

§ 215-3.4. Contract zoning. [Added 9-28-1991 by Art. 8; amended 6-20-1992 by Art. 62; 1-9-1993 by Art. 5; 1-8-1994 by Art. 6]

- A. Authority. Subject to conditions and/or restrictions and in accordance with the State of Maine planning and land use laws, 30-A M.R.S.A. § 4352, Subsection 8, property in the Town of Casco may be rezoned by a process known as "contract zoning." **[Amended 6-14-2017 by Art. 27]**
- B. Purpose. This chapter and the Comprehensive Plan provide for the orderly development and use of property. However, situations may arise where the unusual nature or unique location of a project or a proposed use of property cannot be accommodated under this chapter. Traditional procedures such as the granting of variances for dealing with the incompatibility may also prove to be inappropriate. In these special situations, more flexible and adaptable zoning methods may permit a project or use of property without, at the same time, compromising the intent of either this chapter or the Comprehensive Plan.
- (1) A contract zone, as defined by state statute, provides for property to be rezoned in order to accommodate an owner's intended use or development when zoning ordinance requirements cannot be met.
 - (2) A contract zone, when approved, represents a deviation from Town of Casco zoning standards and, as such, is subject to the conditions established in the contract agreement and is an amendment to this chapter. In its consideration of a request for contract zoning, the Town of Casco, in agreement with a property owner, may find it necessary or appropriate to grant or impose certain conditions or restrictions upon the rezoned property that do not apply to other properties in Casco. Contract zoning shall adhere as closely as possible to zoning requirements and permitted use standards of the zoning district in which the property to be rezoned lies.
- C. Procedure.
- (1) Initiation of request for contract zone with the Code Enforcement Officer. An applicant, planning a project, shall first consult with the Casco Code Enforcement Officer (CEO) to determine whether, in the opinion of the CEO, the proposal is consistent with the provisions of this chapter and the Comprehensive Plan.
 - (a) If the proposal satisfies the objectives of the Town of Casco Comprehensive Plan but does not meet the requirements of this chapter, the applicant may initiate a contract zoning request.
 - (b) If, in the opinion of the CEO, the proposed project is nonconforming with respect to both this chapter and the Casco Comprehensive Plan, the CEO may recommend that the applicant revise the proposal for acceptability under the governing documents.
 - (c) If, in the opinion of the CEO, it is unclear whether the proposal falls within the contract zoning provisions, he may suggest that the applicant seek a preapplication conference with the Planning Board.
 - (d) If the CEO finds the proposal suitable for contract zoning, the applicant shall draw

up a preliminary proposal indicating the nature, scope, and location of the proposed project. This document shall be presented to the Planning Board as an application for contract zoning.

(2) Application to the Planning Board.

- (a) The Planning Board Secretary shall schedule the application on the Planning Board agenda upon receipt of the appropriate fees.
- (b) The Town Clerk's office shall post notice of the date, time, and place of the Planning Board meeting at least 14 days prior to the Planning Board meeting and shall publish notice in a newspaper of general circulation within the Town at least two times. The date of first publication shall be at least 10 days prior to the Planning Board meeting.
- (c) In addition, at least 10 calendar days prior to the Planning Board meeting, the applicant shall notify property owners within 500 feet of the property lines of the proposed contract zone, with proof of mailing required. Owners of properties shall be those listed in the most recent tax records of the Town of Casco. This notice shall contain information indicating the nature, scope, and location of the proposed project, as well as the Planning Board meeting information.
- (d) The Planning Board shall limit review of the applicant's proposal to material relevant to the contract zoning provisions contained in this chapter.
- (e) Planning Board review of the proposed project itself under the appropriate Town ordinances and state laws will proceed after approval of the contract zoning agreement at a regularly scheduled annual or semiannual Town Meeting.
[Amended 6-14-2017 by Art. 27]

(3) Review of the application by the Planning Board.

- (a) In its examination to determine the suitability of a proposal for contract zoning, the Planning Board shall consider, among other factors, the following:
 - [1] The reason why the applicant is requesting a contract zone agreement.
 - [2] Compatibility with the Comprehensive Plan.
 - [3] The implications of the proposed project, or use of the property, for owners of surrounding properties and the neighborhood in general.
 - [4] The benefits and costs to the Town of Casco and the interests, safety, and general welfare of its citizens.
 - [5] Input, where appropriate, from Town of Casco officials, Town committees such as the Comprehensive Plan, Zoning Advisory, Conservation and Recreation Committees, and Town groups such as the Fire Department and Rescue Unit.
- (b) When negotiating the terms of a contract zoning agreement, the Planning Board

may consider, among other factors, the following:

- [1] Limitations on the number and types of use permitted.
- [2] Restrictions on the scale and density of the project.
- [3] Limitations on the hours of operation.
- [4] Specifications for the design, location, layout, and use of buildings and other improvements.
- [5] Schedules for commencement and completion of construction.
- [6] Performance guarantees securing completion and maintenance of improvements and guarantees against defects.
- [7] Preservation of natural areas, including open spaces, views, and buffers.
- [8] Protection of land, island, and water resources.
- [9] Preservation and protection of historic and archaeological sites.
- [10] Contributions toward the provision of municipal services and infrastructure required by the project.

(4) Joint review by Planning Board and Selectboard.

- (a) The Planning Board, upon reaching substantial agreement with the applicant, shall initiate, within 30 days, a joint review of the proposed contract zoning agreement with the Selectboard and the applicant.
 - (b) The purpose of the joint review is to familiarize the Selectboard with the proposed contract zoning agreement and to give the Selectboard the opportunity to view the proposed contract zoning agreement in its role as administrator.
 - (c) The review shall include the determination that:
 - [1] The Town's interests are adequately protected and served by the proposed contract zoning agreement.
 - [2] The costs and benefits to the Town are reasonable.
 - (d) When the Planning Board and the Selectboard have reached substantial agreement on the terms and wording of the proposed contract zoning agreement, the applicant shall submit a letter confirming the applicant's substantial agreement on the terms and wording of the proposed contract zoning agreement.
- (5) Continuation of Planning Board review of proposed contract zoning agreement. The Planning Board shall complete its review and take a formal vote to submit the proposed contract zoning agreement to public hearing.
- (6) Public notice and hearing. The Planning Board shall schedule a public hearing no later than 30 days following its vote to submit the proposed contract zoning agreement to

public hearing.

- (a) Notice of this public hearing shall be posted in the Town Clerk's office at least 14 days prior to the public hearing. It shall be published in a newspaper of general circulation within the Town at least two times. The date of first publication shall be at least seven days prior to the public hearing. Notice shall also be sent to the last known address of owners whose properties abut the property to be rezoned, with proof of mailing required. This notice shall contain a copy of the proposed conditions and restrictions together with a map showing the property to be rezoned.
 - (b) The public hearing shall be conducted by the Planning Board Chair or Acting Chair.
 - (c) A taped record of the public hearing shall be made for public record.
- (7) Final review by the Planning Board. Following the public hearing, the Planning Board shall review all comments and recommendations from the public hearing and make changes where deemed necessary.
- (a) In this final review, the Planning Board shall determine whether the proposed contract zoning agreement:
 - [1] Is consistent with the Casco Comprehensive Plan.
 - [2] Establishes rezoned areas that are consistent with the existing and permitted uses of the original zone.
 - [3] Includes only such conditions and restrictions that relate to the physical development or operation of the property.
 - (b) If any substantive changes are made in the proposed contract zoning agreement, another public hearing shall be held. If there are no substantive changes, then, upon final approval by the Planning Board, the proposed contract zoning agreement shall be forwarded to the Selectboard.
- (8) Town Meeting.
- (a) The Selectboard shall then place the proposed contract zoning agreement on the warrant for the next regularly scheduled annual or semiannual Town Meeting for decision by the voters.
 - (b) The proposed contract zoning agreement shall require approval by the voters of the Town of Casco at a regularly scheduled annual or semiannual Town Meeting.
 - (c) If the contract zoning agreement is disapproved by Town Meeting vote, it may not be resubmitted for one year from the date of disapproval.

D. Administration.

- (1) Zoning amendment. Upon approval of the contract zoning agreement by the Town Meeting, this chapter shall be amended to reflect the incorporation of the new zone. Conditions and restrictions pertaining to the rezoned area shall also become part of the

record. The rezoned area shall be shown on the Town of Casco Zoning Map and shall be referenced in this chapter.

- (2) Separability. Should any section or provision of the contract zoning provisions contained in this chapter be declared by the courts to be invalid, such decision shall not invalidate any other article, section, or provision of this chapter.
- (3) Effective date of contract zoning agreement. The date of the signing of the contract zoning agreement shall occur no later than 30 days following the date of the Town Meeting at which the contract zoning agreement was approved. Subject to approval by state and federal regulatory agencies, the contract zoning agreement shall be deemed to become effective and binding when signed. Its terms, conditions and restrictions, together with this chapter, any applicable Town of Casco ordinances or regulations, and the Town of Casco Comprehensive Plan, shall thereafter govern the proposed project and/or use.
- (4) Violation and termination of contract zoning agreement.
 - (a) If the developer is found by the CEO to be in violation of the terms of the contract zoning agreement, enforcement shall follow the procedure established in Article 6 of this chapter.
 - (b) If the developer does not meet the time limits prescribed by the contract zoning agreement or abandons the project, the contract zoning agreement shall become null and void. If this occurs, the property shall revert to the underlying zoning and shall be made to comply with requirements for said zone.