

**ARTICLE 2:** Shall an ordinance entitled Town of Lyman Zoning Ordinance, adopted November 8, 2005, as amended, be further amended in Article 1, Section 1.8.3 Contract Zoning as proposed? (Copies of the text of the proposed amendments are available at the Town Clerk's office)

Such amendments will be as follows:

### **1.8.3 Contract Zoning**

#### **A. Purpose**

~~Occasionally, competing and incompatible land uses conflict, and traditional zoning methods and procedures such as variances, site plan review permits with conditions, 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 general welfare require that provisions be made to impose certain limitations or restrictions on the use or development of the property. 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 and to secure appropriate development consistent with the Town's Comprehensive Plan. A contract zoning request will not be allowed to circumvent required setbacks or the need for a variance to setback requirements.~~

#### **B. Authorization**

~~Pursuant to 30A M.R.S.A. §4352 (8), contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or the unique location of the property, the Board of Selectmen finds it necessary or appropriate to impose, by agreement with the property owner, certain conditions or restrictions in order to ensure that the rezoning 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 Comprehensive Plan. Areas rezoned under this provision shall be consistent with, but not limited to, the existing and permitted (whether permitted or with site plan approved conditional) uses within any zoning district. Contract zoning is permitted in all zones. By "contract zoning" this section means both contract and conditional zoning as enabled in 30A M.R.S.A. §4352 (8).~~

#### **C. Application Contents**

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

- ~~1. Evidence of right, title or interest in the property;~~
- ~~2. A plot plan showing the boundaries of the parcel and its dimensions, as well as the existing and proposed buildings and structures;~~
- ~~3. A plan showing the location of existing streets and driveways within five hundred (500) feet of the property;~~

- ~~4. A detailed statement of the proposed use of the property and the precise zoning change requested and how the proposed use will benefit the town;~~
- ~~5. A statement explaining how it is consistent with the Comprehensive Plan and permitted and existing uses within any zoning district;~~
- ~~6. A description of the property's unusual nature or unique location;~~
- ~~7. A statement setting forth the conditions or restrictions that the applicant proposes. The Planning Board may propose additional conditions or restrictions.~~

#### **~~D. Hearing and Notice~~**

- ~~1. The Planning Board shall conduct a public hearing before forwarding its recommendation to the Board of Selectmen under this provision.~~
- ~~2. Notice of the hearing shall be posted at the Town Hall, the library and the town web page at least fourteen (14) days before the public hearing.~~
- ~~3. Notice shall also be published twice in a newspaper of general circulation, the date of the first publication to be at least seven (7) days before the hearing.~~
- ~~4. Public hearing notices shall be mailed to the owner of the property to be rezoned and all abutters to that property. Property owners within five hundred (500) feet of the applicant's property shall be notified by certified mail of the public hearing. If the property is within the source water protection area, notice must also be sent to a public drinking water supplier. This notice shall be sent out at least seven (7) days prior to the public hearing. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.~~
- ~~5. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board or Board of Selectmen.~~
- ~~6. The cost of publishing and mailing the notices shall be borne by the applicant(s).~~

#### **~~E. 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, but are not limited to:~~

- ~~1. Limitations on the number and types of uses permitted;~~
- ~~2. Conditions on the scale and density of development, including height, lot coverage and other space bulk provisions;~~
- ~~3. Specifications for the design and layout of buildings and other improvements;~~
- ~~4. Schedule for commencement and completion of construction;~~
- ~~5. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;~~
- ~~6. Preservation of open space and buffers, and protection of natural areas and historic sites;~~
- ~~7. Provision of municipal services required by the development;~~
- ~~8. 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;~~
- ~~9. Provisions for transfer of the contract to come before the Planning Board and Board of Selectmen to demonstrate technical and financial ability to fulfill the contract;~~
- ~~10. The dedication or conveyance of property for public purposes, including but not limited to, streets, easements, parks and utility systems.~~

## **F. Recommendation**

~~Before forwarding a recommendation of a contract zoning amendment to the Board of Selectmen, the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Board of 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 negative. The Planning Board shall base its recommendation on whether the rezoning:~~

- ~~1. Is for land with an unusual nature or location;~~
- ~~2. Is consistent with the Comprehensive Plan;~~
- ~~3. Is consistent with, but not limited to, the existing uses and permitted uses within any zoning district; and~~
- ~~4. That the conditions proposed are sufficient to meet the intent of this section.~~

## **G. Final Action**

~~Before amending the zoning ordinance for contract zoning, the Board of Selectmen shall adopt the Planning Board's findings or other findings indicating that the rezoning is consistent with all four standards of section F above.~~

## **H. Status of Amendments**

~~Amendments to the zoning map and ordinance made under this section may be amended or repealed by the Board of Selectmen.~~

## **I. Other Permits**

~~All applications for contract zoning are subject to site plan review. An applicant may seek other permits at the same time as he or she is seeking the contract zoning as if the contract zoning were already in effect, or may seek them after the Board of Selectmen has approved the zoning amendment. If the applicant seeks approval before the final Board of Selectmen action on the amendment, the Planning Board shall make its approval of these other permits contingent on the Board of Selectmen's approval of the contract zoning amendment.~~