

# TOWN OF LYMAN

## ZONING ORDINANCE

**Adopted – November 8, 2005**  
**Amended – November 7, 2006**  
**Amended – June 29, 2009**  
**Amended – June 1 and 5, 2010**  
**Amended – June 12, 2014**  
**Amended – June 9, 2015**  
**Amended – June 14, 2016**  
**Amended – June 13, 2017**  
**Amended – November 7, 2017**  
**Amended – June 12, 2018**  
**Amended – June 11, 2019**

Original Copy

\_\_\_\_\_  
Roderick Tetu, Planning Board Chair

Attest: \_\_\_\_\_  
Pauline F. Weiss, Town Clerk

Date: \_\_\_\_\_

Attest: A true copy of an ordinance entitled “Town of Lyman Zoning Ordinance”, as certified to me by Roderick Tetu, Planning Board Chair, after amendments to incorporate changes approved at the June 11, 2019 Annual Town Meeting.

Pauline F. Weiss, CCM, Lyman Town Clerk

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## **Article 1 – General**

### **1.1. Short Title**

- 1.1.1. This ordinance shall be known and cited as the Zoning Ordinance of the Town of Lyman.

### **1.2. Repealer**

- 1.2.1. The Lyman Zoning Ordinance adopted on January 22, 1976 and amended through June 8, 2002 is hereby repealed.

### **1.3. Effective Date**

- 1.3.1. This ordinance shall become effective on the date of its passage or amendment.

### **1.4. Authority**

- 1.4.1. This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Constitution, the provisions of Title 30-A MRSA Section 2691 (Board of Appeals), Title 30-A MRSA, Section 3001 (Home Rule), Title 30-A MRSA Section 4312 et. seq. (Growth Management Law), Title 30-A Section 4351 et. seq. (Land Use Regulations)

### **1.5. Purpose**

- 1.5.1. The purposes of this ordinance are:
- 1.5.2. To implement the provisions of the Town's Comprehensive Plan.
- 1.5.3. To encourage the type of growth as identified within the zoning districts.
- 1.5.4. To further the maintenance of safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses, and conserve shore cover, visual as well as actual points of access to inland waters and natural beauty.
- 1.5.5. This ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of the necessity of complying with other laws and regulations.

### **1.6. Validity and Severability**

- 1.6.1. Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

## **1.7. Conflict With Other Ordinances**

- 1.7.1. Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control, unless otherwise indicated.

## **1.8. Amendment Procedure**

### **1.8.1. Initial Petitions**

- A. An amendment may be initiated by a majority vote of the Lyman Planning Board, a majority vote of the Board of Selectmen or by a petition of at least ten (10) per cent of the votes cast in the last gubernatorial election in the town. This ordinance may be amended by a majority vote of the Town Meeting. The Planning Board must hold a public hearing on the amendment at least ten (10) days before the consideration of adoption. Public notice of the hearing shall be made in accordance with the provisions of Title 30-A M.R.S.A. Section 4352.

### **1.8.2. Repetitive Petitions**

- A. No proposed changes in this Ordinance which has been unfavorably acted upon by the Town Meeting shall be reconsidered by the Town Meeting within six (6) months after the date of such an unfavorable action, unless adoption of the proposed change is recommended by a unanimous vote of the Planning Board.

### **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.

## **2. Article 2 – Establishment of Districts**

### **2.1. Zoning Districts**

- 2.1.1. Shore land District
- 2.1.2. Residential District
- 2.1.3. General Purpose District
- 2.1.4. Commercial/Residential District
- 2.1.5. Mobile Home Park Overlay District

### **2.2. Location of Districts**

- 2.2.1. Said Districts are located and bounded as shown on the Official Zoning Map, Entitled "Zoning Map of Lyman," dated December 06, 2014 and on file in the office of the Municipal Clerk.
- 2.2.2. The Official Zoning Map is incorporated herein by reference and shall be signed by the Municipal Clerk and the Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. Additional copies of this map may be seen in the Municipal Offices.

### **2.3. Uncertainty of Boundary Lines**

- 2.3.1. Where uncertainty exists with respect to boundaries of various Districts as shown on the Official Zoning Map, the following rules shall apply. Unless otherwise indicated; boundary lines shall be considered as lines paralleling a road, waterway, and shoreline or lot line and at distances from the center lines of roads, waterways, shorelines or lot lines as indicated by the Official Zoning Map. In the absence of a written dimension, the graphic scale on the Official Zoning Map shall be used.

### **2.4. Division of Lots by District Boundaries**

- 2.4.1. Where a Zoning District boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption of amendment of this ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than fifty (50) feet into the more restricted portion of the lot. Extension of a use into a more restricted portion of a lot shall require site plan review and approval by the Planning Board subject to Article 8 of this Ordinance.

### **2.5. Continued Uncertainty**

- 2.5.1. Where continued uncertainty exists, a property owner may file an appeal to the Lyman Zoning Board of Appeals, which shall hear the case as an Administrative Appeal.

## **3. Article 3 – Non-Conforming Uses Lots & Structures**

### **3.1. Continuance of Non-Conforming Uses**

- 3.1.1. The use of land, buildings or structures, lawful at the time of adoption or subsequent amendment of this ordinance, may continue although such use does not conform to the provisions of this ordinance.
- 3.1.2. A non-conforming building or structure may be repaired, or maintained, but the use shall not be intensified except in conformity with the provisions of this ordinance.
- 3.1.3. A non-conforming use may not be expanded.

### **3.2. Discontinuance of a Non-Conforming Use**

- 3.2.1. A non-conforming use which is discontinued for a period of two (2) years may not be resumed. The use of land, building or structure shall thereafter conform to the provisions of this Ordinance.

### **3.3. Rule of Precedence**

- 3.3.1. Whenever a non-conforming use and / or structure is superseded by a permitted use and / or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions of the ordinance and the non-conforming use may not thereafter be resumed.

### **3.4. Transfer of Ownership**

- 3.4.1. Ownership of land and structures which remains lawful but becomes non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming uses or structure subject to the provisions of this Ordinance.

### **3.5. Non-Conforming Lots of Record**

- 3.5.1. No dwelling or septic system may be located on any lot less than 20,000 square feet in size. No variance shall be granted from this requirement.
- 3.5.2. A single lot of record which, at the effective date of adoption or amendment of this ordinance, does not meet the area or width requirements, or both, of the District which it is located, may be built upon provided that such lot shall be separate ownership and not contiguous with any other lot in the same ownership, and that all other provisions of this ordinance are met. Variances of requirements other than area and width shall be obtained only by action of the Board of Appeals. If a lot is less than 20,000 square feet in size (see section 3.5.1).
- 3.5.3. If two (2) or more contiguous lots or parcels are in single or joint ownership of record as of January 14, 1976 forward, and if these lots do not individually meet the dimensional requirements of the ordinance or any subsequent amendment, the lots shall be combined to the extent necessary to meet the dimensional standards or less nonconforming.
- 3.5.4. Any nonconforming building which is hereafter damaged or destroyed by fire, flood, lightning, wind, or other accidental cause, as determined by the Code Enforcement Officer after consultation with other authorities, may be restored or reconstructed in conformity with its original dimensions and in the same foot print within twelve (12) months of the date of such damage or destruction; provided, however that such reconstruction shall not be more nonconforming than the prior nonconforming building or use. A building permit must be acquired from the Code Enforcement Officer prior to commencing reconstruction under this section.

## **4. Article 4 – Land Use District Requirements**

### **4.1. Shore land District**

- 4.1.1. **The Shoreland District is subject to the terms, conditions and requirements contained in the Shoreland Zoning Ordinance.**

### **4.2. Residential District**

- 4.2.1. To provide for the public health and safety, environmental quality, and economic well-being of the community.

- 4.2.2. To provide areas for medium density residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities.
- 4.2.3. To provide areas for public and semi-public uses compatible with and necessary for residential development.

#### **4.3. General Purpose District**

- 4.3.1. To allow diversity of use, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by imposing controls on those uses which, by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odor or auto, truck, or rail traffic) could otherwise create a nuisance or unsafe or unhealthy condition.

#### **4.4. Commercial/Residential District**

- 4.4.1. To provide areas for a wide range of commercial businesses with uses which are clean and non-polluting. As recommended in the Town of Lyman 2004 Comprehensive Plan, this District shall abut Routes 111, and 5 and 202, and can be buffered from residential uses. (Note: See definition of Buffer in Article 12.)

#### **4.5. Mobile Home Park Overlay District**

- 4.5.1. To offer viable and affordable housing option (s) for the citizens of Lyman in areas that can support, both environmentally and from a public service perspective, higher residential densities.
- 4.5.2. To meet the State of Maine requirements under Title 30-A, M.R.S.A. Section 4358, Regulation of Manufactured Housing.
- 4.5.3. To establish such a District as an Overlay District which still permits the uses of the underlying zone while also allowing for mobile home parks.
- 4.5.4. Mobile Home Parks are only allowed in the Mobile Home Park Overlay District as shown on the Official Zoning Map.
  - A. See standards in Section 10.18

### **Article 5 – Land Uses**

Note: The Commercial/Residential District Land Use designations are for commercial properties only. Residential properties in the Commercial/Residential District follow the Residential District Land Use designations.

## Land Use Table

**Land Use:**

	Residential District	General Purpose District	Comm/Resid District
<b>Key: – Yes = Permitted Use; SR = Requires Site Plan Review; NO = Not Allowed</b>			
<b>Agriculture (1)</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Agriculture (2)</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Assisted Living &amp; Nursing Homes</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Artisanal Food and/or Beverage Facility</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Automobile Recycling or Graveyard</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Automobile Sales &amp; Service</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Bank / Financial Institutions</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Bed &amp; Breakfast Inns (1)</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Bed &amp; Breakfast Inns (2)</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Boat &amp; RV Sales &amp; Service (see commercial facility (1))</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Business Contractor (1)</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Business Contractor (2)</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Business Office</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Campgrounds</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Cemetery (20,000 SF or less) (1)</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Cemetery over 20,000 SF (2)</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Church, Parish House Rectory, Convents</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Clubs</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Commercial Facilities (1)</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Commercial Facilities (2)</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Commercial Outside Storage</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>

## Land Use Table

**Land Use:**

Residential District	General Purpose District	Comm/Resid District
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**Key: – Yes = Permitted Use; SR = Requires Site Plan Review; NO = Not Allowed**

<b>Commercial Timber Harvesting</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>(Permit required from State of Maine, Department of Forestry)</b>			
<b>Dwelling, Single Family</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Dwellings, Two Family</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Dwellings, Multi-Family</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Earth Moving Activities</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Farming</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Flea Market</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Function Hall</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Health Institution</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Home Day Care / Nursery School</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Home Occupation</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hotel / Motel</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Junkyards</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Lumber Yard</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Medical Care Facility</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Medical Marijuana Home Production</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Medical Marijuana Production Facility</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Mobile and Modular Home Sales</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Municipal Facility</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Neighborhood Convenience Store (1)</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>



## Land Use Table

**Land Use:**

Residential District	General Purpose District	Comm/Resid District
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**Key: – Yes = Permitted Use; SR = Requires Site Plan Review; NO = Not Allowed**

Neighborhood Convenience Store (2)	NO	SR	SR
Outdoor Recreation	SR	SR	SR
Personal Service Business	SR	SR	SR
Professional Office	SR	SR	SR
Public Utility Facility	SR	SR	SR
Recreation Facility	NO	SR	SR
Research Development Facility	NO	SR	SR
Recycling Facility	NO	SR	SR
Retail Business	NO	NO	SR
Restaurant (Standard)	NO	SR	SR
Restaurant (Fast Food)	NO	NO	SR
Sawmills	NO	SR	SR
Schools (Private)	SR	SR	NO
Schools (Vocational & Technical)	NO	NO	SR
Self Service Storage Facility	NO	SR	SR
Special Event Facility	NO	SR	SR
Timber Harvesting (Note: permit required by state)	YES	YES	YES
Transmission/Telecommunication Towers	NO	SR	SR
Truck Terminals	NO	NO	SR
Warehousing	NO	NO	SR
Wholesale Business	NO	NO	SR

**Land Use Table**

**Land Use:**

Residential District	General Purpose District	Comm/Resid District
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**Key: – Yes = Permitted Use; SR = Requires Site Plan Review; NO = Not Allowed**

<b>Wholesale Club</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Yard Sales</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>

Amended on 11/7/06 to allow Dwelling, Single Family and Dwelling, Two Family in the Commercial/Residential Zone along with Dwelling, Multi-Family with SR.

\*\*Recreational Marijuana Retail is prohibited until laws at the State level are determined. After that point, the town will decide whether to opt in and if so, will review the Recreational Marijuana definition and Land Use Table.

**5.1 Residential District**

- B. To provide areas for medium density residential development and to provide areas for concentrations of residential development within the rural setting of the Town. Non-Residential uses should be limited in this area.
  
- C. If a use is not listed then that use is prohibited in the Residential District.

**5.2 Permitted Uses:**

**5.2.1**

The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:

- A. Agriculture – (1)
- B. Cemetery – Having an area less than 20,000 sq. feet without buildings. No cemetery shall be located over a sand and gravel aquifer. All cemeteries shall comply with the applicable State Regulations.
- C. Commercial Timber Harvesting - Permit required from State of Maine, Department of Forestry
- D. Dwelling, Single Family
- E. Dwelling, Two Family
- F. Farming – Farming use that meets the following performance standards:
  - 1. Lot size is three (3) acres or greater; and
  - 2. Up to a combined total of two (2) animal units for the first three (3) acres allowed; and

3. Two (2) animal units for each full acre over three (3) acres are allowed; and
  4. Fencing for pasturing of livestock and all pasturing activity, including beekeeping, must meet setback requirements for the Residential District, with an additional requirement that all livestock pasturing and housing, including beekeeping, be located a minimum of one hundred (100) feet from any neighboring residential dwelling unit; and
  5. Domesticated farm animals must be enclosed in a roaming or grazing area with fencing or containment structures sufficient to keep them securely enclosed; and
  6. Manure storage must meet all applicable Maine Department of Agriculture, Conservation and Forestry Best Management Practices or similar State or Federal guidelines, except that open manure piles must be stored at least 150 feet from any neighboring residential dwelling unit and 300 feet from any well or water body; and
  7. All feed and grain must be stored in rodent proof containers; and
  8. Excessive odors or noises from domesticated farm animals, manure or other related substances must not be perceptible at the property boundaries, as determined by the Code Enforcement Officer, in consult with the Maine Department of Agriculture, Conservation and Forestry, Bureau of Agriculture, Food and Rural Resources Nutrient Management Coordinator.
  9. Any disputes regarding farming activities will be guided by the Maine Agriculture Protection Act (MRSA 7§151 et seq.) and handled through mediation with assistance from the Maine Department of Agriculture, Conservation and Forestry, the U.S.D.A. Natural Resource Conservation Service, or other neutral third party as agreed upon in writing by all parties.
  10. Livestock may be allowed on smaller lots provided all setbacks are met, and with review and approval by the Code Enforcement Officer, who may adjust allowed animal units based on the size and conditions of the lot.
- G. Home Occupation
- H. Medical Marijuana Home Production
- I. Timber Harvesting – Permit Required by the State
- J. Yard Sales

**5.3 The following are permitted uses in the Residential District requiring a Site Plan Review by the Planning Board in addition to any other permits required by this Ordinance or by any other regulatory agency.**

- A. Assisted Living & Nursing Homes
- B. Bed & Breakfast Inn (1).
- C. Boat & RV Sales and Services, as Commercial Facility (1)
- D. Business Contractor (1)
- E. Business Office
- F. Campground
- G. Cemeteries, Over 20,000 sq. feet (2). No cemetery shall be located over a sand & gravel aquifer.
- H. Church, Parish House, Rectory, Convent
- I. Dwelling, Multi-Family
- J. Home Day Care / Nursery School
- K. Medical Marijuana Production Facility
- L. Municipal Facility
- M. Neighborhood Convenience Store (1)
- N. Outdoor Recreation
- O. Personal Service Business
- P. Public Utility Facility
- Q. School – Public or Private

**5.4 General Purpose District**

5.4.1 If a use is not listed then that use is prohibited in the General Purpose District.

**5.4.2 The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer.**

- A. Agriculture – (2)
- B. Cemetery – Having an area less than 20,000 sq. feet without buildings. No cemetery shall be located over a sand and gravel aquifer. All cemeteries shall comply with the applicable State Regulations
- C. Commercial Timber Harvesting - Permit required from State of Maine, Department of Forestry
- D. Farming
- E. Dwelling, Single Family
- F. Dwelling, Two Family
- G. Home Occupation
- H. Medical Marijuana Home Production
- I. Timber Harvesting – Permit Required by State
- J. Yard Sales

**5.4.3 Permitted uses requiring a Site Plan Review by the Planning Board in addition to any other permits required by this Ordinance or by any other regulatory agency.**

- A. Artisanal Food and/or Beverage Facility
- B. Assisted Living & Nursing Homes
- C. Automobile Recycling or Graveyard (Permit also required from Board of Selectmen)
- D. Automobile Sales and Service
- E. Bank
- F. Bed & Breakfast Inn (1) and (2)
- G. Boat & RV Sales and Services, as Commercial Facility (1)
- H. Business, Contractor (1) and (2)
- I. Business, Office
- J. Campground
- K. Cemeteries, Over 20,000 Sq. feet. No cemetery shall be located over a sand & gravel aquifer.
- L. Church, Parish House, Rectory, Convent
- M. Clubs
- N. Commercial Facilities, (1)
- O. Dwelling, Multi-Family
- P. Earth Moving Activities
- Q. Flea Market
- R. Function Hall
- S. Home Daycare / Nursery Schools
- T. Junkyard (Permit also required from Board of Selectmen)
- U. Medical Marijuana Production Facility
- V. Municipal Facility
- W. Neighborhood Convenience Store (1)
- X. Neighborhood Convenience Store (2)
- Y. Outdoor Recreation
- Z. Personal Services Business
- AA. Professional Office
- BB. Public Utility Facility
- CC. Recreation Facilities to include, Parks, Playgrounds, Golf Courses, Driving Ranges
- DD. Research Development Facility
- EE. Recycling Facility
- FF. Restaurant - Standard
- GG. Sawmills
- HH. Self Service Storage Facility
- II. Schools, Public and Private
- JJ. Special Event Facility
- KK. Transmission Towers

## 5.5 Commercial/Residential District

- 5.5.1 If a use is not listed then that use is prohibited in the Commercial/Residential District.
- 5.5.2 The requirements of this Ordinance apply to commercial property owners within the Commercial/Residential District. As amended in November 2006, this Ordinance allows owners of residential properties, and properties to be improved, within the Commercial/Residential District to construct new single family dwelling units, accessory dwelling units, two family dwelling units, and multi-family dwelling units provided that the dwelling(s) and the lots upon which they are located conform to the permitting, dimensional, and any other requirements applicable to those uses in the Residential District.
- 5.5.3 The Commercial/Residential District abuts Routes 111, and 5 and 202, as shown on the Official Zoning Map on file in the office of the Municipal Clerk. The District extends from the Routes 111, and 5 and 202, commercial lot property lines to a depth of 1500 feet. Along Route 111, the District extends from the Town of Arundel line westerly to Sunken Branch Brook. Along Routes 5 and 202, the District extends from the Town of Hollis line westerly to the Town of Waterboro line.
- 5.5.4 The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer.**
- A. Agriculture – (1) and (2)
  - B. Cemetery – Having an area less than 20,000 Sq. Feet without buildings. No cemetery shall be located over a sand & gravel aquifer.
  - C. Commercial Timber Harvesting - Permit required from State of Maine, Department of Forestry
  - D. Dwelling, Single Family } Amended 11/7/06
  - E. Dwelling, Two Family } Amended 11/7/06
  - F. Farming
  - G. Home Occupation
  - H. Medical Marijuana Home Production
  - I. Timber Harvesting – Permit required from State

**5.5.5 Permitted uses requiring a Site Plan Review by the Planning Board in addition to any other permits required by this Ordinance or by any other regulatory agency.**

- A. Artisanal Food and/or Beverage Facility
- B. Assisted Living & Nursing Homes
- C. Automobile Recycling & Graveyard (permit also required from Board of Selectmen)
- D. Automobile Sales and Service
- E. Bank / Financial Institutions
- F. Bed & Breakfast Inns (1) and (2)
- G. Boat & RV Sales & Service (see commercial facility (1))
- H. Business Contractor (1) and (2)
- I. Business Office
- J. Campgrounds
- K. Cemetery over 20,000 SF (2)
- L. Church, Parish House Rectory, Convents
- M. Clubs
- N. Commercial Facilities, (1) and (2)
- O. Commercial Outside Storage
- P. Dwellings, Multi Family Amended 11/7/06
- Q. Earth Moving Activities
- R. Flea Market
- S. Function Hall
- T. Health Institution
- U. Home Day Care / Nursery School
- V. Hotel / Motel
- W. Junkyards
- X. Lumber Yard
- Y. Medical Care Facility
- Z. Medical Marijuana Production Facility
- AA. Mobile and Modular Home Sales
- BB. Municipal Facility
- CC. Neighborhood Convenience Store (1) and (2)
- DD. Outdoor Recreation
- EE. Personal Service Business
- FF. Professional Offices
- GG. Public Utility Facility
- HH. Recreation Facility
- II. Recycling Facility
- JJ. Research Development Facility
- KK. Retail Business
- LL. Restaurant, Standard
- MM. Restaurant, Fast Food
- NN. Sawmills
- OO. Schools, Vocational – Technical
- PP. Self Service Storage Facility

- QQ. Special Event Facility
- RR. Transmission / Telecommunication Towers
- SS. Truck Terminals
- TT. Warehousing
- UU. Wholesale Business
- VV. Wholesale Club

## **6 Article 6 – Dimensional Requirements**

### **6.1 Basic Requirements**

- 6.1.1 Permitted Uses and Site Plan Review approvals shall conform to all dimensional requirements and other applicable requirements of the Ordinance. A building permit or use permit shall be required, and an electrical permit and/or a plumbing permit may be required for all buildings, uses, and sanitary facilities according to the provisions of the ordinance
- 6.1.2 When a residential property is converted to a commercial property, the newly designated commercial property shall conform to dimensional and setback requirements for the Commercial/Residential District
- 6.1.3 A residential property, once converted to a commercial property, as well as an existing commercial property, may not be converted to a residential property.

### **6.2 Lot Size and Setback Requirements**

NOTE: All setbacks are from property lines. Setbacks are not measured from the edge of roadways. These setback requirements apply to all Districts.

#### **6.2.1 Residential District: Amended 11/7/06**

- A. Minimum Lot Size: 3 Acres, Square Footage: 130,680
- B. Setbacks: 75 feet front, 40 feet sides and rear
- C. Minimum Road Frontage: 300 feet
- D. Maximum Lot Coverage for Buildings: 15 %

#### **6.2.2 General Purpose District:**

- A. Minimum Lot Size: 5 Acres, Square Footage: 217,800 sq ft
- B. Setbacks: 75 feet front, 40 feet sides and rear
- C. Minimum Road Frontage: 375 feet
- D. Maximum Lot Coverage for Buildings: 20%

#### **6.2.3 Commercial/Residential District:**

- A. These requirements apply to commercial lots within the Commercial/Residential District. Residential lots within the Commercial/Residential District shall conform to the requirements of the Residential District.



- B. The Commercial/Residential District envisions a maximum of two commercial lots within the 1,500-foot depth abutting Routes 111, or 5 and 202, with Lot #1 in front, and Lot #2 in back of Lot #1.
- C. Base Lot Size:
  - 1. Lot #1: This lot abuts both sides of those portions of Routes 111, and 5 and 202 that are listed as being in the Commercial/Residential District. This lot shall have a minimum width of two hundred (200) feet abutting the above listed Routes, and a minimum depth of six hundred and fifty (650) feet.
  - 2. Lot #2: This lot shall have a minimum width of two hundred (200) feet and a minimum depth of eight hundred and fifty (850) feet.
  - 3. Setbacks for Structures: one hundred (100) feet front, one hundred (100) feet rear, thirty (30) feet side
  - 4. Minimum Road Frontage: two hundred (200) Feet
  - 5. Maximum Total Lot Coverage: forty five percent (45%), as described below
  - 6. In determining lot coverage, the commercial property owner shall be allowed to cover forty-five percent (45%) of the usable lot area with impervious surface. In calculating the allowable lot coverage, all wetlands, areas of steep slope (areas with a grade of thirty percent (30%) or more), easements and rights-of-way are subtracted from the total lot area to derive the usable lot area for calculation. Impervious surface area includes the areas of buildings, parking and roadways. Grass areas used as overflow parking shall be considered as impervious surface. If the impervious area is calculated to be greater than forty five percent (45%), the commercial property owner may reduce the project size, or add lot width to achieve the forty five percent (45%) impervious area requirement. For each one-half (1/2) acre added to the base lot size, twenty-five (25) feet of lot width must be added to the frontage of the lot.

### **6.3 General Requirements:**

#### **6.3.1 Principal Building and Uses**

- A. In the Residential District, one (1) principal building or one principal use along with one (1) accessory building or use is allowed per lot, with the size of lot to be determined by section 6.2.
- B. In the General Purpose District, there shall be no more than one (1) building for each principal use, and no more than two (2) buildings for an accessory use as limited by lot coverage requirements.
- C. The number of buildings and uses in the Commercial/Residential District will be determined by the maximum total lot coverage allowed for the site.

**6.3.2 Setback and Other Dimensional Requirements**

- A. The setback requirements in all subdivisions which received Planning Board approval before March 10, 1979, and all non-conforming lots which were created before March 10, 1979, where the above dimensional setback requirements cannot be met with regard to existing structures and new construction are as follows: The setback requirements from property lines shall be as close to the requirements as possible but not less than:

Front setback thirty five (35) feet, side and rear setback twenty (20) feet.

- B. **Visibility at Corner Lots**

- 1. All corner lots shall be kept free from any type of visual obstructions for a distance of twenty-five (25) feet back from the edge of pavement measured along the intersecting street lines.

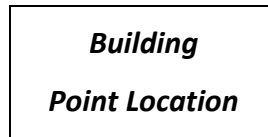
- C. **Accessory buildings:**

No garage or other accessory building shall be located at a distance less than the front setback requirement. Where the standard setback requirements cannot be met, when located to the rear of the main building, the accessory structure shall be set back at least 20 feet from the side or rear lot lines, provided that all accessory structures shall meet all shoreland zone setbacks.

- D. **Building Height**

- 1. No structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height. Height is determined based on the average of finish grade taken from six (6) points within fifteen (15) feet of the structure, to the highest point of the roof. The Code Enforcement Officer may use additional points to make his / her determination.

\* \* \*



\* \* \*

- 2. All structures, other than buildings, such as chimneys, towers, ventilators, and spires may exceed thirty-five (35) feet in height, but shall be set back a distance equal to or more than one hundred and twenty five percent (125%) of its height from any property line.

**6.3.3 New Back Lots (lots without frontage on a town or private road)**

**B. May be created, provided that:**

1. All lots must meet the dimensional requirements of Article 6
2. Back lots in the Residential District shall be laid out in such a way that a circle with a two hundred and twenty five (225) foot diameter can be placed entirely within the lot boundaries.
3. Back lots in the General Purpose District shall be laid out in such a way that a circle with a three hundred (300) foot diameter can be placed entirely within the lot boundaries.

Note: Structures do not have to be within the circle as long as they meet the setback requirements of the district.

4. The back lot (s) must have access to a publicly accepted road or a private way leading to a publicly accepted road by way of a private easement and the easement shall be constructed as required in the following table.

Note: Access across the road frontage lot must be by privately deeded easement granted to the owner of the back lot.

	<b><u>Minimum Width of Private Easement in Feet</u></b>	<b><u>Width of Traveled Way in Feet</u></b>
<b>Number of lots:</b>	<b>Width:</b>	<b>Width:</b>
<b>1</b>	<b>50 Ft.</b>	<b>12 Ft.</b>
<b>2 or 3</b>	<b>50 Ft.</b>	<b>20 Ft.</b>
<b>More than 3</b>	<b>50 Ft.</b>	<b>24 Ft.</b>

All dead end traveled ways must have a hammerhead installed suitable for emergency vehicle turn around.

Note: Private easements for the purpose of constructing, maintaining and using access roads do not create road frontage for a back lot and are not subtracted from the road frontage or lot area of a lot on a public or private road.

5. The maintenance of the easement associated with back lots shall be the responsibility of those person(s) requiring the use of that easement for access. This maintenance requirement shall be stated in the deed granting the access easement.

**6.3.4 Drainage Improvements:**

- A. All driveways shall have culverts installed in the ditch line of Town maintained roads unless deemed unnecessary by the Road Commissioner. Driveway culverts shall meet the following minimum requirements.

- B. Minimum Size: Fifteen (15) inch diameter or larger as determined by the Road Commissioner.
- C. Minimum Length: Width of the driveway plus two times the depth to invert at the edge of the driveway.
- D. Minimum Cover: Three (3) feet at the shallow end where ditch depth allows. Downstream re-grading of the road may be required.
- E. Materials: Aluminized Type 2, 16 gauge corrugated steel pipe, or Class IV reinforced concrete pipe or smooth bore polyethylene (HDPE) pipe equal to ADS M12 or Hancor Hi-Q.
- F. End Protection: Unless deemed unnecessary, pipe ends shall be rip rapped as follows:
  - 1. Inlet End: Six (6) pipe diameters wide by two (2) pipe diameters long and shall be carried one (1) foot above the top of the pipe.
  - 2. Outlet End: Six (6) pipe diameters wide by five (5) pipe diameters long and shall be carried one foot above the top of the pipe.
  - 3. Size:  $D - 50 = 6''$  Average size of stone shall be six (6) inches in diameter or larger as required by the Road Commissioner.
  - 4. Filter: A layer of filter fabric shall be placed on the ground prior to placing rip-rap unless deemed unnecessary by the Road Commissioner.
  - 5. Stone: Sound durable angular stone compliant with Maine D.O.T. Standards for Bridges and Highways section 703.26 or latest revision.

## **7. Article 7 – Administration**

### **7.1. Enforcement:**

- 7.1.1. This Ordinance shall be enforced by the Code Enforcement Officer (s) appointed by the Municipal Officers

### **7.2. Building or Use Permits:**

- 7.2.1. After the effective date of this Ordinance, no building or other structure shall be erected, moved or enlarged in area (including gross floor area) or volume without a permit issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this ordinance or by written order from the Zoning Board of Appeals. A building permit shall not be required for the replacement of roofing, siding and windows if no structural changes to the building are required as part of such work. The Code Enforcement Officer shall be consulted before starting the work.

- A. All applications for a Building Permit shall be submitted in writing to the Code Enforcement Officer on the forms provided for that purpose. Applications may only be submitted and picked-up by the applicant or his/her authorized agent with written permission from the owner.
- B. Applications shall be completed and submitted with all the accompanying information requested on the form. An incomplete application will be returned to the applicant or denied.
- C. Within fourteen (14) days of the filing of an application for a Building Permit the Code Enforcement Officer shall approve or deny the application.
- D. A building permit secured under the provisions of this Ordinance shall expire if work or change is not commenced within ninety (90) days of the date of issuance. The Code Enforcement Officer may issue an extension for up to sixty (60) days when extenuating circumstances exist. If the work or change is not completed within one (1) year of the date on which the permit was issued, the applicant must apply for a new or renewal permit from the Code Enforcement Officer to complete the work.
- E. Prior to the issuance of a building, electrical, or use permit, a fee as established by the Board of Selectmen shall be paid through the Code Enforcement Office to the Town of Lyman.
- F. Upon issuance of a building permit, a building permit card will be issued. This card shall be displayed within twenty four (24) hours of the issuance of the building permit on the front of the subject property visible from the road.

### **7.3. Occupancy Permits**

A final inspection and occupancy permit shall be obtained from the Code Enforcement Officer prior to occupying any new structure, renovated structure or new or renovated use.

### **7.4. Restoration of Unsafe Property**

- 7.4.1. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer. The Code Enforcement Officer will determine if a permit is required.

### **7.5. Plumbing and Electric Permits Required**

- 7.5.1. All plumbing work in any structure requires a valid plumbing permit. All plumbing shall be in accordance with the current version of the adopted State of Maine Plumbing Code.

#### **7.5.2 Residential Electric Services**

All electric work requires a valid electric permit. All electric installations shall be in accordance with the current version of the State of Maine adopted Electric Code.

A.

1. No residence, nor any associated accessory structure or garage of the residence, or any combination thereof may install, activate, or receive more than a single 200 AMP combined electric service for such structures.
2. The limitation of a single combined 200 AMP service is meant and intended for each residence and accessory structure or garage in combination on that structure's parcel.
3. A person or party may apply for an electric service greater than 200 AMP if the intended use is permitted by town zoning, and following review and approval of electric load calculations by the town's Electric Inspector; and, after on-site-review and separate approval by the Code Enforcement Office.
4. It shall be a violation of this code for any person or party, including a licensed or non-licensed electric or general contractor, to install or activate any electric services that do not meet these conditions and requirements. Further, it shall be a violation of this code for any property owner to install, maintain, activation on operation of any electrical service that does not meet these conditions or requirements.

B. Hazardous conditions and authority to disconnect

1. If the Electric Inspector finds a dangerous installation, alteration, or repair of electrical work, the Electric Inspector shall provide notice that shall:

Be served on the owner or occupant of the premises and the licensee by:

- Telephone,
  - Personal service,
  - first class mail or posting the property as unsafe; and
2. The Electric Inspector, with the approval of the Code Enforcement Officer or Fire Chief may disconnect public utilities, including electric supply, to a building, structure, or system regulated by this section if:
- Repairs are not made under this section; or
  - Hazardous condition exists that threatens or may threaten the public health and safety.
3. The Electric Inspector or his designee shall notify:
- The serving utility; and
  - The owner and occupant of the building, structure, or service system of the decision to disconnect;
  - Where possible, prior to disconnecting; or
  - As soon as practical, after disconnecting.
4. Supervising Official

The Electric Inspector who must be licensed by the State of Maine as a master electrician is herewith designated as the town official to supervise and enforce this section. The Electric Inspector will be under the direction of the Building Inspector, who will act as his/ her immediate supervisor.

- 7.5.3 No building permit for a new residential or commercial building shall be issued without first being issued a subsurface wastewater disposal system permit in conformance with the current state adopted version of State of Maine Subsurface Wastewater Rules.

## **7.6. Approval of Permits:**

- 7.6.1. Permits shall not be denied if the proposed use is found to be in compliance with all Local, State and Federal codes and regulations.

**7.7. Permits Issued By The Code Enforcement Officer (s) :**

7.7.1. The Code Enforcement Officer shall be responsible for issuing building permits, plumbing permits, electrical permits, home occupation permits as well as the related inspections.

**7.8. Pending Application for Building Permits:**

7.8.1. If the ordinance is revised after the applicant has submitted an application, the applicant has ninety days to commence building after the building permit has been granted or the applicant will be required to comply with the new revisions.

**7.9. Legal Action and Violations:**

7.9.1. When a violation of any provision of this Ordinance, the State Plumbing Code, or any other Local, State, or Federal Land Use regulation is found to exist, the Municipal Officers may designate the Code Enforcement Officer or the Town Attorney or both to institute any and all actions and proceedings that are equitable and appropriate to enforce any and all Ordinances and Regulations using Title 30 A, M.R.S.A. Section 4452 and Rule 80K of the Maine Rules of Civil Procedure.

**7.10. Fines:**

7.10.1. Any person, firm or corporation being the owner or having control or use of any building, premises, property or the like who violates any provision of the Ordinance or Regulation and found guilty shall be subject to civil penalties as per Title 30A, M.R.S.A. Section 4452.

**8. Article 8 – Planning Board and Staff Review Committee Site Plan Review**

**8.1. Authorization:**

8.1.1. The Planning Board and the Staff Review Committee are hereby authorized to hear, and decide upon applications for Site Plan Review, that each Board or Committee is authorized to review, approve, or approve with conditions in accordance with State Law and the provisions of this Ordinance, along with any other regulations and standards of the Town of Lyman. The Planning Board is also authorized to review and approve or approve with conditions Subdivisions in accordance with State Law, the provisions of this Ordinance, along with the Subdivision Standards of the Town of Lyman.



## **8.2. Powers and Duties:**

8.2.1. The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove applications for Site Plans Review, and Subdivision. No building permit(s) shall be authorized without first receiving Site Plan Review approval for the uses listed within this Ordinance that require Site Plan review.

### 8.2.1 (A)

The Planning Board may modify or waive any of the following application submission requirements if it determines that, due to the size of or nature of the project or circumstances of the site such requirement(s) would not be applicable or would place an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this ordinance.

8.2.2. The Staff Review Committee shall have the authority to review and grant a Site Plan Review approval in accordance with the procedure specified in Section 8.9.1 of this Ordinance.

8.2.3. Vacancies on the Board shall be filled by advertising for new members. The Board shall review all applications and make a recommendation on new members to the Board of Selectmen.

8.2.4. If any member or alternate member is assigned to vote on an application that is before the board, that member must have attended any meetings that were previously held on that application, or shall have reviewed any minutes of previously held meetings before they can vote on the project.

8.2.5. A member of the Board may be dismissed for just cause by the Municipal Officers after notice and a hearing. The Municipal Officers shall hold an executive session under the heading of a personnel matter with the member. The member has the right to request a public hearing. As used in this section, "just cause" may include repeated absences, participation by a member in a matter in which that member has a financial interest, a member moving to another municipality, or any other reason determined by the Municipal Officers to interfere with the efficient operation of the Board.

## **8.3. Application Procedure:**

8.3.1. A person informed by the Code Enforcement Officer that Site Plan Review is required, shall file an application for the review with the Planning Board on forms provided for that purpose. The applicant may request a non-binding pre-application meeting.

8.3.2. It is recommended that the applicant fill out a pre- application form for a pre-application meeting with the Planning Board. This meeting is a non-binding meeting that will allow the applicant to explain a project to the board, and

allow the board to ask questions and comment on the project. The applicant may then submit a full application for review.

- 8.3.3. For a pre-application meeting, a pre-application form must be submitted to the Code Enforcement Officer on the form provided. The Board may place pre-applications at the beginning of the agenda. No public mailing notice is required for a pre-application.

**8.3.4. Fees –**

- A. The Board of Selectmen shall set the fee for Site Plan Review with a recommendation from the Planning Board after reviewing the cost of staff time, postage, recording fees, etc.

**8.3.5. Application**

- A. Following the filing of an application, the Board shall review the application for completeness using the check list provided to the applicant. Once the Board votes that the application is complete the Board may require a site walk. Before the Board can take action on any application, the Planning Board shall hold a public hearing on the application within forty-five (45) days of the Board's determination that the application is complete. The Planning Board shall notify the Code Enforcement Officer, Board of Selectmen and the Zoning Board of Appeals at least twenty (20) days in advance of the public hearing. The notice shall include the date, time and location of the hearing. The Board shall notify all neighboring property owners within the required distance by certified mail at least ten (10) days in advance of the hearing, and also publish a notice of the hearing in a newspaper of general circulation in the area at least ten (10) days in advance of the hearing date, including the time, date and location the hearing. A public notice shall be posted in the municipal building, and Town Web-Site.
- B. The applicant is responsible for providing with the application a list of owners of property within five hundred (500) feet of the site involved, including properties surrounding the site, across the road or across a water body. The applicant shall provide a list of property owners' names, mailing addresses and Assessor's Tax Map and Lot Number accurate to within thirty (30) days of filing the application.
- C. The applicant shall also provide with the application (3) three complete sets of standard (1" X 2 5/8") mailing labels with the names, mailing addresses, of each property owner within five hundred (500) feet of the property.
- D. The owners of property shall be considered to be those against whom property taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action taken by the Planning Board.

- E. The Code Enforcement Officer or his/her designated representative will attend a hearing if the Board requests their presence.
- F. At any hearing, a party may be represented by an agent or attorney, as shown by written permission.
- G. A public hearing may be continued to another date if the Board feels that it has good cause, including but not limited to requests for additional information or an additional site walk. A majority vote of the Board in attendance is required to continue the public hearing.
- H. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.
- I. Once the public hearing is closed, the board has thirty (30) days to meet and reach a decision to approve or deny the site plan application. The thirty (30) days may be extended if needed by agreement of the Board and the applicant, and within seven, (7) days of the Board's decision, a written notice stating the Board's action(s) shall be mailed or delivered-in-hand to the applicant or his / her legal representative, the Code Enforcement Officer, and Board of Selectmen and Assessor.
- J. Upon notification of the decision of the Planning Board, and notification that the Site Plan Review approval has been recorded (see section 8.4.6.D) the Code Enforcement Officer as instructed shall issue, issue with conditions or deny a Building Permit.
- K. A Site Plan Review approval secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not substantially commenced within one (1) year of the Board's approval date, and completed within two (2) years of the approval date.

**8.3.6. Standards for Site Plan Review Applications:**

- A. Site Plan Review approval is designed to permit those uses which are permitted within a zoning district, and to be reviewed by the proper reviewing authority. The standards set forth in the ordinance are designed to ensure adequate control of the location, design and operation of such uses.

The Planning Board may modify or waive any of the following site plan review standards if it determines that, due to the size of or nature of the project or circumstances of the site such requirement(s) would not be applicable or would place an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this ordinance. Site plan review standards shall only be waived upon written request by the

applicant and shall only be considered after the public hearing has been held.

- B. The Planning Board may approve or approve with conditions an application for Site Plan Review if the applicant demonstrates that the proposed use:
1. Will meet the definition of the use, the Zoning District requirements and any other requirements set forth in this Ordinance;
  2. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting properties as a result of noise, vibrations, fumes, odor, dust, light, glare, traffic, or other cause;
  3. Will not have a significant adverse effect on adjacent or nearby property values.
  4. Will not create a hazard to pedestrian or vehicular traffic or significant traffic congestion;
  5. Will not result in fire danger;
  6. Will not result in flood hazards or flood damage, drainage problems, ground or surface water contamination or soil erosion;
  7. Will not create a safety hazard because of inadequate access to the site, or buildings for emergency vehicles;
  8. Has proposed exterior lighting which will not create hazards to motorists traveling on adjacent public streets, is adequate for the safety of occupants and users of the site, and will not damage the value or diminish the usability of adjacent properties;
  9. Makes provisions for buffers and on-site landscaping which provide adequate protection to neighboring properties from detrimental features of the development. The applicant shall provide a plan prepared by a Registered Landscape Architect, or other qualified professional approved by the Planning Board.
  10. Makes provisions for vehicular parking, loading, unloading, as well as vehicular and pedestrian circulation on the site, and onto adjacent public streets which would neither create hazards to safety nor impose significant burdens on public facilities;
  11. Makes adequate provisions for the disposal of wastewater and solid waste for the prevention of ground or surface water contamination;
  12. Makes adequate provisions to control erosion and sedimentation;
  13. Makes adequate provisions to handle storm water run-off and other drainage on the site;

14. Provides for a water supply which meets the demands of the proposed use, and meets the needs for fire protection purposes;
  15. Makes adequate provisions for the transportation, storage and disposal of hazardous substances and materials as defined by State and Federal Law; The storage of chemicals, explosives, or hazardous items as defined by the National Fire Protection Association Code 704, Class 3 or 4 materials are not permitted.
  16. Will not have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan
- C. The Board shall discuss each of the sixteen (16) criteria listed above and take a formal vote on each one before moving on to the next one. The Board must vote in the majority to pass or fail each criterion. If any of the criteria fail after all sixteen are voted upon, the Board may allow the applicant to change or modify the plan to satisfy any failed criteria before the Board takes its final vote on the project. If all sixteen (16) criteria receive a passing vote, the Board shall approve or approve with conditions the plan. If any of the criteria fail to pass, the Board shall deny the project.
- D. All findings by the Planning Board shall be written and state the reason for each of the findings. The Site Plan Review approval must be recorded in the York County Registry of Deeds within fifteen (15) days of the expiration date of the appeal period as set by State Law. The Town of Lyman staff shall record in the Registry of Deeds all Site Plan Review approvals which are approved or denied at the applicant's expense for recording.

**8.3.7. Technical Assistance:**

- A. The Planning Board may at its discretion forward a copy of the application and plans as well as all supporting documentation to any appropriate technical expert(s) for review. The review may include traffic impact, roadway and parking design and construction, storm-water management and erosion and sedimentation control, as well as any other concerns of the reviewing authority. The applicant shall pay for the employment of any such experts. The applicant shall be informed of the intended use of such services and their approximate cost. A deposit equal to 125% of the estimated cost shall be paid to the Town prior to the employment of any such technical experts. The total cost of any review (s) shall be paid in full by the applicant prior to the signing of any approved plans or issuance of any permits. If the entire deposit is not expended, the remaining balance shall be returned to the applicant once the project is approved or denied.

### 8.3.8. Data Requirements:

- A. Any application presented for approval shall include the following information as applicable:
  1. A site plan drawn at a scale not smaller than one inch equals forty feet 1" = 40'
  2. The name and address of the applicant plus the name of the proposed development.
  3. Total floor area, ground coverage and location of each proposed building, structure or addition.
  4. Perimeter survey of the parcel, made and certified by a registered land surveyor licensed in Maine, relating to reference points. Plan must show true or magnetic North, a graphic scale, corners of the parcel, date of survey and total acreage
  5. All existing and proposed setback dimensions.
  6. The size, location, direction and intensity of illumination of all major outdoor lighting apparatus and signs.
  7. The type, size and location of all incineration devices.
  8. The type, size and location of all machinery likely to generate appreciable noise at the lot lines, as well as estimated decibel level at property lines.
  9. The location, type and size of all existing and proposed catch basins, storm drainage facilities, wetlands, streams and watercourses as well as all utilities, both above and below ground.
  10. All existing contours and proposed finished grade elevations of the portions of the site which will be altered and the system of drainage proposed to be constructed. Contour intervals shall be specified by the Planning Board.
  11. The location, type and size of all curbs, sidewalks, driveways, fences, retaining walls, parking space area, etc and layout thereof, together with dimensions
  12. All proposed landscaped areas, size and type of plant material upon the premises.
  13. All existing or proposed rights-of-way, easements and other legal restrictions which may affect the premises in question.
  14. The property lines of all properties abutting the proposed development, including properties across a street, or across a water-body, together with the tax map and lot numbers, and property owners

names and mailing addresses on file at the Town Office within 10 days of the filing of the application.

15. An appropriate box on each page of the plans for the signature (s) of the Planning Board.
16. Documentation of right, title or interest in the proposed site.
17. An on-site soils investigation report by a Maine State Licensed Site Evaluator. The report shall identify the type of soil, location of test pits and the proposed location and design for the subsurface disposal system.
18. The type of any raw, finished or waste materials to be stored inside or outside of roofed buildings, including their physical and chemical properties, if appropriate.
19. Traffic Data: The Planning Board may require that the application include a traffic engineering study, should the project be considered one of substantial magnitude along any of the town's state highways where fast moving traffic occurs (i.e. Route 111, 35 or 5). Should a traffic study be requested by the Planning Board, the following data shall be included:
  - A. The estimated peak-hour traffic to be generated by the proposal.
  - B. Existing traffic counts and volumes on surrounding roads.
  - C. Traffic accident data covering the last three years.
  - D. The capacity of surrounding roads, municipal facilities, parking and any other improvements, which may be necessary on such roads and facilities to accommodate anticipated traffic generation.
  - E. The need for traffic signals and signs or other directional markers to regulate anticipated traffic.
20. Any other information or data the Planning Board determines is necessary to demonstrate compliance with Town, State and Federal Regulations.

#### **8.3.9. Appeals:**

- A. Any person aggrieved by a final decision of the Planning Board on a site plan application may appeal that decision to the Zoning Board of Appeals within thirty (30) days of the Planning Board's decision. The review by the Zoning Board of Appeals shall be on an appellate basis and shall be limited to a review of the record developed before the Planning Board. The person(s) submitting the appeal and any opponents to the position of that person(s) may make written and/or oral presentations to the Zoning Board

of Appeals about why they feel the decision of the Planning Board was correct or incorrect. The Zoning Board of Appeals shall only reverse the decision of the Planning Board if it determines that the decision contained a procedural error or was clearly contrary to the Ordinance. Any appeal from a decision of the Zoning Board of Appeals under this section shall be made to the Superior Court within forty-five (45) days after the date of that decision.

**8.3.10. Violations and Penalties:**

- A. Failure to comply with any conditions of the approval shall be a violation of this Section and shall be grounds for revoking the approval, initiating legal proceedings to enjoin construction of the development or any specific activity violating the conditions of the plan approval or applying the legal penalties detailed in Sections 7.8 and 7.9.

**8.3.11. Staff Review Committee:**

- A. The Staff Review Committee shall include the Code Enforcement Officer, Road Commissioner, Assessor, a Fire Department Officer and one member of the Board of Selectmen who shall chair the meetings.
- B. The Staff Review Committee shall have the authority to grant Site Plan Review approvals on the following applications.
  - 1. A change of use from one permitted use to another permitted use without any increase in gross floor area or building size, as long as the parking requirements do not increase by more than eight (8) spaces.
  - 2. An expansion of an existing use by not more than one thousand (1000) sq. ft. of gross floor area and / or land area in any five (5) year period. (Area of required increased parking shall not be included in the area calculation).
  - 3. A new use and / or a change from a use which did not require a site plan review, to a use which would require a site plan review that will occupy a gross floor area or land area of two thousand five hundred (2500) sq. feet or less (excluding parking areas) in any five (5) year period.
- C. The Staff Review Committee shall approve or approve with conditions an application for site plan review for the uses listed in sections 8.9.1 & -1 to 4, if the applicant demonstrates that the proposed use will meet the standards of sections 8.4.B, 8.4.C, and 8.5 and 8.6. The Staff Review Committee may require an applicant to submit any other information that it determines is necessary to demonstrate compliance with Town regulations.
- D. Meetings will be held as needed on the second and fourth weeks of each month. Meetings shall take place during normal business hours of the Town Hall. Dates and times will be set by the committee.



- E. Six complete copies of the application and site plan shall be submitted to the Code Enforcement Office at least fourteen (14) days prior to the date the Committee meets. The application shall be accompanied by the fee.
- F. Fees: Fees shall be set by order of the Board of Selectmen.

**8.3.12. Appeals:**

- A. Any person aggrieved by a final decision of the Staff Review Committee on a Site Plan application may appeal that decision to the Planning Board within thirty (30) days of the Staff Review Committee's decision.
- B. The Planning Board may review the records developed before the Staff Review Committee, but shall also have the authority to accept new evidence that may be relevant to the application. The Planning Board shall conduct a de novo hearing on the application and shall make its own findings and conclusions as to whether the Ordinance standards have been met.

**8.3.13. Violations and Penalties**

- A. Failure to comply with any conditions of the approval shall be a violation of this section and shall be grounds for revoking the approval, initiating legal proceedings to enjoin construction of the development or any specific activity violating the conditions of the plan approval or applying the legal penalties detailed in Sections 7.8 and 7.9.

**9. Article 9 - Zoning Board of Appeals**

**9.1. Board of Appeals:**

- 9.1.1. Establishment: A Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.

**9.2. Appointment and Composition:**

- 9.2.1. The Board of Appeals shall be appointed by the Municipal Officers and shall consist of five (5) members, and two (2) alternates, all of whom shall be legal residents of the Town of Lyman, serving staggered terms of at least three (3) years and not more than five (5) years. The Board shall elect annually a chairman and secretary annually from its membership. The secretary/clerk shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All meetings are to be electronically taped. All minutes of the Board shall be public record. The minutes shall be on file in the Town Office and may be inspected during normal business hours by appointment.
- 9.2.2. Vacancies on the Board shall be filled by advertising for new members; the Board may review all applications and make a recommendation on new members to the Board of Selectmen.

- 9.2.3. A quorum shall consist of three (3) Members. If only three (3) members are present for the meeting the applicant or agent shall be notified by the chair that they can request that the meeting be continued to a later date in the hope of a full board. An applicant will be allowed a one postponement in hope of a full board. A tie vote shall be considered a negative vote on a question or the denial of an application. All sitting members must vote, unless the member has been disqualified or voluntarily recused himself / herself due to conflict of interest, or to avoid the appearance of a conflict of interest.
- 9.2.4. A Municipal Officer or full-time Municipal Employee may not serve as a member of the Zoning Board of Appeals.
- 9.2.5. Any question raised by a member or an applicant of whether a particular issue involves a conflict of interest or bias by a member sufficient to disqualify that member from voting thereon, shall be settled by the member or applicant disclosing the potential conflict at the beginning of the meeting before the case is heard. The rest of the voting members shall, after hearing the alleged conflict, by majority vote of those members voting on the question, decide if the member should step down for that part of the meeting or by a majority vote of those members voting on the question allow the member to remain a sitting member for the case in question.
- 9.2.6. If an alternate member is assigned to vote on a case that is before the board that member must have attended any meetings that were held previously on that case, or must have reviewed any minutes of previously held meetings before he or she can vote.
- 9.2.7. A member of the Board may be dismissed for just cause by the Municipal Officers after notice and a hearing. The Municipal Officers shall hold an executive session under the heading of a personnel matter with the member. The member has the right to request a public hearing. As used in this section, “just cause” may include repeated absences, participation by a member in a matter in which that member has a financial interest, a member moving to another municipality, or any other reason determined by the Municipal Officers to interfere with the efficient operation of the Board.

9.2.8. All Appeals shall be based upon a written decision from the Planning Board and/or Code Enforcement Officer.

A. Types of Appeals

1. Administrative appeals and variance requests shall be heard and decided upon by the Zoning Board of Appeals.
2. Disability Variance Appeals
3. Mislocated Building Appeals
4. An appeal of a Zoning Board of Appeals decision will go to the Superior Court according to State law.

9.2.9. Powers and Duties

A. **Administrative Appeals:**

1. To hear and decide where it is alleged that there is an error in any order, requirement, decision or determination by the Code Enforcement Officer in the enforcement of this Ordinance. The action of the Code Enforcement Officer may be modified or reversed by a majority vote of the Board of Appeals.

B. **Variance Appeals:**

1. To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest. The Board of Appeals shall grant a variance only by a majority vote of the board and in so doing, may prescribe conditions and safeguards as are appropriate under this ordinance.

C. **Disability Variance:**

1. To allow the Board to hear and permit a variance of dimensional requirements of the Ordinance, to make a property accessible to a person or persons with a disability as defined in Title 5 MRSA, Section 4553. Such a variance shall only be granted for the installation of equipment or construction of structures necessary for access to or egress from the property by a person living on the property who has a disability. The variance shall only be valid during the period in which a person with a disability requiring the access and egress resides on the lot and shall only be granted if the Board finds that there is no other feasible location or method for providing the desired access and egress.

D. **Mislocated Building Appeal:**

1. The Board of Appeals may hear and decide, upon appeal in specific cases where existing buildings are found to be in violation of the setback requirements and where such location of buildings will not be

contrary to the public interest whether an appeal should be granted. In order to grant a mislocated building appeal the Board must find:

- a. That the violation is not due to new construction;
- b. That there was no willful or premeditated action or gross negligence to build within the setback.

**9.2.10. Appeal Procedure:**

- A. In all cases, a person aggrieved by a decision of the Code Enforcement Officer and/or Planning Board, shall commence their appeal within thirty (30) days after the decision is made.
- B. A variance request shall be accompanied by a full survey prepared by a surveyor registered in the State of Maine clearly showing the height area, size, and setbacks for which the variance is requested.
- C. All requests for an appeal shall be accompanied by the proper forms approved by the Board. The aggrieved party shall specifically set forth the grounds for the appeal.
- D. Fee shall accompany the application. Fees shall be set by order of the Board of Selectmen and shall be listed on the application forms. The application will not be accepted unless it is complete with all the information requested, and all fees are paid.
- E. The applicant is responsible for providing with the application a list of property owners within five hundred (500) feet of the site involved, including properties surrounding the site, across the road or across a water body. The applicant shall provide a list of property owners' names, mailing addresses and Assessors Tax Map and Lot Numbers accurate to within thirty (30) days of filing the application. Within the Shore Land Zoning District the list of neighboring property owners shall consist of all properties within five hundred (500) feet of the site involved. The applicant shall also provide with the application; (3) three complete sets mailing labels with the names and, mailing addresses of each identified neighboring property owner with the application.
- F. Following the filing of a complete application for an appeal, the Board of Appeals shall within thirty (30) days set a hearing date for that appeal. The Board shall notify the Applicant and the Code Enforcement Officer, Planning Board and Board of Selectmen at least twenty (20) days in advance of the date, time and location of the hearing. The Board shall notify all abutters within the required distance by certified mail within ten (10) days of the hearing, and also publish a notice of the hearing in a newspaper of general circulation in the area at least ten (10) days in advance of the hearing date, as to the time, date and location of the

hearing, and a public notice shall be posted in the municipal building, library and Town Web-Site.

- G. A property owner shall be considered to be the person(s) against whom property taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board of Appeals.
- H. At any hearing the parties involved may be represented by an agent or attorney.
- I. The Code Enforcement Officer or his / her designated representative shall attend all hearings and may make a presentation to the board as well as providing submissions appropriate for the Board to better understand the appeal.
- J. Order of Presentation shall be as follows:
  - 1. Appellant's case shall be heard first
  - 2. Code Enforcement Officer's presentation
  - 3. Neighboring property owners' comments and or presentations
  - 4. Open to the general public for comment
    - a. By a majority vote of those hearing a matter, the Board may continue the public hearing to another date to allow for a site walk or if it feels that it needs additional information.
- K. Once the public hearing is closed, the board has twenty (20) days to meet and reach a decision on the appeal. Within seven (7) days of the Board's decision, a written notice stating the reasons or basis for the findings and conclusions shall be mailed or delivered-in-hand to the petitioner or his / her legal representative, the Code Enforcement Officer, Planning Board, Board of Selectmen and Assessor.
- L. If the Board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance was granted including any conditions, and the date the variance was granted shall be prepared in a recordable form. This certificate must be recorded in the York County Registry of Deeds within ninety (90) days of the date of the decision. The Town of Lyman staff shall record in the Registry of Deeds all variances approved or denied. The applicant shall be responsible for the cost of recording.
- M. A variance granted under the provisions of this Ordinance shall expire if the work or change involved is not substantially commenced within one (1)

year of the date that the appeal was granted, and if the work or change is not substantially completed within two (2) years.

**9.2.11. Standards for Variance Appeals:**

- A. As used in this Ordinance, a variance is authorized only for height, area, size of structure, size of yard or open spaces. A variance shall not be granted because of the presence of non-conformities in the Zoning Districts. The Board of Appeals shall grant a variance only by majority vote of the Board in attendance and in doing so, may prescribe conditions and safeguards as are appropriate under the Ordinance.
- B. Except as provided in Subsection C and D, the Board may grant a variance only when strict application of the Ordinance to the petitioner and the petitioner’s property would cause undue hardship. The term “undue hardship” as used in this subsection means:
  - A. The land in question cannot yield a reasonable return unless a variance is granted;
  - B. The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood;
  - C. The granting of the variance will not alter the essential character of the locality; and
  - D. The hardship is not the result of action taken by the applicant or prior owner.
- C. In order for a variance to be granted all four (4) of the hardship conditions listed above must be met. Also the term “yield a reasonable return” is a condition that does not necessarily relate to a monetary value.

**10. Article 10 - General Town Wide Regulations**

- 10.1. All lots, structures and uses shall comply with the dimensional requirements specified for the district in which they are located.
- 10.2. **The keeping of animal(s)** for personal use or enjoyment other than household pets may be permitted on lots three (3) acres or greater in the Residential District; and two (2) acres or greater in all other Districts; or on other lots sizes as provided for in this Ordinance; and subject to all applicable standards and provisions of this Ordinance.
- 10.3. No **manufactured home** which was manufactured before **June 15, 1976**, may be brought into the Town of Lyman.

10.4. Land which is within a **private right-of-way** which abuts a lot shall not be considered as part of the lot for the purpose of meeting the lot area or setbacks requirements of the Ordinance.

10.5. **Multiple non-residential uses and accessory uses**, may be located within one building if the lot meets the lot size requirements of the district, and can meet the setback and parking standards for the district.

**10.6 Accessory Dwelling Units:** One accessory dwelling unit shall be permitted on a lot which an owner-occupied single-family dwelling is located which meet the following conditions:

10.6.1 The lot on which the accessory dwelling unit is situated meets all the current dimensional requirements of the district.

10.6.2 The accessory dwelling unit shall not exceed six hundred (600) square feet of habitable floor area.

10.6.3 The accessory dwelling unit shall be located either in the same building or an accessory building to the principal structure. If the accessory dwelling unit is located in the basement of a single family dwelling it must meet egress standards of the NFPA Life Safety Code #101 as well as all other required codes and standards.

10.6.4 The building containing the accessory dwelling unit shall have the exterior appearance of a single family home.

10.6.5 The unit must comply with all applicable building codes and expansion criteria of the Maine State Subsurface Wastewater Rules.

10.6.6 Driveways longer than two hundred (200) feet must provide an adequate emergency vehicle turnaround.

10.6.7 On street parking will not be permitted. Additional parking and turnaround space must be provided if needed.

## **10.7 Storm water Management and Erosion and Sedimentation Control:**

10.7.1 Storm-water runoff shall be managed and directed through surface or subsurface drainage systems designed to accommodate the drainage flow based on a twenty-five (25) year, twenty-four (24) hour storm event. Storm-water retention practices shall be employed to minimize impact on neighboring and downstream properties. In areas of aquifer recharge, storm-water infiltration (after separation of leachable harmful substances) shall be required. Where retention / infiltration is unwarranted or unfeasible, offsite improvements to natural or man-made drainage systems may be necessary to increase capacity and prevent erosion at the

developer's expense. The natural state of watercourses, swales or floodways shall be maintained.

- 10.7.2 Earth moving operations associated with development construction activities shall be conducted in a manner to prevent or minimize erosion and sedimentation of surface water. Location of structures and roadways shall be designed using existing topography in a manner in which any slope modification will not jeopardize the slope stability. Surface water drainage shall be designed to minimize erosion and sedimentation through the use of trenches, berms, run-off diversion ditches and grassed waterways. Where sedimentation may occur during construction phases, temporary sedimentation control measures, such as vegetated filter strips and sediment basins or traps, shall be incorporated into the construction plans. Permanent storm drainage structures, inlets and outlets shall minimize water velocities in erodible soil.

### **10.8 Landscaped / Buffers:**

- 10.8.1 The setback area along all property lines in non-residential districts shall be landscaped to provide a visual screen between residential and non-residential uses. The applicant shall provide a landscape plan prepared by a Registered Landscape Architect or other qualified professional approved by the Planning Board.

### **10.9 Light and Glare:**

- 10.9.1 Exterior illumination shall be designed to eliminate glare and to minimize the illumination of abutting properties or roadways to no more than two (2) foot candles. The applicant shall submit photo metrics for the light fixtures proposed. Any illumination or glare, which would impair the vision of vehicle's driver, is prohibited.

### **10.10 Lodging Facilities:**

- 10.10.1 Any rental unit or room in a bed and breakfast or a hotel / motel which exceeds four hundred and seventy (470) square feet or a housekeeping cottage which exceeds six hundred (600) square feet shall meet the density requirements for a dwelling unit located in the same district.
- 10.10.2 All lodging facilities shall have a staffed office located within one thousand five hundred (1,500) feet of the site which rents and manages all the units within the lodging facility.
- 10.10.3 All units in a lodging facility, other than the unit occupied by the resident manager, shall be available to the traveling public and shall not be reserved for the exclusive use of the owner, his family, friends, or co-owners.



**10.11 Noise:**

10.11.1 The maximum permissible sound pressure level produced by any existing or future activity on a lot shall not exceed the following limits measured at any lot line of any receiving property at a height of at least four feet above the ground.

	<b>7:00 a.m. to 10:00 p.m.</b>		<b>10:00 p.m. to 7:00 am</b>	
<b>Commercial/Residential:</b>	<b>70</b>	<b>82</b>	<b>60</b>	<b>70</b>
<b>General Purpose:</b>	<b>65</b>	<b>75</b>	<b>55</b>	<b>58</b>
<b>Residential</b>	<b>60</b>	<b>70</b>	<b>55</b>	<b>58</b>

10.11.2 Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.

10.11.3 In any one day the sound pressure levels emitting from a lot may exceed the above standard by 10 dB (A) for a single period not to exceed fifteen (15) minutes.

10.11.4 Exemptions: The following shall be exempt from the standards;

1. Natural phenomena.
2. Any signal lawfully used by emergency vehicles, or alarm or warning device used in an emergency situation.
3. Warning devices required by OSHA or other government safety regulations.
4. Farming activity or equipment between 7 a.m. and 10 p.m.
5. Timber harvesting and milling between 7 a.m. and 10 p.m.
6. Noise generated by any construction or demolition equipment, domestic power equipment such as but not limited to chain saws, sanders, grinders, lawn and garden tools or similar devices operated between the hours of 7 a.m. and 8 p.m.
7. Emergency maintenance, construction or repair work.
8. Noise created by refuse and solid waste collection between the hours of 6 a.m. and 8 p.m.
9. Noise created by any municipal sponsored event without being electronically or mechanically enhanced.

10.11.5 Enforcement: This section is enforceable by a law enforcement officer or by the Code Enforcement Officer, who may measure noise levels and document a

violation. For the purpose of enforcement, sounds exceeding the above limits may be deemed as loud and unreasonable noise under 17A- MRSA Section 501 (Offenses Against Public Order: Disorderly Conduct).

**10.12 Off-Street Parking Standards:**

10.12.1 Off-street parking may be provided out-of-doors or within a building. Off-street parking shall be considered to be an accessory use when provided to serve any permitted or non-conforming use. In the calculation of the number of spaces required, any fractional number of spaces shall be rounded to the next highest whole number.

10.12.2 Land may not be used and/or a building may not be occupied until off-street parking and/or loading facilities are provided.

**10.12.3 Design Standards:**

1. All parking areas containing three or more parking spaces, except those serving one or two family dwellings shall be designed according to the following criteria;

<b>Parking</b>	<b>Stall</b>	<b>Skew</b>	<b>Stall</b>	<b>Aisle</b>
<b>Angle (degrees)</b>	<b>Width (feet)</b>	<b>Width (feet)</b>	<b>Depth (feet)</b>	<b>Width (feet)</b>
<b>90</b>	<b>10</b>	<b>N/A</b>	<b>110</b>	<b>26</b>
<b>60</b>	<b>10</b>	<b>11</b>	<b>110</b>	<b>16 one way</b>
<b>45</b>	<b>10</b>	<b>13</b>	<b>18</b>	<b>12 one way</b>
<b>30</b>	<b>10</b>	<b>17</b>	<b>18</b>	<b>12 one way</b>
<b>180</b>	<b>24</b>	<b>N/A</b>	<b>10</b>	<b>13 one way</b>
				<b>26 one way</b>

**10.12.4 Handicap Parking:**

1. Every business, commercial, institutional, public and non-profit use shall provide:
  1. A minimum of four (4) percent of the total parking spaces for vehicles and one (1) percent for handicap vans with handicapped registration plates, but in no case less than one handicap van parking space.
  2. Passenger car spaces shall be 14' x 19', Van spaces shall be 16' x 19'. All handicap parking spaces shall be clearly designated with a sign no smaller than nine (9) inches wide and twelve (12) inches high, posted four (4) feet off the ground.

#### 10.12.5 Required Parking Spaces:

1. Banks: One per two hundred and fifty (250) square feet of gross floor area, plus six (6) stacking spaces for the first drive-up window, plus two (2) per additional drive-up window.
2. Contractor Business: One space for every eight hundred (800) square feet of gross floor area, but not less than four (4) spaces.
3. Day Care: One per two hundred (200) square feet of floor area used for child care, plus three (3).
4. Lodging Facilities: One (1) and one tenth (1/10) spaces for each sleeping room available to the traveling public.
5. Manufacturing, Warehousing and Wholesale businesses: One space per eight hundred (800) square feet of gross floor area but not less than four (4) spaces.
6. Medical care facility: One (1) per bed, plus one (1) per one hundred seventy-five (175) square feet of office floor area.
7. Office: Three and one half (3 ½) spaces per one thousand (1000) square feet of gross floor area but not less than four (4) spaces.
8. Retail: One (1) per two hundred (200) square feet of gross floor area but not less than four (4) spaces.
9. Restaurant, standard: one (1) space for each three (3) seats, plus four (4) spaces.
10. Restaurant, fast food: One per thirty (30) square feet of gross floor area.
11. Schools: Elementary, Junior High: Three (3) per class room and any other room used by students, plus one (1) space for each five (5) students.
12. High School: Three (3) per class room and any other room used by students, plus one (1) space for each three (3) students.
13. Theaters, auditoriums, function halls, clubs, churches and other places of assembly; one (1) parking space for each three (3) seats, based on occupancy load, plus five (5) spaces.
14. For uses not listed above, the number of parking spaces required shall be determined by the Planning Board.

10.12.6 Loading bays or docks may be required by the Planning Board.

10.12.7 Required off-street parking shall be located on the same property that it serves, or within three hundred (300) feet of the principal building or use, on the same side of the street or road. Off-site parking may be permitted subject to the discretion of the Planning Board; if so, such parking shall be located on property that is owned or leased by the owner of the property served.

- 10.12.8 Plans for the parking area must show snow storage areas that do not reduce the required number of parking spaces.
- 10.12.9 All parking areas shall be designed to prevent storm water run-off from flowing directly or being piped directly into a water-body, to allow for the settling of sediment and the removal of grease, oil, and other pollutants
- 10.12.10 All parking areas shall have a firm surface such as bituminous concrete or Portland cement concrete.

**10.13 Restoration of Recycling Facilities:**

10.13.1 All recycling facility operators, except the Town of Lyman shall provide one of the following performance guarantees for an amount adequate to cover the total decommissioning costs and/or all site restoration improvements, taking into account the time span of the restoration schedule and inflation rate:

- 1. A certified check payable to the Town; or
- 2. A savings account or certificate of deposit naming the Town as owner; or
- 3. An escrow account established for the benefit of the Town; or
  - 1. The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner, Selectmen, Town Attorney, and if needed a professional engineer. No performance guarantee shall be reduced in amount without the Town’s prior written approval.

**10.14 Signs:**

**10.14.1 All signs shall comply with the following regulations:**

- A. No sign shall cover window casings, door casings, or any architectural ornamentation of a building.
- B. Signs shall be attached to the ground or to a building.
- C. No sign shall project beyond a lot line (s)
- D. No sign shall project above a flat roof or the ridgeline of any other roof.
- E. No sign shall obstruct a driveway or required parking space.
- F. No sign shall be attached to utility poles, trees, or traffic control signs or devices.
- G. No sign shall be drawn or painted upon rock outcroppings or other natural features.
- H. No sign shall obstruct or impair the vision of vehicular and pedestrian traffic or otherwise constitute a hazard. No sign shall reduce the sight distance from any driveway, road or street below a distance of ten (10) feet for every mile per hour of the posted speed limit. Sight distance shall be measured from the driver’s side of an exit lane ten (10) feet

behind the curb or edge of shoulder line with the height of the eye ranging from three and one half (3 ½) to six (6) feet above the pavement.

I. Exterior lit signs may only be illuminated by a white light, sodium vapor, neon, a mercury vapor light, or a light approved by the CEO. The source of the illumination (i.e., bulb) from any sign shall not be visible beyond any lot line.

J. If a nonconforming free-standing sign and its supports are removed except by casualty, it shall not be reinstalled or replaced unless it complies with the requirements of the ordinance.

K. The following types of signs are prohibited: Signs which contain motorized or mechanized moving parts, such as rotating signs, motor or wind-driven propellers or waving arms, animated signs, flashing or intermittent signs, and any other sign that does not meet the requirements and conditions of this Ordinance.

L. Sandwich board or A-frame or trailer mounted signs are allowed for thirty (30) days by permit from the Code Enforcement Officer.

**10.14.2. The following signs are exempt from the regulations:**

A. Informational signs of less than two (2) square feet such as “entrance”, “exit”, “restrooms”, “no parking”, “no trespassing”, “private property”,

B. Building permit placards,

C. Official notices posted by public officials,

D. Flags not to exceed a total of fifty (50) square feet for all such flags,

E. Religious symbols or insignia,

F. Decorations customary in observance of a national holiday,

G. Signs for the control of traffic, - Street signs, - Signs indicating danger,

H. Signs identifying public schools and government buildings.

10.14.3. Political signs of less than twenty (20) square feet relating to an election, primary or referendum provided that these signs may be erected no more than six (6) weeks before voting day , and must be removed no later than one (1) week thereafter.

**10.14.4. The following non-illuminated signs are permitted in all districts without a permit.**

A. A single sign of less than six (6) square feet identifying the name and address of the residents of a dwelling,

B. One “For Sale” sign up to six (6) square feet is allowed on each Property offered for sale,

C. One contractor's sign up to six (6) square feet is allowed on a property on which the contractor is performing work. The sign may identify the contractor's name, address, and phone number. A contractor's sign shall be removed within five (5) days of the completion of the job.

10.14.5. The following signs are permitted in all districts upon obtaining a sign permit from the Code Enforcement Officer;

A. One sign not exceeding twenty (20) square feet in area at each entrance from a street to identify a residential subdivision or multifamily development;

B. One sign not exceeding fifty (50) square feet in area which identifies a building such as a private school, church or business other than a home business.

10.14.6. One (1) freestanding one or two sided sign not to exceed fifty (50) square feet per side shall be allowed on a lot

10.14.7. One (1) building mounted sign not to exceed fifty (50) square feet may be mounted on each building face having a customer entrance.

10.14.8. One (1) free-standing one- or two-sided sign not to exceed fifty (50) square feet may be located at the entrance road to an industrial park or business subdivision, for the identification of the park and its occupants.

10.14.9. No free-standing sign shall exceed twenty (20) feet in height.

10.14.10. Off premise signs located in the Town of Lyman shall comply with the provisions of Title 23 MRSA Sections 1906 – 1912.

**10.15 Solid Waste Dumpsters and Portable Toilets:**

10.15.1 During construction or special indoor or outdoor events including but not limited to fairs, concerts, or athletic events, solid waste dumpsters or portable toilets may be placed temporarily within the district setbacks but no less than twenty (20) feet from the property line. The unit may be placed twenty four (24) hours before the event and must be removed within twenty four (24) hour after the event. If the unit is to be located on the property for more than five (5) days, it must meet the setbacks from property lines required within the district. Construction dumpsters or portable toilets may be placed on the property for the duration of the construction or remodel, but shall not be less than thirty (30) feet from the property line and shall be removed at the end of construction.

## **10.16 Campgrounds, Tent and Recreational Vehicle Parks:**

10.16.1 Campgrounds, Tent and recreational vehicle parks shall conform to the minimum requirements imposed under state licensing procedures and the following standards:

1. Parks shall be open only between April 14 and October 31, inclusive. From November 1 of one (1) year to April 13 of the following year, no person shall occupy any site, the water service to all sites shall be turned off or disconnected, and the electrical service to all sites shall be turned off or disconnected. The owner/caretaker and their immediate family may occupy a year-round dwelling on the property.
2. All primitive sites shall have an area of at least two thousand (2,000) square feet, with an average width of thirty (30) feet. Sites with power, water, and sewer hookups shall have an area of at least three thousand (3,000) square feet, and shall have an average width of forty (40) feet.
3. Any site located entirely or partially in the Shoreland Overlay District shall contain at least five thousand (5,000) square feet of area.
4. Roads, parking areas, walkways, land supporting wetland vegetation, and land below the high water line of any water body or tributary stream shall not be included in calculating the area of any site.
5. Two (2) parking spaces for passenger vehicles shall be provided for each recreational vehicle site. One parking space for a passenger vehicle shall be provided for each tent site. The parking spaces shall be within one hundred (100) feet of the site. No parking space may block walkways or interfere with traffic flow within the park.
6. The area intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be setback one hundred (100) feet from the high-water line of water-bodies, tributary streams, or upland edge of a wetland.
7. Campground, Tent and recreational vehicle parks shall be screened from adjacent land areas by a continuous landscaped buffer area not less than twenty five (25) feet in width containing evergreen shrubs and trees. Fences and walls may be added in combination to form an effective visual barrier of not less than six (6) feet high.

**10.17 Yard Sales:**

10.17.1 Yard sales shall be permitted in all districts and shall comply with the following standards:

1. A yard sale shall last no longer than three (3) consecutive days and shall only be permitted once per month on a lot or a contiguous lot in the same ownership.
2. Adequate off street parking shall be provided for customers of the yard sale. Directional signs indicating the parking area(s) shall be provided.
3. Two off-premises signs within five hundred (500) feet of the yard sale are permitted. The signs no larger than two (2) feet by three (3) feet may be displayed only between the hours of 7:30 a.m. and sunset on the day(s) of the sale. Signs shall not be attached to utility poles.
4. Yard sales shall not begin before 7:30 a.m. and not extend after sunset.
5. No items for sale, tables or other display equipment shall be placed closer than twenty (20) feet from the property line(s) fronting a roadway.

**10.18 Mobile Home Parks**

**10.18.1 Mobile Home Parks**

1. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State Laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the Lyman Subdivision Standards, the provisions of this section shall prevail.

**10.18.2 Lot Area and Lot Width Requirements:**

1. Lots in a mobile home park shall meet the following lot area and lot width requirements.
  1. Lots served by individual subsurface waste water disposal systems:
    - a. Minimum lot area: 20,000 square feet
    - b. Minimum lot width: 100 feet
  2. Lots served by a central subsurface waste water disposal system approved by the Maine Department of Health and Human Services
    - a. Minimum lot area: 12,000 square feet
    - b. Minimum lot width: 75 feet
3. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one dwelling unit per twenty thousand (20,000) square feet of total park area.
4. Lots located within any shoreland zoning district shall meet the lot area, lot width and shore frontage requirements of that district.



**10.18.3 Unit Setback Requirements:**

1. Structures shall not be located less than fifteen (15) feet from any boundary line of an individual lot.
2. On lots which abut a public way either within the park or adjacent to the park, structures must meet all dimensional requirements of that district.

**10.18.4 Buffering:**

1. If a park is proposed with a residential density at least twice the density of the adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located, the park must be designed with a continuous landscaped area not less than fifty (50) feet in width, which shall contain no structures or streets. The first twenty-five (25) feet of the buffer strip, as measured from the exterior boundaries of the park, shall contain evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

**10.18.5 Road Design, Circulation, and Traffic Impacts:**

- A. Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.

1. Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Lyman Subdivision Standards.

- B. Streets which the applicant proposes to remain private ways shall meet the following minimum geometric standards.
  - A. Minimum right-of-way width: 23 feet
  - B. Minimum width of traveled way: 20 feet
- C. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets.
- D. Any street within a park with an average daily traffic of two hundred (200) trips per day or more, shall have at least two (2) street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
- E. No individual lot in the park shall have direct vehicular access onto an existing public street.
- F. The intersection of any street within the park and an existing public street shall meet the following standards:

- A. Angle of intersection: The minimum angle of intersections shall be seventy five (75) deg.
- B. Maximum permissible grade within seventy five (75) feet of an intersection shall be two (2)%.
- C. A Minimum sight distance of ten (10) feet for every mile per hour of the posted speed limit on the existing roads shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye three and one half (3 ½) feet above the pavement and the height of object four and one half (4 ½) feet.
- D. The centerline of any street within a park intersecting an existing public street shall be no less than one hundred and twenty five (125) feet from the centerline of any other street intersecting that public street.
- G. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generated shall be based on the Trips Generated Manual (latest edition) published by the Institute of Transportation Engineers. If the park is projected to generate more than four hundred (400) vehicle trip per day, the application shall also include a traffic impact analysis by a registered professional engineer with experience in transportation engineering.

**10.18.6 Ground Water Impacts:**

A. Assessment Submitted. Accompanying the application for approval of any mobile home park, which is not served by public sewer, shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydro geologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology and shall contain at least the following information:

- 1. A map showing the basic soils types.
- 2. The depth to the water table at representative points throughout the mobile home park.
- 3. Drainage conditions throughout the park.
- 4. Data on existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.
- 5. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall at a minimum, include a projection of post development nitrate-nitrogen concentrations at any well within the mobile home park, at the mobile home park boundaries

and at a distance of one thousand (1000) feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake or pond projections of the development's impact on groundwater phosphate concentrations shall also be provided.

6. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the mobile home park and within two hundred (200) feet of the mobile home park boundaries.

**B. Standards for Acceptable Ground Water Impact:**

1. Projections of ground water quality shall be based on the assumption of drought conditions (assuming sixty (60) % of annual average precipitation).
  2. No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
  3. If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, that applicant shall demonstrate how water quality will be improved or treated.
  4. If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed one hundred and fifty (150) % of the ambient concentration.
- C. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the plan.

**10.18.7 Recording the Plan**

- A. The Mobile Home Park plan is to be recorded at the York County Registry of Deeds and filed with the Town of Lyman within ninety (90) days of approval and must include the following restrictions as well as any other notes or conditions of approval:
1. The land within the park shall remain in a unified ownership and the fee for lots or portions of lots shall not be transferred.
  2. No dwelling unit other than a manufactured housing unit/mobile home shall be located within the park.

**10.18.8 Conversion to Another Use:**

- A. No development or subdivision which is approved under this section as a mobile home park, may be converted to another use without the approval of the Lyman Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements of this ordinance.

**10.19 Multi-Family Dwelling Units**

10.19.1 Two Family Dwelling Units area shall be equal to that required for an equivalent number of single-family units and the road frontage shall exceed by fifty percent (50%) the requirements of a single-family dwelling unit.

10.19.2 Multi-Family (three (3) or more) dwelling units shall meet subdivision standards and the following:

- A. No building shall contain more than six (6) dwelling units.
- B. All multi-family dwelling units shall be connected to a common water supply and distribution system, either public or private at no expense to the Municipality.
- C. All multi-family dwelling units shall be connected to a public sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance and the Maine State Subsurface Wastewater Disposal Rules.
- D. Parking shall comply with the parking section 10.14 in this ordinance.

**10.20 Transmission/ Telecommunications Towers:**

**10.20.1** Telecommunications towers are allowed in the General Purpose and Commercial/Residential Zoning Districts with Site Plan Review Approval.

- A. Telecommunication towers shall not exceed a total of one hundred and ninety (190) feet from existing grade within one hundred (100) feet of the centerline of the tower.
- B. No tower shall be located within two (2) miles of an existing tower that has co-location space available.
- C. Towers must be setback one hundred and twenty five (125) % of their total height from a dwelling unit and property line.
- D. The Planning Board may require additional conditions or information as it sees fit.
- E. The applicant shall show on a plan or topographical map the location of all telecommunication towers with latitude, longitude, height and type of structure within the Town of Lyman and within three (3) miles of the Town of Lyman boundaries. The plan shall show which of the listed towers the applicant has ownership of, or rights to be co-located

## **Section 10.21 Performance standards for Special Event Facility**

The general standards of section 8 site plan review shall be observed. This section establishes additional standards for the development and operation of a special event facility. These provisions are necessary to reduce impact on surrounding properties and to protect town residents and event guests and staff. A special event facility shall conform to the following standards:

1. Procedure
  - a. Applicability. Special event facilities, as defined in this ordinance, are subject to Site Plan Review, Sec. 8, and the Special event facility standards of subsection 2, below.
  - b. Review. A special event facility shall be reviewed in accordance with the Site Plan Review procedures in Section 8.
  - c. Submission requirements. In addition to the submission requirements of section 8, the applicant shall be required to submit all information that the Planning Board deems necessary to demonstrate compliance with the performance standards listed below. Information to be submitted shall include, but not limited to:
    - i. The maximum number of events to be held in a calendar year;
    - ii. The maximum number of attendees to be allowed at an event.
    - iii. Whether the special event facility will be operated seasonally, in which case the beginning and end dates of the season, or if the facility will operate year round.
    - iv. The area(s) designated for temporary structures or features including but not limited to tents, sanitary waste facilities, performance stands and food preparation and service.
    - v. A description of the types of events that will be held at the special event facility.

### **2. Performance Standards**

A special event facility must comply with the Site Plan Approval Standards in section 8.3.6 and the standards below.

- a. Event scope. All events shall not exceed the following maximum limits and may be further limited when needed to reconcile site constraints with Site Plan Review standards.
  - i. A special event shall not exceed 275 attendees in size, including guests and staff supporting the event.

- ii. No amplification of music for the event shall commence earlier than 9:00 a.m. nor extend later than 10:00 p.m.
- iii. No event shall exceed 8 hours in duration, excluding set-up and break-down in a calendar day.
- iv. Service of alcohol at these events shall not exceed 5 hours in duration.
- b. Seasonal facilities. The Planning Board may find that temporary structures and facilities are adequate to comply with the Site Plan standards when the special event facility will only operate seasonally and the seasonal needs are met. In particular, methods of providing parking and sanitary waste disposal on a seasonal basis may be appropriate for the duration of the special event season.
- c. Building and electric code compliance. Where any portion of a special event facility is located within a structure, the structure shall be in compliance with applicable building and electric codes. Any temporary building shall be in compliance with applicable building and electric codes.
- d. Additional requirements. The Planning Board may apply reasonable restrictions or conditions on the operation of a special event facility related to the lot on which the special event facility is located or to mitigate the impact of the special event facility on the abutting neighborhood(s).
- e. All parking shall be located on the property and not on town or state roads. Parking shall be adequate to the maximum attendees anticipated. Parking shall meet the requirements of section 10.13 of this ordinance except that parking areas need not be paved.

## **Section 10.22 Performance Standards for Medical Marijuana**

**Purpose:** The purpose of this section of the ordinance is to ensure that all cultivation, processing, storage, and distribution of medical marijuana does not have an adverse impact on the health, safety, and general welfare of the residents of the Town of Lyman, while still allowing for treatment and alleviation of a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

**Exemptions:** As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient’s residence or any medical marijuana caregiver’s primary year-round residence in every zone following the rules of Home Occupation and Section 10.22. Medical marijuana caregivers not required to register with the State and qualifying patients are not regulated under this section.

Section 10.22-A Medical Marijuana Home Production Facilities are permitted within the caregiver’s primary year-round residence as a home occupation subject to the following performance standards, in addition to the requirements of the districts in which the caregiver use is located:

1. The caregiver shall be least twenty-one (21) years of age;

2. The caregiver resides in the dwelling unit as his/her primary year-round residence in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statutes and/ or administrative rules;
3. A caregiver who does not own his or her primary residence shall obtain notarized written permission from the property owner prior to cultivating marijuana and shall make the written permission available to the Town.
4. Caregivers shall cultivate medical marijuana within an enclosed, locked building or within an outdoor area which is accessible only by the individual authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in the Maine statutes and /or administrative rules.
5. Medical Marijuana shall be distributed to medical marijuana patients within an enclosed building. Drive thru, drive-up or window service is prohibited.
6. No exterior evidence of cultivation, including signs, shall be visible from a public way or area. Marijuana plants shall be entirely screened from common visual observation from a public way or area by natural objects, plantings, or a solid fence at least six (6) feet or taller in height, density and depth sufficient to accomplish complete screening of plants from ordinary view. Should the plants grow higher than the screening such they are visible from a public way or area, either the plants shall be cut to not extend higher than the screening or the individual who is authorized to cultivate the marijuana shall install additional screening sufficient to conceal the plants from public view within ten (10) days of notification of the violation by the Code Enforcement Officer.
7. Compliance with health and safety codes. The primary residence, outbuilding, garage, or other structure where marijuana is grown, cultivated, processed, and/or stored shall meet all applicable requirements of the adopted building code, electric, fire and other health safety and technical codes.
8. Ventilation and odor management. Any primary residence, outbuilding, garage, or other structure used for cultivation shall have proper ventilation to prevent mold damage and to prevent odors or particles from becoming a nuisance to surrounding properties or the public.
9. Gases. The use of gas products for extraction processes, including but not limited to carbon dioxide, sulfur dioxide and butane, and ozone generators are prohibited.
10. Dispensing of medical marijuana to medical marijuana patients shall not take place prior to 7:00 a.m. or later than 8:00 p.m. on any day.
11. If electric service increases beyond 200 amps and an upgraded transformer is required, that transformer may only service the buildings wired to receive the increased amperage.

**Section 10.22-B Medical Marijuana Production Facility are permitted subject to the following performance standards, in addition to the requirements of the State of Maine;**

1. Medical Marijuana Cooperatives and Medical Marijuana Production Facilities are allowed in every zone.

- They shall not be located: on parcels of land with a lot line located within 500 linear feet of any pre-existing public or private school facility, or any pre-existing and licensed day-care center or day-care home, public park, public playground, athletic field, juvenile or adult halfway house, correctional facility, other Marijuana production facilities, substance abuse rehabilitation or treatment center or church. Applications for such public or private schools, child care providers, parks, playgrounds, or churches which are proposed within 500 feet of any existing medical marijuana production facility shall be required to sign a form, which may be obtained from the Code Enforcement Office, which indicates that they are aware that an existing medical marijuana production facility is located within 500 feet of their proposed site.
2. Medical Marijuana Cooperatives and Medical Marijuana Production Facilities are permitted in the Residential and General-Purpose districts on lots of 5 acres or more and any legal lot within the Commercial/ Residential district. In all districts Planning Board approval is required through site plan review process in section 8 of this ordinance.
  3. Fire suppression will be required in conformance with the most current version of NFPA 1 Chapter 38 and the current State of Maine adopted version of NEC standards.
  4. All Marijuana Cooperatives and Production Facilities shall submit an Odor Control Plan with the site plan application.
 

Odor Control Plans shall consist of the following:

    - a. Specific odor- emitting activity(ies) – This section should describe the odor emitting activities or processes (e.g., cultivation) that take place at the facility, the source(s) (e.g., budding plants) of those odors, and the location(s) from which they are emitted (e.g., flowering room).
    - b. Odor Mitigation Practices – For each odor emitting source/ process outlined in Section 1 of the odor control plan, specify the administrative and engineering controls the facility will implement to control odors.
    - c. The best control technology for marijuana cultivation facilities is carbon filtration.
    - d. The town may use contracted staff and peer review escrow fees to review an odor control plan in agreement with the applicant at the applicant’s expense.
  5. Parking: The property shall provide parking that meets the requirements of section 10.12 of this ordinance, and such additional parking as may be required by the Planning Board.
  6. Security: All growing of medical marijuana within a production facility shall occur inside and only within a completely enclosed structure. A greenhouse is a structure. This does not apply to home growing of medical marijuana. The building shall be constructed with a security system with recordable video surveillance. Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance. The Planning Board may require a chain link fence or solid fence, six feet in height, surrounding the building (s) and parking area. All security measures shall be



consistent with State requirements. Security cameras are also required around the perimeter of the structure

7. Operating hours of the property:
  - a. Dispensing of medical marijuana products and materials shall not take place prior to 7:00 a.m. or later than 8:00 p.m. on any day.
  - b. Deliveries shall not take place prior to 7:00 a.m. or later than 8:00 p.m. on any day.
8. Signs: All signage and advertising for any facility responsible for the cultivation, manufacturing, sale or distribution of marijuana shall comply with all applicable provisions of the land use ordinance. Signs may not contain any visual depiction of marijuana or marijuana paraphernalia. Outdoor displays, window displays, or displays visible from the outside of the building intended to attract attention to or generate interest in the uses on the property shall be prohibited.
9. Drive through, drive up, or window services are prohibited.
10. All activities of dispensaries, cultivation facilities, processing facilities and marijuana establishments shall be conducted indoors.
11. If electric service increases beyond 200 amps and an upgraded transformer is required, that transformer may only service the buildings wired to receive the increased amperage.
12. Annual safety inspections by the Fire Department and Code Enforcement Office shall be conducted. A fee set by the Board of Selectmen will be associated with these inspections.
13. Extraction of marijuana concentrates, such as but not limited to oil, butter, wax or shatter shall be permitted subject to compliance with NFPA (1) Chapter 38 standards and the current version of NEC (National Electric Code) standards.

### **Section 10.22-C**

Medical Marijuana Qualifying Patient and/ or Caregiver: A caregiver who is not required to be registered with the state. This caregiver is limited to serving no more than 2 qualifying patient household members or family members. These caregivers are not allowed to sell marijuana wholesale, organize as a business entity or operate a retail store. This is considered an accessory use to a legally permitted residential dwelling unit.

This does not require a use permit from the town. Any electric wiring requires a permit and must follow all Electric Code requirements and be inspected by the town's electrical inspector.

## **11 Article 11 - Mineral Extraction and Earth Moving Activities:**

**11.1** The following provisions shall apply to filling, lagooning, dredging, mineral extraction and other earth-moving activity.

### **11.2 Exemptions**

11.2.1 All mineral extraction, earth moving, processing and storage shall require a Site Plan Review except the following:

- A. The removal or filling of less than fifty (50) cubic yards of material from or onto any lot in anyone year.
- B. The removal or filling of material incidental to construction, alteration, or repair of a building or grading and landscaping incidental thereto.
- C. The removal, filling or transfer of material incidental to construction, alteration or repair of public ways or essential services.

### **11.2.2 Application for Site Plan Review:**

- A. An application for Site Plan Review for mineral extraction and earth moving activities, processing and storage of soil, loam, sand, gravel, rock and any other mineral deposits, hereafter excavations, shall be submitted on a form approved by the Planning Board and accompanied by a plan [eight (8) copies] prepared by a Professional Land Surveyor, Registered Engineer or Certified Geologist, which shall include the following:
  - 1. A location map, a boundary survey, and engineered plans.
  - 2. Evidence of right, title or interest in the property, to include the name and address of the owner(s) of the property involved and the York County Registry of Deeds Book and Page number for the property.
  - 3. Abutting property owners including addresses and Tax Map and Lot numbers.
  - 4. The Location of:
    - A. Access roads including the gate and paved area required by section 11.2.3
    - B. Buffer strips and setbacks required by section 11.2.3
    - C. Buildings, permanent (limit of two) on the property and any temporary structures.
    - D. Drinking water supplies:
      - 1. Any drilled wells within one hundred (100) feet of any boundary of the property.
      - 2. Any dug well or driven point within two hundred (200) feet of any boundary of the property.
  - E. Existing and proposed surface water runoff including all drainage ways.
  - F. Monitoring wells as required in section 11.2.3.
  - G. Proposed maximum extent of excavation. Excavations 5 acres or larger in size must include the Maine Department of Environmental Protection Gravel Pit Identification Number.

- H. Refueling pad as required in section 11.2.3
  - I. Wastewater disposal systems, if applicable.
5. Operational notes including:
- A. Access roads maintenance as required by Section 11.2.3.
  - B. Description of construction, processing and removal methodology.
  - C. Dust Control as required by Section 11.2.3.
  - D. Erosion and Sedimentation Control as required by Section 11.2.3.
  - E. Hours of operation set by the Planning Board including hours for crushers and screeners as required by Section 11.2.3.
  - F. Reclamation Plan as required by Section 11..2.3
6. Any other information the Planning Board may require to make an informed decision.
7. The Planning Board may require Technical Assistance as set forth in Section 8.3.7.

**11.2.3 Conditions of Approval:**

- A. The Planning Board may authorize a Site Plan Review approval provided the following conditions are met:
  - 1. **The applicant submits to the Planning Board the following:**
    - A. A letter from the Goodwins Mills Fire Department stating that they will be able to provide emergency services to the property.
    - B. Responses from the following state agencies regarding the proposed excavation:
      - 1. Maine Historic Preservation Commission.
      - 2. Maine Department of Inland Fisheries & Wildlife.
      - 3. Maine Department of Conservation Natural Areas Program.
  - C. Any applicable Maine Department of Environmental Protection permit(s).
  - D. Entrance permit from Maine Department of Transportation, if required.
- B. Access Road: An access road must be shown on the plan and shall be paved a minimum of 150 feet from the main road with a minimum width of 20 feet. If the town requires a new entrance, a copy of an entrance permit from the Maine Department of Transportation must be submitted.
- C. Buffer Strips: Natural vegetation shall be retained within the buffer area, except as recommended by a professional forester pursuant to best forest management practices and approved by the Planning Board, to the extent necessary to protect neighboring

uses from dust, noise and unsightly appearance, the Planning Board may require the applicant to provide screening, a berm or a combination where there is inadequate natural buffer. With the exception for gravel pits in lawful operation prior to (insert applicable date of ordinance adoption), the following undisturbed natural buffers from the property liner shall be maintained:

1. One hundred fifty (150) feet of a property line with an existing residential use.
2. Fifty (50) feet of a property line on which no residential use exists as of the date of the application.
  - A. The buffer strip between the excavation and an abutting owner may be reduced with the abutter's written permission, provided the elimination of this buffer strip does not increase the runoff across the property boundary. Any written permission to reduce a buffer must provide that it remains in effect until mining ceases and must be recorded in the York County Registry of Deeds within ninety (90) days.
3. No excavation is permitted within one hundred (100) feet of the edge on the right-of-way of any public way.
  - D. Dust. The applicant shall employ the Maine Department of Environmental Protection Best Management Practices for the Control of Fugitive Emissions (dust) as approved by the Planning Board. Dust generated by activities at the excavation site, including dust associated with traffic to and from the excavation site, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include the application of calcium chloride, providing the manufacturer's labeling guidelines are followed. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 minutes in any one-hour period. The extent necessary to protect neighboring uses from dust may be determined by the Code Enforcement Officer based on the following criteria:
    1. Dust plumes or clouds, visible to the naked eye, exist in the air at the property line(s) between properties on which earthmoving activities take place and residential use exist.
    2. Residual dust, characteristic of that generated by earthmoving activities is evident on vehicles, clothing hung on lines outdoors, in swimming pools, and on other surfaces on properties with existing residential uses and the source of the dust can be identified as a property upon which earthmoving activities are taking place.
    3. Complaints about dust by residents that can be substantiated by evidence as described in paragraphs 1 and 2 above.
    4. The opacity of the air over the earthmoving activities as measured by the Code Enforcement Officer in conformance with Chapter 101: Visible Emissions Regulations, Maine Department of Environmental Regulations. Positive findings

of all the above criteria by the Code Enforcement Officer are sufficient evidence that said earthmoving activity is in violation of Section 7.8.

- E. Erosion and Sedimentation Control: Any excavation over 5 acres in size that is not naturally internally drained shall first obtain a permit from the Maine Department of Environmental Protection. The applicant shall submit an erosion and control plan using best management practices for erosion and sedimentation control as approved by the Planning Board to ensure that sediment does not leave the property or enter a protected natural resource. The plan shall provide for the following:
  - 1. The smallest amount of exposed bare ground for the shortest time feasible.
  - 2. Areas outside of the excavation including access roads shall be stabilized.
  - 3. If applicable, the applicant shall specify the type and amount of fill to be used.
  - 4. Fill shall not restrict a floodway, channel, or natural drainage ways.
  - 5. The sides and bottom of cuts, fill, channels, and artificial water courses shall be designed and built according to the Maine Soils and Water Conservation Commission, "Technical Guide Standards and Specifications".
  - 6. Lagooning is prohibited unless a permit is first obtained from the Maine Department of Inland Fisheries and Wildlife.
  
- F. Groundwater protection. No excavation may occur within 5 feet of the seasonal high water table unless a permit is first obtained from the Maine Department of Environmental Protection. If standing water already exists in excavated area, no further excavation that would result in an increased area of standing water shall be allowed. The excavation shall include:
  - 1. A hydrogeologic study to determine impacts to the local groundwater systems and any neighboring wells. The location of neighboring wells shall be shown as follows:
    - A. Any drilled wells within one hundred (100) feet of any boundary of the property,
    - B. Any dug well or driven point within two hundred (200) feet of any boundary of the property.
  - 2. At least one monitoring well on each 5 acres of unreclaimed land sufficient in depth to demonstrate the depth from excavation to the seasonal high water table. Monitoring wells shall be checked annually by a Professional Licensed Surveyor, Registered Engineer or Certified Geologist between April 1st and May 31st and a

report shall be submitted to the Code Enforcement Office stating the amount of separation between the excavation and water table.

3. A 200-foot separation must be maintained between any excavation and any private drinking water supply that is a point-driven or dug well and was in existence prior to that excavation.
4. A 100-foot separation must be maintained between any excavation and any private drinking water supply that is drilled into saturated bedrock and was in existence prior to that excavation.
5. Refueling operations shall be conducted on a concrete pad 15' x 20' or larger.
- G. Hours of Operation. The hours of operation shall be set by the Planning Board, but crushers and screeners shall not operate except between the hours of 7 A.M. and 4 P.M. Monday through Friday, and there shall be no crushing or screening on Saturday, Sunday, or any State or Federal holidays.
- H. Open Acreage. Each year within one month of the anniversary date of the Site Plan Review approval, the owner/operator must send the Code Enforcement Office a letter from a Licensed Surveyor certifying the amount of open acreage is in compliance with the condition(s) shown on the approved plan. Open acreage does not include stockpiles or roadways within the pit.
- I. Reclamation. All affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation should be conducted in accordance with the best management practices for erosion and sediment control, and include:
  1. Regrading side slopes to a slope no steeper than 2 1/2 horizontal feet for each vertical foot.
  2. Establishing a vegetative cover by seeding within one year of the completion of excavation. Topsoil or loam shall be restored to a depth of not less than four (4) inches.
  3. Vegetative cover is acceptable if, within one year of seeding:
    - A. The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession, sufficient to ensure a 75% survival rate; and
    - B. The planting of all materials results in permanent 90% ground coverage.
4. The owner/operator must submit to the Town of Lyman either a check payable to the Town or a performance bond naming the Town as beneficiary in an amount to be set by the Board of Selectmen based upon the amount of open pit area. If

payment is made by check, the funds are to be placed in an escrow account in the name of the Town for reclamation in the event of the owner/operator's default.

- J. Surface water runoff. The excavation shall not increase the amount of surface water runoff. Any excavation over 5 acres in size that is not naturally internally drained must file a Notice of Intent to Comply with the Maine Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity (MSGP).
- K. Traffic Safety. Trucks Entering signs shall be located on the main roadway as required by the Planning Board.
- L. Optional Conditions of Approval. The Planning Board may impose other reasonable conditions to safeguard the neighborhood and the Municipality, which may include those relating to:
  - 1. Methods of removal or processing.
  - 2. Hours of operation.
  - 3. Type and location of temporary structures.
  - 4. Routes for transporting material.
  - 5. Area and depth of excavations.
  - 6. Provisions of temporary or permanent drainage.
  - 7. Disposition of stumps, brush, and boulders.
  - 8. Cleaning, repair, and/or resurfacing of streets which have been adversely affected by the proposed extraction or excavation; and,
  - 9. An escrow account to insure compliance with conditions of approval.
- M. Inspections. Permits granted under this section shall expire after two (2) years unless the applicant meets the following conditions:
  - 1. In the next calendar year after the permit is granted and biennially thereafter, the owner/operator shall schedule an inspection with the Town Code Enforcement Officer between April 1 and November 1 and shall pay to the Town an inspection fee as established by the Board of Selectmen.
  - 2. Within thirty [30] days of the inspection, the Town Code Enforcement Officer shall notify the owner/operator in writing of the inspection results.
  - 3. Failure to comply with the terms and conditions within ninety [90] days from the notification from the Code Enforcement Officer of any violations will result in termination of the permit. Once terminated, the owner/operator may reapply and is subject to Site Plan Review under this section. The Planning Board shall review the Application for Site Review as a new application.
  - 4. Nothing in this section shall be construed to limit inspections by the Town Code Enforcement Officer as necessary to ensure compliance.

- N. Existing Operations. Any operation involving excavation, processing, or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this Ordinance becomes effective may continue to operate until the expiration of the owner/operators permit, or may send notification to the Planning Board that they intend to comply immediately with the terms and conditions of this ordinance and will be subject to an inspection during the next inspection period as defined under section M.
- O. State Inspections. Within 30 days of receipt, the owner/operator shall provide the Town Code Enforcement Officer a copy of any report by the Maine Department of Environmental Protection.
- P. Coordination with Maine Department of Environmental Protection. For any operation subject to the requirements of 38 MRSA Section 490:
  - 1. The owner shall provide the Lyman Planning Board a copy of any required Notice of Intent to File by U.S. Postal Service Certified Mail prior to submission to the State.
  - 2. Variances requested under 38 MRSA Sections 490-E or 490-CC will be subject to Planning Board review and approval and such review may be coordinated with the Maine Department of Environmental Protection.

## **12 Article 12 – Definitions**

As used in this chapter, the following terms shall have the meanings indicated:

### **Abutter:**

An owner of adjacent land or land across a street, right-of-way or water body from the subject lot.

### **Accessory Use or Structure:**

A use or structure of a nature customarily incidental and subordinate to those of a principal use or structure.

**Acre:** A measure of land area containing 43,560 square feet.

**Activity:** The specific use or uses to which a property or structure is put.

### **Aggrieved Person:**

The Board of Selectmen, or a person or persons whose land or structure is or would be adversely affected by the granting or denial of a permit or variance under this Ordinance or a person whose land abuts land for which a permit has been granted.

**Agriculture 1:** Limited to the raising and sale of crops and plants out of doors. Agriculture I does not include the growing, production, testing, sale or processing of marijuana.



**Agriculture II:** The business of producing or raising of plants and crops, including gardening as a commercial operation with or without the use of a greenhouse. Agriculture II does not include the growing, production, testing, sale or processing of marijuana.

**Animal Units:** An animal unit is an expression of the impact of specific types of animals based on weight, size, environmental impact compared to a cow, as a baseline. For the purposes of this Ordinance, one (1) animal unit equals one (1) horse, cow, or llama; or two (2) donkeys, swine, alpacas, or miniature breeds of animals listed in (1) above; or four goats or sheep; or ten (10) chickens (no roosters); or six (6) ducks, guinea fowl, or turkeys; or two (2) geese; or ten (10) rabbits; or twelve (12) beehives. Nursing offspring of allowed livestock may be kept up to four (4) months of age without being counted as additional animal units. Other species not mentioned above may be permitted at the discretion of the Staff Review Committee.

**Artisanal Food and/or Beverage Facility:** A facility wherein food/beverage products are produced and sold directly to the consumer. Products may be retailed for consumption on or off the premises; and the facility may additionally engage in small-scale wholesale distribution of products produced on-site. Examples include, but are not limited to: a facility engaged in small-batch baking; small-scale cheese productions; a small brewery/winery/distillery (producing under 50,000 gallons/ year) small-batch vegetable pickling; or small-scale meat or fish curing. An Artisanal Food and/or Beverage Facility shall be allowed to offer guided tours of the facility and tasting rooms and to offer promotional products for sale.

**Assisted Living/Elderly Congregate Housing:**

A type of living accommodation, including multiple individual room(s) or units to be occupied by persons over sixty (60) years of age in a residential shared living environment. In the case of couples, at least one of the two has to be at least sixty (60) years of age or older. Such construction may include an individual room or individual rooms, either of which shall be combined with shared community space.

Assisted Living and Elderly Congregate Housing shall be certified by the State of Maine Dept. of Health and Human Services as elderly supportive housing or as an assisted living facility.

Unit is defined as a single unit that has living, sanitary, sleeping and cooking facilities. Units shall not exceed five hundred and fifty (550) square feet in size.

Room(s) are defined as having living and sleeping areas with sanitary facilities without cooking facilities. Rooms shall not exceed three hundred and sixty (360) square feet in size.

**Assisted Living and Elderly Congregate Housing:** shall be certified by the State of Maine Dept. of Health and Human Services as elderly supportive housing or as an assisted living facility.

**Unit:** is defined as a single unit that has living, sanitary, sleeping and cooking facilities. Units shall not exceed five hundred and fifty (550) square feet in size.

**Room(s):** are defined as having living and sleeping areas with sanitary facilities without cooking facilities. Rooms shall not exceed three hundred and sixty (360) square feet in size.

**Automobile Graveyard:**

A yard, field or other outdoor area used to store three (3) or more unregistered or uninspected motor vehicles, or parts of the vehicles as defined in Title 29A M.R.S.A. Section 101, subsection 42. This use also must meet the standards set forth in Title 30A M.R.S.A. sections 3701, 3752 & 3753. This use also requires a permit from the Board of Selectmen.

**Automobile Recycling Business:**

As defined in Title 29A M.R.S.A. section 101, subsection 42 and in Title 30A, M.R.S.A. Section 3701, 3752 & 3753. This use also requires a permit from the Board of Selectmen.

**Auto Repair Garage:**

A business establishment where motor vehicles and / or their related parts are repaired, reconditioned, rebuilt or painted.

**Auto Service Station:**

A place where gasoline, or any other automobile engine fuels, kerosene, or motor oil and lubricants or grease (for the operation of motor vehicles) are retailed directly to the public on the premises. The sale of minor accessories and the servicing and minor repair of automobiles may be included. The storage of unregistered vehicles or body, frame, or fender straightening and repair shall not be permitted as part of this use.

**Back Lot:**

A lot of land that is not bordered by a public road or private way. A back lot must have access across a frontage lot by way of an easement. See Section 6.3.3

**Basement:**

The portion of a building partly underground.

**Bank / Financial Institution including Credit Unions:**

A facility offering standard banking services, with or without a drive-up service.

**Bed & Breakfast Inn:**

A business conducted in a building containing a dwelling unit occupied by an owner or resident manager. Guest rooms shall not have their own kitchen facilities. Meals may be provided to guests.

**Bottle Club:** See Title 28A M.R.S.A. Section 2 sub-section 3.

**Buffer:**

A condition specified by the Planning Board to lessen the impact of a land use on abutters. These conditions of approval are included in the Site Plan Review Permit issued by the Planning Board.

**Building:**

A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

**Building Height:**

The vertical distance between the highest point of the roof and the average finished grade (minimum six (6) points) of the ground adjoining the building.

**Business Contractor:**

1. A business engaged in the provision of a service off premises, but which has an office and equipment / materials stored on the premises.
2. Limited to three (3) employees including the owner.

**Business Office:**

A business which provides administrative, professional or clerical services such as lawyer, insurance agent, accountant, surveyor, planner, engineer, etc. Business offices shall not include medical and/or doctors' offices.

**Campgrounds, Tents and Recreational Vehicle Parks:**

A business establishment operated as a recreational site for tents, trailers, recreational vehicles or other forms of temporary shelter.

**Cemetery (less than 20,000 Square Feet):**

A site used for the interment of the human dead without buildings.

**Cemetery (more than 20,000 Square Feet):**

A site used for the interment of the human dead with or without the use of buildings.

**Church:**

A building or group of buildings used for conducting religious services, and accessory uses associated therewith.

**Club:**

Any association of persons organized for social, benevolent, recreational, literary, scientific, or political purposes, whose facilities include a clubhouse area open to members and occasionally to the general public, and which is not usually engaged in activities customarily carried on by a business or for financial gain.

**Code Enforcement Officer:**

The person or persons appointed by the Lyman Board of Selectmen to administer and enforce this ordinance. The Code Enforcement Officer may be construed to be the Building Inspector, the Plumbing Inspector, Electrical Inspector and the like where applicable.

**Commercial & Industrial Facilities:**

- (1) A facility having less than 2,500 sq. feet of floor space for the assembling, fabricating, finishing, beverage container redemption, packaging or processing of goods or providing a service to the general public and having six (6) or less employees, including the owner(s) with limited retail sales allowed.
- (2) A facility having more than 2,500 sq. feet of floor space for the assembling, fabricating, finishing, packaging or processing of goods or providing a service to the general public, which may include retail or wholesale sales.

**Commercial Outside Storage:**

Outdoor, unenclosed storage for commercial operation located on the site, limited to not more than 30,000 square feet of impervious area.

**Dwelling Unit:**

A building designed and intended to be used exclusively for residential occupancy by one or more individuals living together, containing living, cooking, eating, sleeping space and sanitary facilities.

**Dwelling, Single Family:**

A single unit designed and intended to be used exclusively for residential occupancy.

**Dwelling, Two Family:**

Two (2) units designed and intended to be used exclusively for residential occupancy living independently of each other in separate dwelling units.

**Dwelling, Multi-Unit Family:**

More than two (2) units designed and intended to be used exclusively for residential occupancy living independently of each other in separate dwelling units, including apartment buildings and condominiums.

**Earth Moving Activities:** See Article 11

**Easement:**

An easement is the right to use land owned by someone else for a specified purpose.

**Essential Services:**

The construction, alteration or maintenance of PUC (Public Utilities Commission) regulated utilities. Such system may include electric distribution towers, poles and wires, water mains, drains, and sewers.

**Excavation:**

Any removal of earth material from its original position.

**Family:**

One (1) or more persons occupying a premise and living as a single housekeeping unit.

**Farming:** The cultivation of soil for the production or raising of food, crops, or other valuable or useful products, including the raising or boarding of livestock and poultry for personal or commercial purposes. Farming does not include the growing, production, testing, sale or processing of marijuana.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Flea Market:**

A commercial and/or industrial facility involving the sale of used or new merchandise customarily involving the lease of sales space indoors or outdoors to others, seasonally or continuously operated.

**Function Hall:**

A business in which a room or rooms may be rented out to a variety of different groups for public and private meetings, gatherings, dances, conferences or parties.

**Gross Floor Area:**

The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Habitable:**

Any portion of a building designed for human occupation which has a ceiling height greater than six and one half feet (6 ½) and is climate controlled.

**Health Institution:**

A business such as a hospital, convalescent home or hospice which provides overnight and long term care.

**Home Day Care / Nursery School:**

A business, which provides temporary care, protection/supervision and education of children under the age of ten (10) and is licensed by the State of Maine Department of Health and Human Services.

**Home Occupation:**

A business which is compatible with a residential use and which is customarily conducted on or in a residential structure or property and;

- (1.) is carried on by a member or members of the family residing in the dwelling unit; and
- (2.) is clearly incidental to and compatible with the residential use of the property and the surrounding residential uses; and
- (3.) Employs no more than two (2) persons other than family members residing in the home.

**Hotel/Motel:**

A business consisting of a building or group of buildings containing single rental units made up of a room or group of rooms with facilities for sleeping and bathing. Single rental units shall be rented to transient guests for a period not to exceed twenty-eight (28) days. Twenty per cent (20%) of the units may have limited cooking facilities.

**Household Pets:**

An animal kept for enjoyment, or as a companion such as a domestic dog, cat or bird.

**Junkyard:**

A yard, field or other outside area used to store, dismantle or otherwise handle:

- A. Discarded, worn-out or junked plumbing and heating supplies, electronics, or industrial equipment, household appliances and furniture;
- B. Discarded, scrap and junk lumber;
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel, and other scrap ferrous or nonferrous material. As defined in Title 30-A M.S.R.A. section 3752 (4).

**Lot:**

An area of land with identifiable lot lines established by deed, plan or other instrument of record.

**Lot Coverage:**

That portion of a lot occupied by structures, parking lots, patios, sidewalks or other areas which were de-vegetated and which are not to be revegetated.

**Lot Line:**

That real or imaginary line along the ground surface and its vertical extension which separates a lot from an abutting lot or from a street right-of-way.

**Lot of Record:**

A lot which was legally created by plan or deed and recorded in the York County Registry of Deeds, which met the requirements of the zoning ordinance in effect at the time of recording or a lot which is located in a subdivision approved by the Planning Board and recorded in the York County Registry of Deeds.

**Lumber Yard:**

A business which supplies milled lumber and standard building supplies, wholesale or retail.

**Manufactured/Mobile Housing Unit:**

Structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein.

Manufactured housing (commonly known as mobile homes in the United States) is a type of prefabricated housing that is largely assembled in factories and then transported to sites of use. The definition of the term in the United States is regulated by federal law (Code of Federal Regulations, 24 CFR 3280): "Manufactured homes are built as dwelling units of at least three hundred and twenty (320) square feet in size with a permanent chassis to assure the initial and continued transportability of the home." [1] The requirement to have a wheeled chassis permanently attached differentiates "manufactured housing" from other types of prefabricated homes, such as modular homes.

**Medical Care Facility:**

A business or institution which provides medical care to humans, only on an outpatient basis.

**Medical Marijuana:** Marijuana specifically permitted pursuant to the Maine Medical Use of Marijuana Act and Rules.

**Medical Marijuana Caregiver:** A caregiver who is not required to be registered with the state. This caregiver is limited to serving no more than 2 qualifying patient household members or family members. These caregivers are not allowed to sell marijuana wholesale, organize as a business entity or operate a retail store. This is considered an accessory use to a legally permitted residential dwelling unit.

**Medical Marijuana Cooperative:** Two or more medical marijuana caregivers claiming a location as a primary residence in order to conduct medical marijuana home production. Medical marijuana cooperatives are considered medical marijuana production facilities under this ordinance.

**Medical Marijuana Home Production:** Growing, cultivating, processing, and/or storing medical marijuana by a registered medical marijuana caregiver at his/her primary residence as a home occupation use.

**Medical Marijuana Production Facility:** A building used for cultivating, processing, testing, storing of medical marijuana; and / or distribution by a medical marijuana caregiver at a location which is not the caregiver's primary year-round residence or their qualifying patient's primary year-round residence. This shall be considered a commercial use.

**Medical Marijuana Qualifying Patient:** A person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana.

**Medical Marijuana Registered Caregiver:** A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

**Medical Use:** Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of medical marijuana or paraphernalia relating to the administration of medical marijuana to treat or alleviate a patient's debilitating medical condition or systems associated with the qualifying patient's debilitating medical condition.

**Mobile Home Park:**

A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units not including modular homes.

**Modular Homes:**

Modular homes are constructed--at least in part--off the building site, and is permanent once constructed. Modular homes in its entirety are not constructed in a factory. The components that make up the basic construction of modular homes--the modules, are assembled in the factory. The pieces are assembled on the home site, much like a traditionally-built home. Modular homes can have a variety of foundations--slab, crawlspace, basement, walk-out basement. Modular homes conform to the same local and state codes (Standards approved by the Maine Manufactured Housing Board) as on-site homes.

**Municipal Facility:** A use undertaken by the Town of Lyman

**Neighborhood Convenience Store (1):**

A business containing 2,500 sq. feet or less of gross floor area, intended to serve the day-to-day needs of a residential area with the sale of merchandise including but not limited to items such as food products, meats, dairy products, nonprescription medical supplies, sanitary supplies, beer, wine etc., newspapers, home repair articles, and motor vehicle fuels. A neighborhood convenience store of this type may include a restaurant area for serving food with up to thirty five (35) seats.



**Neighborhood Convenience Store (2):**

A business containing 5,000 sq. feet or less of gross floor area, intended to serve the day-to-day needs of the area with the sale of merchandise including but not limited to items such as food products, meats, dairy products, nonprescription medical supplies, sanitary supplies, beer, wine etc, newspapers, home repair articles and motor vehicle fuels. This type of convenience store may include a restaurant area for serving food.

**Non-conforming:**

Something which lawfully exists but does not meet the current requirements of this Ordinance because it was established or constructed before the adoption of the Zoning Ordinance on January 1, 1976 or complied with the zoning ordinance in effect at the time it was established or constructed or it received Planning Board approval at the time it was established or constructed.

**Non-conforming Lot of Record:**

A lot of record which does not meet the minimum lot size or minimum road frontage requirements of the district in which it is located.

**Non-conforming Structure:**

A structure that does not meet the current dimensional requirements established for the zoning district in which it is located, but that met the applicable requirements in effect at the time of its construction.

**Non-conforming Use:**

A use of land or structure(s) which is not currently permitted in the district but which was a permitted use at the time the use was established.

**Nursing Home:**

A privately operated establishment providing maintenance and personal or nursing care for persons (as the aged or the chronically ill), who are unable to care for themselves properly.

**Outdoor Recreation:**

Any noncommercial recreation activity, which requires some degree of permanent structural or mechanical components for participation in the activity, such as ball fields, playgrounds, and tennis courts.

**Personal Service Business:**

A business that offers a professional service such as but not limited to barbers, hairdressers, beauticians, masseuses and tanning salons.

**Principal Use:** The use to which the lot is primarily devoted.

**Professional:** An individual qualified by education, training, experience and/or certifications.

**Professional Office:**

Offices where services are provided that require specialized training or professional certification including but not limited to; accountant, appraiser, attorney, architect, landscape architect, engineer, surveyor, stockbroker, physician, dentist, chiropractor, psychologist and optometrist. Limited good or merchandise may be sold.

**Public Utility Facility:**

A building or structure necessary for the furnishing of publicly regulated utility services within the Town of Lyman.

**Recycling Facility:**

A business in which materials or products are processed and stored for reuse.

**Research & Development Facility:**

A business in which new products or processes are created and studied.

**Recreation Facility:**

A business which provides an indoor or outdoor recreational activity including but not limited to miniature golf, racquetball, tennis, exercising, bowling, swimming, showing of movies and the exhibition of any performing arts.

**Recreational Vehicle:**

A vehicle that:

1. Is built on a single chassis;
2. Contains four hundred (400) square feet or less of floor area;
3. Is self-propelled or towed by a passenger car or light duty truck;  
and
4. Is designed as a temporary living quarters for recreational use, camping, travel, or seasonal use, not as a dwelling unit.

**Retail Business:**

A business establishment engaged in the sale of goods or services to the ultimate consumer for direct use or consumption.

**Restaurant – Standard:**

An establishment where food and drink are prepared and served to the public, and consumed while seated on the premises, and not served directly to occupants of motor vehicles.

**Restaurant – Fast Food:**

An establishment where food and drink are served in disposable containers for consumption on the premises or off the premises, normally requiring a short period of time between ordering and serving during which the customer waits at a counter or in a motor vehicle.

**Right-of-Way:**

The right given by a landowner to pass over their land. Examples include but are not limited to: construction of a roadway, and/or cross with utilities without actually transferring ownership.

**Road:**

A public or private roadway, which provides the principal means of access to two or more abutting properties, consisting of a bed of exposed mineral soil, gravel asphalt, or other surfacing material constructed for the repeated passage of vehicles.

**Sawmill:**

A business in which logs are converted into planks, boards, etc., by for later use in the manufacture of various products.

**Schools, Public & Private:**

An institution for education or instruction, which offers courses sufficient to qualify attendance in with state compulsory education requirements.

**Schools, Vocational – Technical:**

A public or private institution for the education and training of persons in a wide array of technical, trades and skills and knowledge can be used in the job market.

**Setback:**

The minimum horizontal distance from a lot line to the nearest part of a structure.

**Setback from Water:**

The minimum horizontal distance from the normal high water mark to the nearest part of a structure.

**Self Service Storage Facility:**

A building or structure accommodating individual storage rooms or area leased or rented to the general public exclusively for the storage of personal or business-related property, such rooms or areas being accessible though individual private entrances.

**Sign:**

Any device, fixture, placard, structure that uses color, form, graphic, illumination, symbol, or writing to communicate information of any kind to the public.

**Special event facility:** A building or portion of a building, outdoor areas, and related parking which is made available for consideration to individuals or groups to accommodate private functions including but not limited to banquets, weddings, anniversaries and other similar events. Such use may include (1) kitchen facilities for the preparation or catering of food, (2) the sale and/ or serving of alcoholic beverages for on-premise consumption, only during scheduled events and not open to the general public and (3) entertainment. A special event facility may be operated in conjunction with other uses.

**Storm Water Detention Facility:**

A pond, wetland, basin, or structure, which collects surface run-off and discharges it at a measured rate as surface run-off.

**Storm Water Retention Facility:**

A pond, wetland, basin, or structure which collects surface runoff and permits only infiltration of storm water into the ground, without a surface run-off discharge outlet.

**Subdivision:**

The division of a parcel of land or construction of dwelling units, as defined in Title 30A M.R.S.A. 4401 or as in acts amendatory thereto.

**Substantially Commenced:**

Completion of the installation, backfilling and capping of the building's foundation, or work completed that amounts to more than twenty-five percent (25%) of the total project cost, less site improvements.

**Timber Harvesting:** – The cutting of, tree trunks that have been cut down and stripped of all branches

**Timber Harvesting (commercial):** - The cutting of, and commercial dealing in, tree trunks that have been cut down and stripped of all branches

**Transmission/Telecommunication Tower:**

A use which includes the receiving and transmission of information through the air employing equipment mounted on the ground and on a tower.

**Truck Terminal:**

A use that provides facilities for the temporary storage of trucks and trailers at a commercial business. A truck terminal may include the transfer of goods between trailers and a temporary warehouse of goods between shipments. A truck terminal may provide facilities to inspect vehicles, change vehicle fluids, maintain engines, and change tires, as well as perform standard maintenance on trucks and trailers.

**Warehousing:**

A business engaged in the storage, wholesale, and / or distribution of products, goods, supplies and equipment.

**Wholesale Business:**

A business engaged in the sale of goods, supplies and equipment for resale, and not to the retail consumer.

**Wholesale Clubs:**

A business engaged in the sale of goods, supplies, and equipment through a membership program.

**Yard Sale:**

An indoor and/or outdoor sale of used personal or household belongings held on the seller's premises, the term shall include garage sale, porch sale, tag sale, church fairs, and the like (See Article 10 Section 10.17 for Yard Sales Standards).

**APPENDIX – A**

**Zoning Map**