

SECTION ____ CONTRACT ZONING

_____. 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 Dayton, and to secure appropriate development consistent with the Town's growth management program and comprehensive plan.

_____. AUTHORIZATION.

Pursuant to 30-A M.R.S.A. § 4352 (8), the Town of Dayton 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 growth management program and 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 growth management program or 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. By "contract zoning" this section means both contract and conditional zoning as enabled in 30-A M.R.S.A. § 4352 (8).

_____. 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;
- E. A statement explaining how the rezoning is consistent with the Town's growth management program and 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 may propose additional conditions or restrictions.

_____ HEARING AND NOTICE

- A. The Planning Board shall conduct a public hearing before forwarding its recommendation to the Selectmen 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 within its source water protection area, notice must also be sent to a public drinking water supplier. 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 Selectmen.
- F. The cost of publishing and mailing the notices shall be borne by the applicant(s).

_____ CONDITIONS AND RESTRICTIONS.

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.

_____ RECOMMENDATION

Before forwarding a recommendation for a contract zoning amendment to the Selectmen, the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Selectmen 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 growth management program and 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.

_____ FINAL ACTION

Notwithstanding the provisions of Section 1.5(C) of the Zoning Ordinance, the Selectmen shall be authorized to approve a contract zone amendment to the Ordinance, but only after the Selectmen 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.

_____ STATUS OF AMENDMENTS

Amendments to the zoning map and ordinance made under this section may be amended or repealed by the Selectmen or by majority vote of the Town Meeting.

_____ OTHER PERMITS

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 Selectmen have approved the zoning amendment. If the applicant seeks approval before final action by the Selectmen on the amendment, the Planning Board shall make its approval of these other permits contingent on the Selectmen's approval of the contract zoning amendment.

Note: For ease in record keeping, contract zoning actions by the Selectmen will be recorded in the Tax Office and the Building Inspector's Office with the Map and Lot number of the property, street address, the owner's name at that time, and the date of the Selectmen's action. Such amendment may also be recorded in the York County Registry of Deeds.