

Draft Carrabassett Valley Zoning Ordinance

Amend Article II Definitions of the Zoning Ordinance of the Town of Carrabassett Valley, Maine to add the following:

Contract Zoning: contract zoning is the process whereby the municipal legislative body amends zoning of a property or a portion thereof with approval of a zoning contract to allow its use subject to conditions and restrictions with the property owner not generally applicable to other properties with similar zoning. This process can be used so that the town's objectives/goals as outlined in their Comprehensive Plan can be more easily accomplished. This flexibility is meant to allow for a better project outcome for both the town and property owner. Contract zoning is enabled by State of Maine statute 30-A M.R.S.A. 4352 (8).

Substantial commencement of construction: begins from the point of having an official building permit in hand, and beginning actual demolition or excavation for the project, and continuing on a daily or regular basis until completion.

Amend the Zoning Ordinance of the Town of Carrabassett Valley, Maine to add the following:

Article XII Contract Zoning

Section 1. 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 Carrabassett Valley, and to secure appropriate development consistent with the Town's Comprehensive Plan.

Section 2. Authorization

Pursuant to 30-A M.R.S.A. § 4352 (8), the Town of Carrabassett Valley 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 contract zoning application is sought 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 contractually amended under this provision shall be consistent with, but not limited to, the existing and permitted (whether permitted or conditional) uses within the original zoning district of the affected property or properties.

Section 3. Application Contents

A request for contract zoning shall include a written petition to the Planning Board requesting such a zoning amendment and must include 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 relief requested. The statement must explain the beneficial effects to the town which would not result if the property were developed under the existing zoning requirements, and must clearly identify the affected zoning parameters being amended from the original zoning district standards.
- E. A statement explaining how the proposed contract zoning 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;
- 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.

Section 4. Fees

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

Section 5. 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 Office 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 twelve (12) days and the second at least 7 days before the hearing.

D. Public hearing notices shall be mailed to the owner of the property requesting to be contract zoned and all abutters to that property at their last known address. Such notice shall be sent out at least fourteen (14) days prior to the public hearing, and must contain a copy of the proposed conditions and restrictions with a map indicating the subject property.

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).

Section 6. 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. During its review process, the Select Board may impose conditions under this section that are more restrictive than the applicable requirements of this section.

Section 7. Planning Board Review and Action

Before forwarding a recommendation on a contract zoning application to the Select Board, the Planning Board shall make a finding on each of the three standards in this subsection. A favorable recommendation to the Select Board requires a positive finding on all three 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 application:

- A. is consistent with the Town's Comprehensive Plan;
- B. is consistent with, but not limited to, the existing uses and permitted uses within the original zone; and
- C. the conditions proposed are sufficient to meet the intent of this Article.

In addition to their findings, the Planning Board should include a list of any suggested restrictions and conditions to place upon the application in its recommendation report to the Select Board.

Section 8. Select Board Review and Action

1. Upon receipt and review of the Planning Board's recommendation, and before taking its vote to place the contract zoning application on the Town Warrant, the Select Board shall determine whether the proposed application:
 - A. is consistent with the Town of Carrabassett Valley's Comprehensive Plan,
 - B. is compatible with the existing and permitted uses within the existing zoning district classification of the property,
 - C. is in the public interest, and
 - D. will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification.
2. At the conclusion of Select Board's review of the application, with the Planning Board's recommendations in consideration, the Select Board shall vote either to:
 - A. Authorize that the proposed contract zoning application to be put on a future warrant for vote by the Town, either as presented or with amendments or conditions approved by the Select Board.
 - B. Request the applicant to revise and resubmit the application for contract zoning, under Section 3 above; or
 - C. Terminate the application for contract zoning if the Select Board is unable to conclude positive findings in accordance with State of Maine statute 30-A M.R.S.A. 4352 (8) and Section 8.1 of this article and that the applicant does not wish to revise and resubmit as optioned in 8.2.B above

The Select Board will state its reasons for its findings and for its conclusions on the given determination made in Section 8.2.

3. Upon the Select Board finding the application favorable, the Select Board and the Applicant must develop the Contract and include pertinent details and any conditions or restrictions recommended by the Applicant, Planning Board and Select Board that the Select Board finds appropriate relative to the application. The contract must be referenced in the warrant article to be voted upon at the Town Meeting, and must be available prior to and during voting proceedings.

Section 9. Final Action

The Select Board, after adopting the findings of the Planning Board, and/or making other findings indicating that the application is consistent with all four standards set forth above in Section 8.1, shall then place the proposed contract zoning contract on the warrant for a Town Meeting vote.

The proposed contract zoning contract must be approved by the Voters at a 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.

Section 10. Status of Amendments

1. Amendments to the zoning map and ordinance made under this section may be subsequently amended or repealed by majority vote of a Town Meeting.
2. Contracts approved by Town Meeting vote must 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 approved contracts will become part of the Town of Carrabassett Valley 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 approved contract 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.

Contract zoning changes approved by the Town shall expire, and the property revert to its prior zoning district status, unless substantial commencement of construction on the project occurs within thirteen (13) months of the date of enactment of the approved contract and is substantially

completed within twenty-five (25) months of that date. These deadlines may be extended by a vote of the Select Board.

Section 11. Other Permits

1. At a minimum, all applications for contract zoning are subject to Site Plan Review.

2. An approved contract zoning application shall be in addition to, and not in lieu of, any 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.

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