

The Official 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 offices of other Municipal Officers.

2.3 Uncertainty of Boundary Lines

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

2.4 Division of Lots by District Boundaries

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 9 of this Ordinance.

2.5 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.

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, structure may be repaired, or maintained, but the area of a non-conforming use may not be extended or expanded nor shall a use 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

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 the Ordinance.

3.3 Rule of Precedence

Whenever a non-conforming use and / or structure is superseded by a permitted use and / or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions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

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 the 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.

3.5.4 Any nonconforming building which is hereafter damaged or destroyed by fire, flood, lighting, 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 footprint 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

Article 4 Land Use District Requirements

4.1 Shoreland District

The Shoreland District is subject to the terms, conditions and requirements contained in the Shoreland Zoning Ordinance adopted by the Town of Lyman on June 5, 2009.

4.2 Residential District

- 1. To provide for the public health and safety, environmental quality, and economic well-being of the community.**
- 2. To provide for 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.**
- 3. To provide areas for public and semi-public uses compatible with and necessary to residential development.**

4.3 General Purpose District

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

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 shall be buffered from residential uses. (Note: See definition of Buffer in Article 11.)

4.5 Mobile Home Park Overlay District

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 Residential and General Purpose Districts, 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.

6.3.1 Setback Requirements

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. The setback requirements from property lines shall be as close to the requirements as possible but not less than:

- 1. Front setback 35 feet. Side and rear setback 20 feet.
- 2. Required yard space shall serve only one (1) lot.

No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

3. Visibility at Corner Lots

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.

4. Building Height

- A. No structure shall exceed two and one-half (2 ½) stories or thirty-five (35) in height. Height is determined based on the average of finish grade taken from six (6) points within 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.



Article 8
Zoning Board of Appeals

- 8.1**
- A.** All Appeals of permits, and / or land use decisions shall be based upon a written decision of the Code Enforcement Officer
 - B.** Administrative appeals and variance requests shall be heard and decided upon by the Zoning Board of Appeals.
 - C.** Appeals shall lie from the Code Enforcement Officer to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Superior Court according to State law.
 - D.** Disability and Mislocated Building Appeals.
- 8.2 Board of Appeals:**
- 1.** Establishment: A Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.
- 8.3 Appointment and Composition:**
- A.** 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 from its membership. The secretary 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.
 - B.** 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.
 - C.** A quorum shall consist of three (3) Members.
If only three 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.

- D. A Municipal Officer or full-time Municipal Employee may not serve as a member of the Zoning Board of Appeals.**
- E. Any question raised by a member or an applicant of whether a particular issue involves a conflict of interest 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.**
- F. 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.**
- G. 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 personal 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 state, or any other reason determined by the Municipal Officers to interfere with the efficient operation of the Board.**

8.3.1 Powers and Duties

- A. Administrative Appeals: 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: 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

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

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:

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

8.3.2 Appeal Procedure:

1. In all cases, a person aggrieved by a decision of the Code Enforcement Officer, shall commence their appeal within thirty (30) days after the decision is made by the Code Enforcement Officer.
 2. 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.
 3. 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.
 4. 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.
- A. The applicant is responsible for providing with the application a list of property owners within 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 owner's names, mailing addresses and Assessors Tax Map and Lot Numbers accurate to within thirty (30) days of filing the application. Within the Shoreland Zoning District the list of neighboring property owners shall consist of all properties within 500 feet of the site involved. The applicant shall also provide with the application (3) three complete sets of standard (1" X 2 5/8") mailing labels with the names and, mailing addresses of each identified neighboring property owner with the application.

- B.** 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.
- C.** 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.
- D.** At any hearing the parties involved may be represented by an agent or attorney.
- E.** 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.
- F.** Order of Presentation shall be as follows:

 - 1. Appellant's case shall be heard first
 - 2. Code Enforcement Officers presentation
 - 3. Neighboring property owners comments and or presentations
 - 4. Open to the general public for comment

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

- G.** 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.

- H. 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 it's 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.**
- I. A variance granted under the provisions of this Ordinance shall expire if work or change involved is not substantially commenced within one year of the date that the appeal was granted, and if the work or change is not substantially completed within two (2) years.**

8.3.3 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 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:**
 - 1. The land in question cannot yield a reasonable return unless a variance is granted;**
 - 2. The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood;**
 - 3. The granting of the variance will not alter the essential character of the locality; and**
 - 4. 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 of the hardship conditions listed above must be met. Also the term "yield a reasonable return" is a condition that does not relate to a monetary value.**

Net Residential Acreage: The gross acreage available for development, minus the area for streets, or access and the areas which are unsuitable for development.

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.

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: Barbers, hairdressers, beauticians, masseuse and tanning salons.

Parking Space: See Section 10.12

Planning Board: A board appointed by the Board of Selectmen to oversee Site Plan Review and Subdivision Regulations.

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

Professional: An individual qualified by education, training or experience.

Professional Office: A business engaged in providing a service on the premises, such as but not limited to cleaning or repairing personal