

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: this Zoning Ordinance, 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. if the applicant fails to begin construction in a substantial manner and in accordance with an approved plan within 5 years of the effective date of the rezoning, the Planning Board may initiate rezoning to the original zoning classification.

J. 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.

6G: FINAL ACTION

Notwithstanding the provisions of Section 5 6A of the Zoning Ordinance, the Select Board, after adopting the findings of the Planning Board or making other findings indicating that the rezoning is consistent with all four standards set forth above, shall then place the proposed contract zoning amendment on the warrant for a Town Meeting vote. The warrant will include the Select Board's endorsement (positive or negative) with applicable restrictions and conditions.

The proposed contract zoning amendment may be approved by the Town Meeting with a majority vote.

All costs related to scheduling and holding the Town Meeting shall be borne by the applicant.

There shall be no appeal to the Board of Appeals if a contract zoning application is terminated during the review process or disapproved at the Town Meeting.

6H: STATUS OF AMENDMENTS

1. Amendments to the zoning map and ordinance made under this section may be amended or repealed by majority vote of the Town Meeting.
2. Contract zoning amendments by Town Meeting vote 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 Town Meeting vote and disposition. In addition, these contract zoning 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 by Town Meeting vote 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 Town Meeting vote has approved the zoning amendment. If the applicant seeks approval before final action by Town Meeting vote on the amendment, the Planning Board shall make its approval of these other permits contingent on the approval of the contract zoning amendment.