exceed fifty (50) ~~32~~ square feet in area. No single temporary sign shall exceed thirty-two (32) square feet in area.
- c. Signs for any permitted use shall be limited to an aggregate area of one hundred (100) square feet for all signs.
- d. A two-sided sign shall be considered one (1) sign with an area equal to the surface area of one side.
- e. The area of a freestanding sign or a sign attached to a building shall be the width times the height of the sign.
- f. The area of a sign painted or drawn on a building shall be that of a four-sided figure with four 90-degree corners within which appear the words, symbols and border of the sign.

6. General Conditions

- a. Coverage of wall signs or signs is limited to twenty-five (25) percent of the area of the wall and ten (10) signs, and the area covered shall be part of the aggregate permissible sign area.
- be. All signs shall be constructed and installed in a professional and workmanlike manner,
- cd. All signs shall be serviceable and maintained Any unserviceable or non-maintained sign shall be removed
- de. A sign may be erected only on the premise upon which the activity to which the sign relates is located, except as otherwise permitted by State law.

#### **F. Storm Water Runoff**

Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by this project. The natural state of watercourses, swales, floodways, or rights-of-way shall be maintained as nearly as possible.

#### **G. Water Quality Protection**

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that run-off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.

#### **H. General Requirements**

- 1. **Dwelling Structure:** If more than one (1) dwelling structure is constructed on a single lot, all dimensional requirements shall be met separately for each such dwelling structure, notwithstanding other provisions of this Ordinance, except:
  - a. a second dwelling structure may be provided for persons who are dependent due to age or physical disability upon occupants of the principal dwelling structure: and

- b. the exception described in “a” above is subject to the following conditions:
  - 1) sewage disposal must be provided either through the town septic system or in conformance with Subsurface Wastewater rules; and
  - 2) the second dwelling structure shall be removed at such time as the person or persons for whom provided no longer require its availability.

- 2. **Accessory Buildings:** No garage, accessory building or other structure shall be located in a required front yard or other required open space.
- 3. **Required yard spaces shall serve only one (1) lot:** Required yard spaces shall serve only one (1) building. No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.
- 4. **Lot size to be maintained:** No person shall reduce the size of any lot on which a building is located to a size or frontage less than that required by this Ordinance.
- 5. **Height Restrictions:** No residential building shall exceed thirty five (35) feet in height; except that in the Rural District, the height limit may be increased to forty five (45) feet with Planning Board approval. Commercial and industrial buildings shall not exceed sixty (60) feet in height and shall be provided with adequate fire protection as determined by the Fire Chief. All buildings shall be measured vertically from the downhill side of the structure to the highest point of the structure. Height restrictions shall not apply to farm buildings not used for human habitation, water towers, windmills, antennas, transmission towers, church steeples, flagpoles and chimneys.

**I. Two-Family Dwellings**

- 1. Lots for two-family dwellings shall satisfy the same dimensional requirements as those for single-family units.

**J. Multi-Family Dwellings**

- 1. Multi-family developments may be approved by the Planning Board in accordance with the Land Use Table and Section 7 of this Ordinance. All proposals to construct multi-family developments shall be in conformance

with the General Performance Standards as set forth in Section 6.A. through G. In addition, no structure shall contain more than eight (8) dwelling units.

2. Applications for approval shall satisfy all requirements contained in Section 7, Site Plan Review, and standards set forth in the following paragraphs.
3. In order to determine the maximum number of dwelling units permitted on a tract of land, the area of the lot shall be divided by the minimum lot size required in the district. Multi-family developments providing housing to those over sixty-two years of age and those with disabilities, in the Village and Growth Districts, may be allowed with a minimum lot size of five thousand (5,000) square feet per two-bedroom dwelling unit.
4. When a multi-family development is proposed, the Board shall notify the Road Commissioner, School Superintendent, Waste Water Disposal System Superintendent, Kingfield Water District and Fire Chief of the proposed development, the number of dwelling units contained therein, the length of roadways and the size and construction characteristics of the project. The Board may request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed project and to offer recommendations related thereto. The Board may require the applicant to comply with all or part of such recommendations.
5. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six feet in height.
6. A fifty (50) foot landscaped buffer shall be provided along all property boundaries.
7. Storm water, surface drainage systems and streets shall be designed in accordance with the Town Subdivision standards.
8. Access, Circulation and Parking
  - a. The proposed development shall provide for safe access to and from public or private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic generators. All corner lots shall be kept clear from visual obstructions higher than three feet above ground level, for a

distance of twenty-five (25) feet, measured along the intersecting street lines.

- b. The proposed development shall not have an unreasonable adverse impact on the public road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate parking and turn-around areas.
  - c. All developments containing fifteen (15) or more dwelling units may be required by the Planning Board to have more than one street access (for emergency and safety purposes). No more than two accesses shall be allowed on any single street or roadway.
9. All multi-family developments shall be developed so that at least five (5) percent of the total area of the development remains permanently as usable open space for recreational purposes.

#### **K. Mobile Homes**

- 1 A mobile home used as a dwelling shall have plumbing and a sewage disposal system which shall be in conformity with the Maine State Internal Plumbing Code and the Maine State Subsurface Wastewater Disposal Rules.
- 2 An unoccupied mobile home may be stored on any lot, subject to regulations concerning setbacks; provided that it shall not be used for any purpose whatsoever.

#### **L. Mobile Home Parks**

Mobile home parks shall be subject to requirements contained in the Town of Kingfield Subdivision Ordinance and such minimum lot requirements as may be contained in Section 5.G. of this Ordinance.

#### **M. Hotel/Motels and Inns**

Hotel/Motel and Inn developments may be approved by the Planning Board in accordance with the Land Use Table and Section 7 of this Ordinance. Applications for approval shall satisfy requirements contained in Section 7, Site Plan Review, and standards set forth in the following paragraphs. For the purposes of this section, the terms hotel, motel and inn are used interchangeably.

- 1. The minimum lot size for any hotel shall be three (3) acres.

2. The minimum frontage for any hotel shall be ten (10) times the posted speed limit of the most traveled way serving the development but in no case less than two hundred (200) feet.
3. Access driveways into the hotel shall be at an angle no less than thirty (30) degrees and no more than forty-five (45) degrees. Driveways shall be separated by a minimum of one hundred (100) feet. Access and egress drives shall not exceed a slope of two (2) percent for the first seventy-five (75) feet onto the property.
4. No part of any building on a motel lot shall be closer than sixty (60) feet to the front lot line, rear lot line or either side line of such a lot.
5. Buildings on a motel lot shall not cover more than thirty (30)% percent of the area of the lot.
6. If cooking and eating facilities similar to those traditionally found in residential dwelling units are provided in a hotel unit, each unit shall be considered a dwelling unit, and the hotel shall be required to meet all the standards for multi-family developments in this Ordinance including the residential density and open space requirements of the appropriate district.
7. Each motel rental unit shall contain not less than two hundred twenty (220) square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each motel rental sleeping room shall not be less than twelve (12) by fifteen (15) feet horizontal dimensions, exclusive of bath. Each rental unit shall include private bathroom facilities.
8. On each hotel lot, one (1) apartment may be provided for a resident owner, manager, or other staff person.
9. Hotel building construction plans shall be reviewed and approved by the State Fire Marshal's Office.

**N. Campgrounds**

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet (not including roads and driveways) for each recreational vehicle site, and a minimum of two thousand five hundred (2,500) square feet (not including roads and driveways) for each tent site. In the Shoreland Zone, both tent and vehicle sites shall be at least five thousand (5,000) square feet.

2. Campgrounds shall provide water and sewerage systems, sanitary stations and convenience facilities in accordance with Maine Department of Health and Human Services regulations.
3. No single lot shall be less than fifty (50) feet in width.
4. Recreational vehicles, tent sites and utility and service buildings shall be setback a minimum of seventy (75) feet from the normal high water mark of any waterway.
5. All campgrounds shall be completely screened from adjacent land areas by a continuous landscaped area not less than twenty-five (25) feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

**O. Shoreland Common Areas**

Shoreland common areas, as defined, shall conform to the following provisions:

1. Each shoreland common area shall contain a minimum of two hundred (200) feet of shore frontage and two hundred (200) feet in depth, plus an additional twenty-five (25) feet in frontage, for each lot or residential dwelling unit above two (2) which has access to the shoreland common area and for each right of use granted to the shoreland common area.
2. Each shoreland common area shall contain a minimum of two (2) acres.
3. Land within the Resource Protection District shall not be used as shoreland common area.
4. Each shoreland common area shall contain no more than one (1) pier or dock and one (1) swimming float per two hundred and fifty (250) feet of shore frontage. Such structure shall meet the applicable standards contained within this Ordinance.
5. Structural development in the shoreland common area shall be limited to piers and docks, picnic tables and toilet facilities.
6. Each shoreland common area shall contain one (1) privy or other toilet facility for each sex installed on the parcel which facility shall meet the State of Maine Subsurface Wastewater Disposal Rules.
7. Each shoreland common area shall contain one (1) thirty (30) gallon capacity covered and animal-proof refuse container on the site per five (5)

lots. Solid wastes shall be collected weekly at the minimum or more if use warrants.

8. Each shoreland common area shall contain one (1) parking space for each lot granted access except that vehicular traffic to the common area is prohibited as a condition of granting access. Parking spaces shall be setback twenty (20) feet from the road right-of-way, thirty (30) feet from the side lot lines and two hundred (200) feet from the normal high water line of a water body as defined.

**P. Recreational Vehicles**

Storage of one (1) or more Recreational Vehicles per lot is permitted providing that the following conditions are met:

1. The placement of the recreation vehicle on any lot shall meet all setback requirements.
2. The recreational vehicle shall not be temporarily or permanently connected to the town subsurface waste disposal system.
3. The recreational vehicle shall not be located on any type of foundation.
4. No structure(s) of any kind shall be attached to the recreational vehicle.
5. Authority to store Recreational Vehicles shall not be construed as including authority for commercial sales of such vehicles.

**Q. Extraction of Sand, Gravel, Topsoil, and Other Solid Earth Materials**

1. Extraction operations (sand and gravel pits, etc.) shall not be permitted within seventy-five (75) feet of any traveled way or any property line without the written permission of the owner of such adjacent property.
2. Upon the completion of excavating the pit, the operator shall grade the pit area compatible to the surroundings. The area shall be graded to a slope of two horizontal to one vertical or flatter. These grading operations may not extend closer than ten (10) feet from the property line without the written permission of the owner of such adjacent property.
3. Wherever ponds are left within the pit, a slope of four horizontal to one vertical or flatter, shall extend into the water at least sixteen (16) feet to ensure that the pond will not be a hazard to the public.
4. Sufficient topsoil or loam shall be retained to cover all disturbed areas.

5. All areas disturbed shall be restored to stable condition and seeded.

**R. Floodplain Management**

Management of all development in the floodplain shall be governed by the Town of Kingfield Flood Management Ordinance.

**S. Conversion of Existing Dwellings**

1. Conversion of existing single-family dwellings constructed prior to 1950 to multi-family use shall be allowed with a permit without regard to lot area provided:
  - a. There shall be no new external construction to increase the size of the structure.
  - b. The potable water and sewage disposal facilities shall meet all existing laws and codes.
2. Conversion of other existing buildings constructed prior to 1950 to single-family use shall be allowed with a permit without regard to lot area provided:
  - a. There shall be no new external construction to increase the size of the structure.
  - b. The potable water and sewage disposal facilities shall meet all existing laws and codes.

**T. Home Occupation**

1. The home occupation shall be conducted in the residential structure or accessory structure of the person(s) occupying the structure.
2. Not more than two (2) people outside the family shall be employed in the home occupation.
3. There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building. One twenty-five (25) square foot sign is allowed with a permit.
4. No nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be generated.

5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected for a residential use.
6. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract.

**U. Backlots/Residential**

Backlots may be developed for single-family use although they lack any frontage on a street if the development is in accordance with the following provisions:

1. If a backlot is accessible only by legally enforceable right-of-way it must be sufficient for the construction, use, and maintenance of the road and the intended use of the lot.
2. Creation of the right-of-way sufficient to serve the backlot shall not create a nonconforming front lot by reducing such lot's required road frontage below the minimum, or, if the front lot is already nonconforming, reduce its road frontage at all. The land over which such servitude is placed shall be counted toward meeting road frontage requirements for the front lot.
3. The right-of-way may serve only one (1) single-family dwelling.
4. No more than one (1) right-of-way for backlot development may be created out of any single lot fronting on public or privately owned street unless each subsequent right-of-way is created out of at least two hundred (200) feet of frontage on a public or privately owned road or street, and the center lines of the right-of-way entrances are at least two hundred (200) feet apart.
5. Backlots constituting lots of record on or before March 7, 1992, shall be exempt from the minimum right-of-way requirements.

**V. Aquifer-Dependent Industry**

1. Permit Required: Aquifer-Dependent Industry is subject to the approval of the Planning Board with a Site Plan Review. The Planning Board shall grant approval if it finds that the proposed use will conform to the requirements of these Town Zoning and the Shoreland Zoning ordinances. New or expanded Aquifer-Dependent Industries shall obtain site plan review approval pursuant to Section 7 of this Ordinance.

2. Submission Requirements: The application, together with site plan, shall include the following information:
  - a. A statement of the quantity of groundwater anticipated to be extracted, expressed as an average daily, monthly, and annual total.
  - b. A copy of all required state and federal permit applications, when filed. A copy of these applications will be submitted at least thirty (30) days prior to a public hearing being held by the Planning Board on the application. Any approval by the Board shall include a condition requiring compliance with all requirements of all required state and federal permits.
  - c. An accurate map, drawn to a scale of one hundred (100) feet to an inch, showing the location of the springs, wells or surface water intake locations from which the water will be drawn.
  - d. When required by a ruling of the Planning Board, copies of all correspondence to and from the applicant and Maine State and United States agencies under whose jurisdiction a permit or license is required for the proposed activity.
  - e. A written hydrogeological investigation report stamped by a Maine-Certified Geologist or Maine Registered Professional Engineer. The report shall be based on a hydrogeological investigation of sufficient detail to provide the following information:
    - i. A map of the entire topographic drainage basin upgradient of the water extraction site(s) showing the basin boundaries, sub basin boundaries that may be of significance to the recharge of the water extraction site(s), and the location of the extraction site(s).
    - ii. Two (2) maps of the aquifer as specified below showing the spring(s), well(s), or excavation(s) from which water is to be extracted; and wetlands, and surface water bodies within two thousand (2,000) feet of the extraction site(s). These maps shall be at a scale of one hundred (100) feet to an inch and shall depict topographic contours at an interval of twenty (20) feet or less. The two (2) maps shall show the following information, respectively: 1) Water Table contours under ambient conditions, and 2) Water Table contours under actual pumping conditions at the completion of a five (5) day constant rate pumping test at a rate at or above that proposed for operation. These maps

shall be based on Water Table elevation measurements from monitoring wells and surface water bodies in the vicinity of the extraction site(s), and must include estimated surface water elevations for more distant locations. Nothing in this paragraph shall require an applicant to include other than public information for land not owned by the applicant.

- iii. A map showing the long-term zone of contribution to the extraction site(s) based on maximum proposed extraction rates, and a quantitative water budget analysis that includes precipitation input, evapotranspiration losses, surface water runoff, groundwater flux, and discharge-recharge relationships between surface water and groundwater.
  - iv. Two (2) scaled geologic cross-sections showing geologic characteristics of the aquifer and groundwater and surface water elevations at and adjacent to the water extraction site(s).
  - v. Predictions of the effects of long-term water extraction on local and regional groundwater levels, wetlands; pond or lake levels; base flow in streams; and any water quality changes in groundwater and in surface water due to the proposed use.
  - vi. The aquifer characteristics including a detailed description of geologic materials, hydraulic conductivity and transmissivity, average daily, monthly, and annual extraction rates.
- f. A delineation of all wetlands within the project area using methods described in the “Corps of Engineers Wetlands Delineation Manual” (1987), as may be amended, together with a delineation of all wetlands to be disturbed, and a description of all proposed wetlands mitigation measures.
- g. Traffic:
- i. A statement of the estimated number (for the AM and PM peak hours) and loaded weight of all truck trips, including but not limited to empty and loaded vehicles transporting bulk or bottled water and packaging materials.
  - ii. A statement of the estimated number (for the AM and PM peak hours) of all non-truck trips.

- iii. A statement of the hours during which vehicular traffic is expected and how traffic volume is anticipated to vary by time of day and season.
- iv. A reasonable projection of all anticipated routes (Town and State) of all vehicles transporting bulk or bottled water.
- v. A copy of the Traffic Movement Permit application filed under Chapter 305 of the Maine Department of Transportation Regulations (“Rules and Regulations Pertaining to Traffic Movement Permits”); such application shall include those studies and reports required under Chapter 305 and prepared, certified, and sealed by a Maine traffic engineer, including those applicable requirements set forth in Section 7 of Chapter 305, as may be amended. Where Chapter 305 provides discretion to the MDOT to waive submittal requirements, the Planning Board shall after, conferring with its traffic consultant, determine whether it will require the submittal.
- h. A written statement of sound from routine operations, maintenance operations, and construction (both daytime and nighttime), expected to be generated by the proposed use, and an assessment of the anticipated noise levels at property lines.
- i. A statement of the artificial lighting anticipated for the proposed use, and an assessment of the impact of lighting at property lines.
- j. Simulated photographs or reasonably precise simulated graphic depictions of the use from all abutting public ways and from all abutting properties containing residential homes.
- k. The Planning Board may require any other additional information, not otherwise specified, that it determines necessary for the review of a site plan review application for an Aquifer-Dependent Industry. Additional information may be requested by the Planning Board at any time during the permitting process, but will not otherwise affect the completeness of an application.

### 3. Performance Standards:

- a. The quantity of water to be taken from a groundwater source will not substantially lower the Water Table beyond the property lines, cause unreasonable impacts to groundwater flow patterns, or cause unreasonable ground subsidence beyond the property lines.

- b. Any proposed use shall not cause unreasonable adverse diminution in water quality or quantity of the aquifer or surrounding surface/groundwater. This includes any impacts to the upwelling of a natural spring, groundwater source, aquifer recharge area, or wetlands.
- c. Safe and healthful conditions shall be maintained at all times within and about the proposed use and structures.
- d. The proposed use shall require preparation of a stormwater management plan prepared and stamped by a professional engineer registered in the State of Maine detailing both construction and long-term stormwater controls.
- e. The proposed extraction site shall be a minimum of five (5) acres in lot size and is not within the ground water recharge area of contribution of a community, non-transient public water supply, as defined under Maine Drinking Water Program rules, unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no unreasonable adverse effect on a public water supply will result under current and expected future demands on such community, non-transient public water supply.
- f. The operator shall make operating records of the quantity of water extracted, stored, and removed from the site available to the Code Enforcement Officer or a designee upon request.
- g. Nothing in this procedure, and no decision by the Planning Board, shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine law.
- h. The Planning Board may require reimbursement at any time during the permitting process or during the term of the permit of costs reasonably incurred by the Planning Board or the Town for professional assistance necessary to evaluate the application or to determine compliance with any permit issued. The Planning Board will obtain a proposal from at least one qualified peer reviewer of its choice and notify the applicant or permittee of the expected charge prior to incurring the charge or charges. (Note: This is intended to cover costs associated with contracting any outside resources the Town or the Board may require, e.g., site evaluator during construction, hydro-geologist to interpret data, traffic engineer, landscape architect, noise consultant, lighting consultant, etc.)
- i. Any permit issued by the Planning Board shall state the maximum daily, monthly, and annual quantity of groundwater that may be extracted, which shall not exceed the amount specified by the applicant in its application. The maximum daily, monthly, and annual

ground water extraction limit shall be an amount determined by the Planning Board to be consistent with the remaining performance standards provided in this section, based on the evidence presented at the Planning Board's public hearing.

## **W. Keeping of Animals**

The keeping of animals, domestic fowl, and bees is permitted outright in all districts as an accessory use to any permitted principal use subject to the following standards. Animals, domestic fowl, and bees have specific regulations as follows:

### 1. Animals, domestic fowl and birds

Animals, domestic fowl and birds must be kept in conditions that are not in violation of MRS Title 7 Agriculture and Animals - Part 9: Animal Welfare - Chapter 739: Cruelty to Animals.

### 4. Bees

Bees must be licensed with the Maine Bureau of Agriculture and when licensed are permitted outright. No more than four (4) hives, each with only one (1) swarm, are allowed on lots less than ten thousand (10,000) square feet. Hives may not be located within twenty (20) feet of any lot line.

## **SECTION 7 - SITE PLAN REVIEW**

### **A. Authority and Applicability**

The authority over site plan review is vested in the Kingfield Planning Board. Site plan review applies to development proposals for new or expanded commercial, retail, industrial, and institutional structures and uses; hotels and motels; nonprofit clubs, lodges and community buildings; sand, gravel, topsoil, and other solid earth materials extraction; multiple family dwellings consisting of three or more attached dwelling units, when not defined as a subdivision under Title 30-A MRS section 4401, and their accessory uses and structures; structures which exceed the height restrictions of Section 6,H,5 and are eligible for a permit under said Section, and new or altered buildings or structures of an Aquifer-Dependent Industry. Site plan review does not apply to subdivisions, detached single and two-family dwelling units, agricultural land management and structural expansions of a permitted use within one lot of one thousand 1,000

square feet or ten (10) percent of the existing structure, whichever is greater, during any two (2) year period. A permit from the Code Enforcement Officer is still required for any expansion.

**B. No Code Enforcement Officer Permit without Site Plan Approval**

The Code Enforcement Officer shall not issue a permit for site preparation or building construction until a site plan has been approved by the Planning Board for any project that requires Site Plan Review.

**C. Pre-application Conference**

1. The purpose of the pre-application conference is to allow any prospective applicant applying under the provisions of this ordinance the opportunity to discuss the proposed project with the Planning Board.

2. The pre-application conference is a voluntary, informal procedure intended to identify any prospective problems that may arise as a result of the proposed project or prospective application.

3. Procedure: The procedures to be followed for a pre-application conference are as follows:

a. The prospective applicant shall request that the matter be placed on the agenda for discussion with the Board.

b. The prospective applicant shall present a simple sketch plan indicating the scope of the prospective project, any prospective construction, any significant or difficult terrain conditions, and any other features of the proposed project that the prospective applicant wishes to discuss with the Planning Board. The sketch plan shall be accompanied by a copy of the U.S.G.S. topographic map of the area showing the outline of the proposed project.

4. The submittal of any plan or document at a pre-application conference shall not constitute an application, nor shall such submittal be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, Maine Revised Statutes Annotated, Section 302.

**D. Submission Requirements**

The following information is required for site plan submission:

1. **Application Information:** An application for site plan review shall submit the following as part of the final plan.

- a. the project name;
- b. the name, address, phone number of applicant;
- c. the name, address, phone number of owner;
- d. the name, address, phone number of authorized representative;
- e. the name, registration number, address, phone number of engineer, surveyor, architect, landscape architect or planner;
- f. the interest of applicant in property, abutting property, and proposed easements;
- g. the tax map and lot numbers;
- h. the acreage to be developed;
- i. any covenants, deed restrictions, easements or rights-of-way, existing or planned;
- j. the existing and proposed use of the property;
- k. the name, address, map and lot number of landowners within two hundred (200) feet of the boundaries of the project site;
- l. any variances requested of the Zoning Board of Appeals;
- m. a construction schedule with inspection milestones for the Code Enforcement Officer, costs and performance guarantee arrangement, along with appropriate statements of proof of financial capability and a statement of relationship between developer, design consultant and project contractor;
- n. the Site Plan Application Fee per schedule of fees adopted by the Kingfield Board of Selectmen;

**2. Map Requirements:** The Site Plan Map must consist of three (3) blackline prints to be retained by the Town, with a maximum size of 30"x48" and at a scale of between 1" = 40' and 1" = 100'. The map must include the following:

- a. the date, title, scale, north arrow, name of project;

- b. a boundary outline with dimensions and lot area, in relation to surrounding streets, walls and adjoining land and land uses;
- c. the names and addresses of present landowners within two hundred (200) feet of the boundaries of the project site;
- d. the locations and dimensions of existing buildings and other structures, fire hydrants, street lights, utility poles, underground water and sewer facilities, and other natural landscape features;
- e. a preliminary design drawings of site plans, floor plans, elevations in sufficient detail to show access, layout and building construction or modification;
- f. the location and dimension of all proposed buildings, and private and public utilities;
- g. a location map;
- h. all necessary easements, shown on plan;
- i. accurate dimensions of streets, rights-of-way, width of pavement, parking, loading and associated curbing;
- j. identification of soils with severe or very severe limitations for the type of development proposed in accordance with the U.S.D.A./S.C.S. medium intensity soil survey for Franklin County,
- k. the location of test pit(s) indicating suitability of soils for subsurface wastewater disposal;
- l. the location of any sand and gravel aquifer and aquifer recharge area.
- m. the location and elevation of the 100-year floodplain;
- n. the name and address of map preparer-;
- o. a space for the signatures of the Planning Board.

1. **Supporting Documents:** Any of the following plans may be combined in one plan for presentation purposes:

- a. a plan of the site showing existing natural and topographical features including watercourses and water bodies, trees and other vegetation, location of wetlands, significant wildlife habitats, known archaeological resources, scenic locations as identified in the Comprehensive Plan, and historic building and sites to be developed or adjacent to the parcel, and any other pertinent features;
- b. a plan of all buildings with new construction, or expansion of an existing facility, including type, size and footprint, floor layout, setback, elevation of first floor slab, storage and loading areas;
- c. an elevation view of all buildings indicating their height, color, bulk, surface treatment, and sign attached to buildings;
- d. a circulation plan with projected vehicular traffic volumes, if appropriate, noting all pedestrian and vehicle traffic flow, both within the development and in terms of ingress and egress impact on surrounding road systems;
- e. a Maine Department of Transportation Driveway/Entrance Permit if the project will have access to Route 16, 27 or 142;
- f. the size and proposed location of water supply and sewage disposal systems and provision for future expansion of those systems;
- g. a landscaping plan indicating grade change, vegetation to be preserved, new plantings used to stabilize areas of cut and fill and screening; the size, location, purpose and type of vegetation;
- h. a drainage plan designed to accommodate the 25-year storm, including location, elevation, layout of catch basins, and other surface and subsurface drainage features;
- i. an erosion and sediment control plan;
- j. a topographical plan, at intervals required by the Planning Board, showing existing and proposed contours and finished grade elevations;
- k. a phosphorus impact analysis and control plan when located in the direct watershed of a great pond.

- l. the proposed method of sewage disposal and the results of an on-site soil investigation;
- m. the method of solid waste disposal;
- n. the nature of any air emissions that would result in air pollution;
- o. the type, size, and location of machinery likely to generate appreciable noise at lot lines;
- p. the location and type of luminaries;
- q. any other exhibits or data deemed necessary by the Planning Board to evaluate the proposed development for site plan review purposes; including, but not limited to, any applications submitted to, or permits in hand, from the Office of the Maine Fire Marshall, the Maine Department of Environmental Protection, the Army Corps of Engineers and any other licenses required by State or Federal laws and regulations.
- r. signed statements from the following municipal officials:
  - 1) the Kingfield Water District as to the conditions under which the District will supply water and approval of the size and location of mains, valves and hydrants proposed;
  - 2) the Fire Chief approving the safety features related to fire and emergency protection;
  - 3) the Selectmen as to the conditions under which the Sewer District will provide sewage disposal service, or a statement relative to the capacity of the sewage disposal system to treat septic tank pumping;
  - 4) the Road commissioner regarding the adequacy and design of drainage and street systems, both proposed and existing;
  - 5) any other agency or committee deemed appropriate by the Planning Board.
- s. When required by the Planning Board The applicant shall provide a municipal service impact analysis that includes a list of construction and maintenance items, with both capital and annual

operating cost estimates, that must be financed by the Town of Kingfield or quasi-municipal districts. This list shall include but not be limited to: street reconstruction, maintenance, and snow removal; solid waste disposal; and fire protection. The applicant shall provide an estimate of the net increase in taxable assessed valuation from the project.

#### **E. Application Procedure**

1. The applicant shall submit an application, with the required fee, to the Town Office and request that the application be presented at a regularly scheduled Planning Board meeting. Prior to the Planning Board meeting the application shall be reviewed by the Code Enforcement Officer for completeness of Submission Requirements at which time a dated receipt shall be issued. Within forty (40) days of receipt of the application, the Planning Board shall notify the applicant in writing either that the plan and application are complete, or, if incomplete, the specific additional material required to make them complete.

2. The applicant shall be responsible for reasonable legal and other consultant costs to the Town for professional evaluations and advice related to the review of applications for Site Plan Review. The applicant shall provide reasonable security for payment of these costs as required by the Planning Board

3. Upon determination that an application is complete, the Planning Board shall begin Plan Review either by scheduling a public hearing for the purpose of receiving public input concerning the plan or determining that no public hearing is necessary.

a. If a public hearing is required, it shall be held by the Board within forty (40) days following determination that an application is complete. At least ten (10) days before the public hearing is held, the Board shall notify the owners of all property within two hundred (200) feet of the boundaries of the property involved on a form provided by the Planning Board of the public hearing.

a. Notice of the date, time, place, and subject matter of the hearing must also be published by the Board on at least two (2) occasions in a newspaper having general circulation in the Town, the date of the second publication to be at least (7) seven days before the hearing.

b. All notification costs, including mailing of notices to abutters and publication of notices in a newspaper, must be paid by the applicant.

2. Within sixty (60) days after the determination of a complete application completion or within thirty (30) days after a public hearing, or within a time mutually agreed to by the applicant and Planning Board, the Board shall take one of the following actions:
  - a. approve the plan;
  - b. approve the plan with conditions; or
  - c. disapprove of the plan.

After approval by the Planning Board the applicant has two (2) years to obtain a building permit and begin construction of the project as approved. Failure to begin construction within two (2) years will require the project to be resubmitted to the Planning Board as a new application.

#### **F. Waiver Provisions**

1. **Submission Wavers:** The Planning Board may waive portions of the submission requirements, unless otherwise indicated in this Ordinance, provided that the applicant has demonstrated that the standards of this Ordinance have been or will be met, the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of this Ordinance.

#### **H. Criteria and Standards - All Districts**

The following criteria and standards shall be utilized by the Planning Board in reviewing applications for site plan review. These standards are intended to provide a guide for the application in the development of site and building plans as well as a method of review for the Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation.

1. **Preservation of Landscape:** The landscape will be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas.

If the site contains a scenic site and/or view as identified in the Town of Kingfield Comprehensive Plan, special attempts should be made to preserve the natural environment of the skyline and view.

Environmentally sensitive areas which include wetlands, significant wildlife habitat areas of two (2) or more contiguous acres with sustained

slopes greater than twenty-five (25) percent, unique natural features and archaeological sites as identified in the Town of Kingfield Comprehensive Plan shall be conserved to the maximum extent.

The Planning Board shall assess the proposed activities impact upon scenic areas and views as identified in the Town of Kingfield Comprehensive Plan. Where the Planning Board finds that the proposed activity would have an undue adverse effect on identified scenic views, the Planning Board shall require the applicant to minimize such effects.

**2. Relation of Proposed Buildings to the Environment:** Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the scale of the proposed building(s), massing of the structure(s), building materials and colors, screening of unattractive elements from public view, and such natural features as slope, orientation, soil type and drainage courses.

**3. Vehicle Access:** The proposed site layout shall give special consideration to the location, number, and control of access points, adequacy of adjacent streets, traffic flow, sign distances, turning lanes, and existing or proposed traffic signalization. The design of access to public roads will be guided by the following standards:

a. Streets within the project for projects with an average annual daily traffic of five hundred (500) vehicles or less shall be designed with twenty (20) feet of traveled way with three (3) foot shoulders. Streets for projects exceeding this intensity shall be designed by a Professional Engineer based upon detailed traffic analysis.

b. Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway from distances of between ten (10) and fifteen (15) feet behind the curblineline or edge of the shoulder with the height of the eye three and one-half (3.5) feet to the top of an object four and one-quarter (4.25) feet above the pavement. The Board may require up to fifty (50) percent greater sight distance where at least thirty (30) of the traffic using the driveway will be larger vehicles.

## Minimum Sight Distance

Posted Speed Limit	Minimum Sight Distance
25 mph	200'
30 mph	250'
35 mph	305'
40 mph	360'
45 mph	425'
50 mph	495'

c. Where more than one business or structure is located on a single parcel, all vehicular access to and from a public street shall be via a common access or entrance way(s) serving all business and structures except as provided for herein.

d. The grade of any exit driveway or proposed street for a distance of one hundred (100) feet from its intersection with any existing street will be a maximum of three (3) percent.

e. The Planning Board may require projects generating four hundred (400) or more vehicle trips per twenty-four-hour period to provide two (2) or more separate points of vehicular access into and out of the site.

f. The Planning Board may require the applicant to conduct a traffic impact study. In making the determination as to the need for a traffic impact study, the Planning Board shall consider the following:

- (1) The proposed project will generate one hundred (100) or more peak hour site trips.
- (2) The existence of a current safety problem in the area: high accident location, confusing intersection, etc.
- (3) Current or projected capacity deficiencies near the project.
- (4) Sensitive neighborhood areas adjacent to the project.
- (5) The proximity of site drives to other drives or intersections.

**4. Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall consider general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the arrangement and use of parking areas. These facilities shall be safe and convenient and, insofar as practicable, shall not detract from the proposed buildings and neighboring properties. Where the project will abut an existing or potential parking area, provisions shall be made for internal vehicular connections.

**5. Surface Water Drainage:** Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a 25-year storm frequency.

**6. Erosion and Sedimentation Control:** The site plan shall show what provisions are being proposed to meet provisions of Section 6 A of this ordinance.

**7. Utilities:** The site plan shall show what provisions are being proposed for water supply and waste water disposal. Whenever feasible, electric, telephone, and other utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.

**8. Advertising Features:** The size, location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the surrounding properties and shall conform with requirements contained in Section 6.E.

**9. Special Features:** Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas, and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

**10. Exterior Lighting:** All exterior lighting shall be designed, shielded or hooded and located and maintained to avoid undue

glare, adverse impact on neighboring properties and public ways and the unnecessary lighting of night sky.

**11. Emergency Vehicle Access:** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

**12. Landscaping:** Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas.

**13. Public and Private Water Supply:** Adequate provisions shall be made to ensure that no unacceptable potential exists for compromise of the integrity of Public and Private Water Supply Systems.

**14. Noise:** Provisions shall ensure that the time, duration's, character and intensity of noise does not have significant adverse impact upon the value or quiet possession of surrounding properties. The Planning Board shall be guided by the standards established by the Maine Department of Environmental Protection.

**15. Phosphorus:** Projects proposed within the direct watershed of Butler, Gilman, Grindstone, Hid, Pinnacle, Shiloh, and Tufts Ponds shall be designed to limit phosphorus runoff to the levels calculated from the Water Quality Subsection in Section II of the Comprehensive Plan. Phosphorus export from a proposed project shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the Board.

Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing street lengths, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

**16. Historic Locations:** The Board shall consider the proposed projects impacts on historic buildings and sites as identified in the Kingfield Comprehensive Plan. When a proposed project will include a historic building, or site the applicant will design the project to minimize the impacts on the historic building or site.

**17. Projects Located on Sand and Gravel Aquifers:** The Board shall utilize the following standards in reviewing projects located on a mapped sand and gravel aquifer.

a. The boundaries of the sand and gravel aquifers shall be delineated on the Sand and Gravel Aquifer Maps prepared by the Maine Geological Survey. When boundaries of the sand and gravel aquifer are disputed due to the lack of sufficient detail on the available maps, the applicant, or applicant's agent may submit hydrological evidence prepared by a geologist, certified in the State of Maine, which identifies actual field locations of the aquifer boundaries within the project area.

b. No use shall dispose of other than normal domestic waste water on site without approval of the Department of Environmental Protection. Disposal of waste water shall be in strict compliance with the Maine Subsurface Wastewater Disposal Rules and other relevant State and local laws, rules, and ordinances.

c. Indoor use or storage facilities where hazardous materials, wastes, or other liquids with the potential to threaten groundwater quality are used or stored shall be provided with secondary containment which is impervious to the material being stored and have the capacity to contain ten (10) percent of the volume of the containers or one hundred ten (110) percent of the volume of the largest container, whichever is greater.

d. Petroleum and other hazardous material storage and transfer. A Spill Prevention and Countermeasure Plan meeting the standards of the Maine Department of Environmental Protection shall be submitted.

e. In those areas identified as sand and gravel aquifers as defined in subsection A above, the following newly established land uses are prohibited unless the Board finds

that no discharges will occur such that water quality at the property line will fall below State Drinking Water Standards and all provisions of this Ordinance will be met.

dry cleaners	photo processors
printers	auto washes
laundromats	meat packers/slaughter houses
salt piles/sand-salt piles	wood preservers
leather tanning	electrical equipment manufacturers
plastic/fiberglass	chemical reclamation
fabricating	facilities
industrial waste disposal	crematorium
/impoundment areas	cemetery
automobile graveyards	metal platers
chemical manufacturing	pesticide/herbicide stores
concrete/asphalt/coal	
companies	

**18. Municipal Services:** The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, schools, recreational programs and facilities, and other municipal services and facilities. When the Planning Board finds, based on a recommendation of the Selectmen and other departments and the results of any municipal impact analysis, that municipal services do not have the capacity to provide services to the proposed development, the Planning Board will require one or more of the following.

a. A voluntary payment to the Town of Kingfield to mitigate the direct impact to municipal services that has been identified as the consequence of the proposed development. Any such payment shall be subject to the following provisions.

(1). The Board, with advice from the Selectmen, shall find that the money offered will mitigate the identified direct impact of the development.

(2). The payment shall be held in a reserve account and may only be expended to fund capital improvements agreed to by the applicant and Board to mitigate the identified direct impacts.

(3). The payment in all cases shall be expended within five years of collection, unless otherwise agreed upon the Planning Board and applicant.

(4). Any payment not expended shall be refunded to the property owner(s) of record at the time of the refund with interest as earned by the Town of Kingfield for the period the payment was held by the Town.

b. The applicant will construct or pay to construct his proportional share of the required improvements necessitated by the development.

c. Require phasing of the development to allow the expansion of municipal services over time.

d. Deny the development.

**19. Financial and Technical Capacity:** The applicant has adequate financial and technical capacity to meet the above standards.

## **I. Criteria and Standards - Rural 1 & Rural 2**

When the proposed project, or a portion thereof, is located in a Rural 1 and/or a Rural 2 District, the applicant shall establish to the satisfaction of the Planning Board that, for that portion of the development within Rural 1 and/or Rural 2 Districts:

1. Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the Zoning District. In reaching a determination on this standard, the Planning Board shall consider:

a. the size of the proposed use compared with surrounding uses and its impact upon significant scenic vistas;

b. the intensity of the proposed use, including amount and type of traffic to be generated, hours of operation, expanse of pavement, and similar measures of intensity of use, compared with surrounding uses;

- c. the potential generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances;
  - d. unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, which may tend to aggravate adverse impacts upon surrounding properties;
  - e. the degree to which landscaping, fencing, and other design elements and materials have been incorporated to mitigate adverse impacts on surrounding properties.
2. Municipal or other facilities serving the proposed use will not be overburdened or hazardous conditions created because of inadequate facilities. In reaching a determination on this standard, the Board shall consider:
- a. the ability of traffic to safely move into and out of the site at the proposed location;
  - b. the presence of facilities to assure the safety of pedestrians passing by or through the site;
  - c. the capacity of the street network to accommodate the proposed use;
  - d. the capacity of sewerage and water supply systems to accommodate the proposed use and the potential for compromise of the integrity of Public and Private Water Supply Systems.
  - e. the capacity of the storm drainage system to accommodate the proposed use;
  - f. the ability of the fire department to provide necessary protection services to the site and development.
1. The natural characteristics of the site, including topography, drainage, and relationship to ground and surface waters and floodplains, shall not be such that the proposed use when placed on the site will cause undue harm to the environment or to neighboring properties.

**J. Criteria and Standards - Residential Area**

If twenty (20) or more primary residential structures are located within one thousand (1000) feet of any structure within the proposed development, the Applicant shall satisfy the Planning Board that:

1. If the proposal is for a new use, it will not cause a significant increase in the noise, traffic, odor and/or night light patterns above that normally associated with a residential area.

2. If the proposal is for an expansion of an existing use and the noise, traffic, odor, and/or night light patterns without the expansion exceed those normally associated with a residential area, the proposed expansion does not cause significant increase in those noise, traffic, odor, and night light patterns.

**K. Minor Changes to Approved Plans**

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer, and a report presented to the Planning Board at their next regularly scheduled meeting.

**L. Amendments to Approved Plans**

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.

**M. Reapplication**

If the Planning Board denies a site plan application, a second request of a similar nature shall not be brought before the Planning Board within two (2) years from the date of the first request unless the Planning Board finds that substantial new evidence can be brought forward, an error of law or misunderstanding of facts has been made, or amendment has been made to this Ordinance which changes the status, circumstances, or conditions of the matter which was brought before the Planning Board.

**SECTION 8. APPEAL PROCEDURES**

**A. Making an Appeal**

1. The Board of Appeals has the authority to hear and decide administrative appeals, on an 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 this Ordinance; and to hear and decide administrative appeals on a de novo 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 Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance and to authorize variances, within the limitations set forth in this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
2. An appeal may be taken to the Board of Appeals by an aggrieved person from any administrative decision of the Code Enforcement Officer or Planning Board within thirty (30) days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
3. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal. For a variance appeal, the applicant shall submit:
  - a. A sketch drawn to scale showing lot lines, location of existing building and other physical features pertinent to the variance request.
  - b. A concise written statement stating what variance is requested, and why it should be granted.
4. Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board of Appeals all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee to cover advertising and administrative costs. If the actual cost of advertising and notification exceeds the fee paid, the applicant shall pay the balance. The Board shall hold a public hearing on the appeal within forty-five (45) days unless this time period is extended by mutual agreement of the Board and the person making the appeal.

**B. Procedure on Appeal**

1. A copy of any appeal request involving the area within two hundred fifty (250) feet of the normal high-water line as defined shall be forwarded to

the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to the hearing.

2. At least fifteen (15) days prior to the date of the hearing on such appeal, the Board shall cause to be published in one issue in a newspaper of general circulation in the Town a notice which includes:
  - a. The name of the person appealing.
  - b. A brief description of the property involved.
  - c. A brief description of the decision appealed from, or the nature of the variance appeal.
  - d. The time and place of the Board's hearing.
3. At least ten (10) days prior to the date set for hearing, the Board shall also cause the Town Clerk to give similar written notice to:
  - a. all property owners of record whose properties lie within two hundred (200) feet of the affected property,
  - b. the person making the appeal, and
  - c. the Planning Board, the Code Enforcement Officer, and any other parties of record.

**C. Hearings**

1. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
2. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the Chairman.
3. At any hearing, a party may be represented by an agent or attorney. Hearing shall not be continued to other times except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified, the Board shall give the applicant the opportunity to amend the application and continue the hearing until the

public has been properly notified of the appeal's reclassification and of the time and place when the hearing will continue.

4. The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
  5. The transcript of testimony, of any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.
  6. The record may be kept open after the hearing by order of the Chairman until a date established by the order.
- D. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Code Enforcement Officer or the Planning Board, or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance, or to affect any variation in the application of this Ordinance.
- E. The Board shall decide all appeals within thirty (30) days after the hearing, and shall issue a written decision on all appeals.
- F. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, the Code Enforcement Officer, and the Municipal Officers within seven (7) days of the decision date.
- G. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a Permit in accordance with the conditions of the appeal
- H. Except as provided by 30-A M.R.S. section 2691(3)(F), 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 (45) days from the date of final decision of the Board of Appeals.

## **SECTION 9. BOARD OF APPEALS**

### **A. Appointment and Composition**

There shall be a Board of Appeals of five (5) members and not more than two (2) associates and all of whom shall be residents of the Town of Kingfield, and serve without compensation. The members of the Board shall be appointed by the

Board of Selectmen, in accordance with the laws of the State of Maine and the following provisions shall apply:

1. Terms of the members shall be for three (3) years except that initial appointments shall be made so that the terms of not more than two (2) members may expire in any given year.
2. Neither a municipal officer nor their spouse may be a member of the Board.
3. When there is a permanent vacancy, the Board of Selectmen shall appoint a person to fill the unexpired term within ninety (90) days.

**B. Powers and Duties**

1. The Board shall annually elect a Chairman from its members and may appoint a recording secretary from outside the Board, who shall be compensated for duties performed.
2. A quorum shall consist of three (3) members.
3. An appeal shall lie from the decision of the Code Enforcement Officer or the Planning Board, to the Board of Appeals, and from the Board of Appeals to the Superior Court according to the provisions of the laws of the State of Maine.

**C. Administrative Appeals**

The Board shall hear and decide appeals where it is alleged, there is an error in any order, requirement, decision, or determination by the Code Enforcement Officer or the Planning Board. The action of the Code Enforcement Officer or the Planning Board may be returned to them for reconsideration by the Board of Appeals by a majority vote of those present and voting except that there must be a minimum of three (3) votes in favor of reconsideration.

The Board of Appeals shall determine from the record of the proceedings below, whether there has been an error of law, misinterpretation of the relevant ordinance or a misapplication of the law to the facts as found below. If the record of the proceedings below is not adequate to allow the Board of Appeals review, the Board may remand the matter back to the Code Enforcement Officer or the Planning Board from whose decision or failure to act the appeal is taken, for additional fact finding. If the Board of Appeals determines from the record of the proceedings below that there has been an error of law, a misinterpretation of the relevant ordinance, or a misapplication of the law to the facts found below, the Board shall remand the matter for correction and for those further proceedings

that are specified by the Board of Appeals and that are consistent with the Board of Appeals' decision.

The term "below" in the preceding paragraph refers to the proceedings from which the appeal is being taken.

**D. Variance Appeals**

1. The Board shall hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. A variance shall be granted only if:
  - a. the land in question cannot yield a reasonable return unless a variance is granted;
  - b. the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. the granting of a variance will not alter the essential character of the locality; and
  - d. the hardship is not the result of action taken by the applicant or a prior owner.
  
2. As used in this Ordinance, a variance is authorized only for height, area and size of structures, minimum setbacks or open spaces requirements. Establishment or expansion of uses otherwise prohibited in this ordinance shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals shall grant a variance only by concurring vote of at least three (3) members and in so doing, may prescribe conditions and safeguards as are appropriate under this Ordinance.