

# **LYMAN ZONING ORDINANCE**

Be it ordained by the Town of Lyman at Town Meeting convened July 6, 1972 and amended at Town Meeting convened February 3, 1982, June 1, 1988, March 19, 1991, March 9, 1993, March 12, 1996, March 9, 1999, March 14, 2006, March 11, 2014, March 14, 2017 and March 8, 2022.

## **ARTICLE 1 -- TITLE**

This ordinance shall be known and cited as the “Lyman Zoning Ordinance.”

## **ARTICLE 2 -- PURPOSE**

This ordinance is designed to promote the health, safety and general welfare of the inhabitants of Lyman, to protect the value of property, to prevent the overcrowding of land, to avoid undue concentration of population, to provide adequate air and light and to facilitate the adequate provisions of other public requirements.

A combination of all of a number of factors, topographical, climatological, geological, historical, and geographical, create an environment in the Town of Lyman which is and can be of specific appeal to residential, agricultural, small businesses as defined in Section 302 and 601, and conservation based requirements.

## **ARTICLE 3 -- DEFINITIONS**

**Section 301.** General. Unless otherwise expressly stated, words shall, for the purpose of this Ordinance, have the meaning indicated in Section 302. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word “person” includes a partnership, corporation or other entity. The word “building” includes the word “structure.” The word “shall” is mandatory, not directory.

**Section 302.** Specific.

- (a). Accessory Dwelling Unit (ADU). A residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation, on the same parcel of land as the principal dwelling unit it accompanies.
- (b). Accessory Use. A use generally subordinate and incidental to a principal use of land.
- (c). Building. Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, other public or private purposes, or accessory thereto.
- (d). Building Site. That portion of a lot, tract or parcel of land upon which a single building is placed.

- (e). Camping Area. Any lot on which more than one tent, tent trailer, recreational vehicle, or similar shelter is used for transient housing for more than 5 days in any calendar year.
- (f). Cottage Industry. A cottage industry means any activity undertaken for gain or profit and carried on in a dwelling or accessory building by members of the family residing in the dwelling and up to three additional unrelated people.
- (g). Driveway. An area located on a lot and built for access that may not service more than two adjacent lots, sites or dwelling units.
- (h). Dwelling. A privately or publicly owned building containing a dwelling unit or dwelling units.
- (i). Dwelling Unit. One or more rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.
- (j). Frontage. The distance along the lot line on either a street or a body of water or both.
- (k). Home Occupation. An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; incidental and secondary to the use of the dwelling unit; for residential purposes; and which shall generate no nuisance, including but not necessarily limited to offensive noises, vibration, smoke, dust, odors, heat, glare, traffic or parking.
- (l). Junk Yard. Any place of storage or deposit, whether in connection with another business or not, where two (2) or more unregistered, old or secondhand motor vehicles, no longer being used nor intended to be used or in condition for legal use on the public highways are held. This includes vehicle parts equal in bulk to two or more vehicles.
- (m). Lot. An area or parcel of land or any part thereof, not including water area, in common ownership, designated on a plot to be filed with the Register of Deeds by its owner or owners as a separate lot. For the purposes of this Ordinance, a lot shall have boundaries identical with those recorded with the Register of Deeds.
- (n). Lot Line. The property line dividing a lot from a street right-of-way, a body of water or adjacent property.
- (o). Lot Size. The horizontal area within the boundaries of a lot, exclusive of any land designated for street or alley purposes.
- (p). Manufactured Housing. Any structure transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Owner must comply with all state and federal regulations regarding installation.
- (q). Multi-Family Housing. A residential building designed to be occupied by three or more families, regardless of the type of ownership, such as, but not limited to condominiums, apartments, row houses or other common wall housing units of the same type. The number of families shall not exceed the number of single-family units provided.

- (r). Non-conforming. The use of land and the use or location of a building or structure at the time this Ordinance became effective which does not conform to the regulations of this Ordinance.
- (s). Parking Space. An off street space for exclusive use as a parking area for one motor vehicle.
- (t). Presite Built Housing. Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. Owner must comply with all state and federal regulations regarding installation.
- (u). Rear Yard. The distance between the nearest portion of a building on a lot and the rear property line of the lot.
- (v). Recreational Travel Vehicle. A vehicle equipped with either sleeping, kitchen and/or bathroom facilities, self propelled or able to be pulled by another vehicle, and designed for travel and not as a stationary, permanent residence.
- (w). Setback. The distance between the nearest portion of a building on a lot and a street line.
- (x). Sewage Disposal System. Individual sewage disposal system means any sewage disposal or treatment system, other than a municipally owned and operated system, which receives either sewage or other wastes, or both. Examples include septic tank leach field systems, privies or dry pit toilets, incinerator type toilets (gas-operated, electric, fossil fueled or any combination thereof), and holding tank systems.
- (y). Side Yard. The distance between the nearest portion of a building on a lot and a side property line of the lot.
- (z). Site. Building site.
- (aa). Special Exception. Use of a building or lot, which may be permitted under this Ordinance only upon application to the Board of Adjustment, and subject to the approval of that Board in accordance with the provisions of Article 10, Section 1004.
- (bb). Street and/or Road. A street approved by the Planning Board and recorded at the Grafton County Registry of Deeds, or a Class V or better public highway. Does not include a private driveway serving not more than two adjacent lots, sites or dwelling units. The word "street" shall include the entire right-of-way.
- (cc). Street Line. The line dividing the street and a lot. Where the width of a street is not established or cannot be determined, the street line shall be considered to be 25 feet from the center of a street.
- (dd). Variance. A variance is a relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where, due to conditions peculiar to the property and not the result of the applicant or owner, a literal enforcement of the Ordinance will result in unnecessary or undue hardship. A variance under this Ordinance may be authorized only for height, area, size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance. Nor shall a variance be

granted because of the presence of non-conforming uses in the particular zone or an adjustment zone.

#### **ARTICLE 4 -- APPLICATION of REGULATIONS**

**Section 401.** No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations specified herein.

**Section 402.** Prior to Construction. Except as otherwise provided herein or in applicable statutes of the State of New Hampshire, a Zoning Permit must be obtained from the Board of Selectmen prior to commencing:

- A. The erection or use of any new building or other structure.
- B. The relocation of any building or structure, or part thereof.
- C. The alteration of any building or structure resulting in an expansion of the footprint in any direction or an expansion of the volume in any way.
- D. Any use of premises that would constitute a departure from the terms of this Ordinance, including, but not limited to, a change in the nature of the use of any building or premises to a non-conforming use from any lawful prior use, or the expansion of any existing lawful non-conforming use.
- E. Any change in lot size or shape that would result in a violation of area or dimensional regulations.

Proof of adherence to Sections 701 through 708 must be provided to the Selectboard or Zoning Administrator along with the required application form.

**Section 403.** Remodeling. No permit shall be required for remodeling or repairing where the purpose for which the building or structure is to be used is not changed, or the building is not enlarged or the use extended.

#### **ARTICLE 5 -- PRESENT USES**

**Section 501.** Every use being made of land, structures, or buildings in the Town of Lyman on the effective date of this ordinance may be continued and such uses are not affected by the provisions of Article 6 of this Ordinance.

**Section 502.** A non-conforming use, permitted by Section 501, which has been damaged or destroyed by fire, accident, or other cause, may be repaired or reconstructed to its condition prior to such damage or destruction, provided such work is undertaken and completed within two (2) years after such damage or destruction.

**Section 503.** No structure, conforming or nonconforming, shall be allowed to stand in a damaged or unfinished condition for more than two years after being damaged by fire, accident, or other cause. Debris must be completely removed and all excavations filled to ground level.

## **ARTICLE 6 -- PERMITTED & NONPERMITTED USES**

**Section 601.** The following uses and no other shall be permitted in the Town of Lyman.

(a). Residential Uses Permitted.

- [1]. One and two family dwellings with a maximum of one dwelling per lot.
- [2]. Manufactured housing.
- [3]. Presite built housing.
- [4]. Accessory uses customarily incidental to a permitted use. Such uses shall include private swimming pool and buildings for housing automobiles, equipment, supplies, pets or animals. Accessory uses shall be permitted regardless of whether there is an associated principal use.
- [5]. Home occupations as defined in Section 302.
- [6]. Accessory Dwelling Unit (ADU) as defined in Section 302.

(b). Agricultural Uses Permitted.

- [1]. Animal husbandry (raising or keeping of animals other than household pets).
- [2]. Plant production including sale of produce grown on the premises.
- [3]. Growth, harvesting and processing of forest products, orchards, and similar uses.
- [4]. Accessory uses, customarily incidental to a permitted use which shall include buildings for housing automobiles, equipment, or animals. Accessory uses shall be permitted regardless of whether there is an associated principal use.

(c). Private Recreational Areas Permitted.

- [1]. Private parks, picnic grounds and other recreational uses without permanent structures or improvements.
- [2]. Camping and the use of a recreational travel vehicle, or other camping type structures such as tents is permitted. Such use shall not exceed a total of 120 days in any calendar year except as permitted in Section 803.

(d). Uses Permitted by Special Exception (Section 1004).

- [1]. Clinics, hospitals, nursing homes or rest homes. All such establishments shall meet minimum State requirements.
- [2]. Private schools. All schools shall meet minimum State requirements.
- [3]. Golf courses.
- [4]. Riding stables.
- [5]. One attached or detached dwelling in addition to a nonresidential use.
- [6]. Small businesses which fulfill the requirements of Section 1004.
- [7]. Cottage industry as defined in Section 302.

- [8]. Commercial removal of loam, clay, gravel, etc. in accordance with RSA 155E -- Earth Excavation.
- [9]. Multifamily housing which includes condominiums, townhouses, row houses or other common wall housing of the same type. Multifamily housing must comply with all regulations set forth in Article 8, Section 805.
- [10]. Camping Areas -- Before any lot may be used for a "Camping Area," plans and specifications for the layout, access, private roadways, unit spaces, parking facilities, utilities to serve the unit spaces, sanitation, landscaping and common facilities must be admitted to the Planning Board for approval prior to a Special Exception being granted.

(e). Uses Not Permitted.

- [1]. Dumping will not be permitted. Owners of property may use their own land for disposal of their own refuse in conformity with State law.
- [2]. Junk yard or outdoor storage of unregistered or inoperative automobiles.
- [3]. Neither "septage" as defined by RSA 485-A:2, IX-a nor "sludge" as defined by RSA 485-A:2, XI-a shall be stockpiled, applied or spread on any property located within the Town of Lyman.

## **ARTICLE 7 -- AREA REGULATIONS**

**Section 701.** Lot size. Each lot shall be a minimum of 90,000 square feet.

**Section 702.** Frontage. Each lot shall have at least two hundred and fifty (250) feet of frontage situated on a state, town or private road or street.

**Section 703.** Setback. Every structure placed on a lot shall be at least 65 feet from the center line of the right-of-way of any road.

**Section 704.** Side and Rear Yards. Every structure placed on a lot shall be at least 30 feet from the side and rear property lines.

**Section 705.** Height.

**Section 705:1.** Authority and Purpose. The Town of Lyman, being a beautiful pastoral town filled with unspoiled ridgelines and pristine views, seeks to preserve the scenic and aesthetic values of the Town. The primary objective of this section is to preserve Lyman's rural character and to protect its scenic views from visual pollution by providing that development be carried out in a way that is visually unobtrusive to the greatest extent reasonably practicable while permitting the landowner to exercise his/her property rights.

**Section 705:2.** Height Standard. No structure erected on any lot shall exceed 35 feet in height as measured from the highest point of the roof to the average elevation of the finished grade within

20 feet of the structure on the uphill side. Farm buildings, TV and radio antennas are excluded from this restriction.

**Section 706.** Construction. All dwellings shall have a minimum of 500 square feet of first floor living area, a permanent type foundation, permanent type siding and a state approved septic system. In addition, all manufactured housing shall be placed on a suitable nonporous pad and be anchored according to the requirements of the State of New Hampshire, and the space under the home shall be suitably enclosed. Construction must comply with all environmental, health and safety regulations of the State of New Hampshire.

**Section 707.** Water and Sewerage. The owner of each dwelling unit shall provide and maintain their own water and sewerage system.

**Section 708.** Driveways. Any person constructing a private driveway entering upon a town road must first obtain a driveway permit from the Board of Selectman and/or the Zoning Administrator.

## **ARTICLE 8 -- GENERAL REGULATIONS**

**Section 801.** There shall be permitted only one principal building and one principal use on a lot unless expressly permitted by this Ordinance.

**Section 802.** Off-Street Parking. Off-street parking shall be provided by the property owner for all uses.

**Section 803.** Temporary Structures. On-site temporary structures or trailers used in conjunction with construction work are permitted only during the period that construction work is in progress and in no event for longer than 6 months. This period may be extended by the Board of Adjustment upon application.

**Section 803.1** The definition of temporary structures expressly excludes structures erected or installed on a temporary basis to gather scientific wind data.

**Section 804.** Access. No zoning permit shall be issued and no building or other structure shall be erected on any lot within the Town of Lyman unless the street giving access to said lot has been approved as a street by the Planning Board and recorded at the Grafton County Registry of Deeds, or the street is a Class V or better public highway. Any building erected in violation of these provisions without an exception pursuant to RSA 674:41 is an unlawful structure and the Board of Selectman or appropriate agent of the governing authority shall cause the building to be vacated or removed.

**Section 805.** Multi-family Housing. All multi-family housing constructed in Lyman must conform to the following regulations:

- [1]. Multifamily housing must receive a Special Exception from the Lyman Zoning Board of Adjustment under Article 10, Section 1004.

- [2]. All multifamily developments must comply with all other required local, State and federal regulations including but not limited to, the Lyman Subdivision Regulations and the Condominium Act, as may be amended.
- [3]. Minimum lot size for multifamily housing will be 100,000 square feet.
- [4]. For each additional living unit over 3 units an additional 90,000 square feet of area must be available. For example: A proposed 6 unit complex:  
Minimum acreage for first 3 units = 100,000 sq. ft.  
90,000 sq. ft. per unit over 3 units = 270,000 sq. ft. (90,000 sq. ft. times 3)  
TOTAL minimum sq. ft. required = 370,000 sq. ft.
- [5]. All multifamily complexes not on public water and sewer must receive a permit from NH Department of Environmental Services for their septic and water supply prior to final zoning permit approval.
- [6]. Further information/investigation may be requested by the Zoning Board of Adjustment to ensure adequate protection of the future residents of the complex as well as the community.

**Section 806.** Accessory Dwelling Units (ADU). All accessory dwelling units constructed must conform to the following regulations:

- [1]. Only one (1) ADU shall be permitted for each single family dwelling. An ADU is not allowed for any nonresidential buildings.
- [2]. The ADU must provide independent living facilities for one or more persons including provisions for sleeping, eating, cooking, and sanitation.
- [3]. There must be a common wall between the principal dwelling unit and the ADU. Detached accessory dwelling units are prohibited.
- [4]. The ADU must maintain aesthetic continuity with the principle dwelling unit as a single family dwelling.
- [5]. A second means of egress and ingress from the ADU must exist and be located at the side or rear of the structure.
- [6]. The ADU shall not exceed 750 square feet of living area.
- [7]. An interior door shall be provided between the principal dwelling unit and the ADU.
- [8]. The ADU shall contain no more than 2 bedrooms, and must conform to the maximum occupancy per bedroom consistent with the policy adopted by the United States Department of Housing and Urban Development.
- [9]. Either the principal dwelling unit or the ADU shall be occupied by the owner as his or her principal place of residence. In the case of a trust, this would be a trustee or beneficiary.
- [10]. Adequate parking shall be provided to serve the combined needs of the principal dwelling unit and the ADU. There shall not be a separate driveway for the ADU.
- [11]. Adequate provisions shall be made for water supply and sewage disposal for the possible added occupancy; a separate system shall not be required.
- [12]. A zoning permit must be obtained from the Board of Selectmen prior to the construction of the ADU.
- [13]. An existing dwelling which is nonconforming to lot size and frontage may also have an ADU.



- [14]. An ADU shall comply with all setback requirements.
- [15]. Each ADU shall constitute a unit of workforce housing.

## **ARTICLE 9 -- ADMINISTRATION AND ENFORCEMENT**

**Section 901.** Duty, Enforcement and Penalties. The Board of Selectmen of the Town of Lyman are hereby given the authority to administer and enforce the provisions of this Ordinance and may institute in the name of the Town of Lyman any appropriate legal action or proceeding to prevent, restrain, correct, abate, or penalize any violation of this Ordinance. Any person who violates any provision of this ordinance shall be subject to the fines and penalties provided under RSA 676:17, including, but not limited to, a civil penalty of up to \$275 for each day that such violation is found as set forth by State statute. The Board of Selectmen may appoint a Zoning Administrator to administer (accept and issue permits and inspect) but not enforce this Ordinance.

## **ARTICLE 10 -- BOARD OF ADJUSTMENT**

**Section 1001.** Creation. A Board of Adjustment, having 5 members, is hereby created in accordance with, and shall have the terms and powers hereby conferred upon the Board of Adjustments by the provisions of NH RSA Chapters 673:3 and 674:33, respectively. The first Board of 5 members shall be appointed by the Board of Selectmen as soon as possible after the effective date of this Ordinance. Thereafter, two replacing members shall be elected at each succeeding annual Town Meeting.

**Section 1002.** Adoption of Rules. The Board shall adopt rules to govern its proceedings in accordance with the provisions of Chapter 674:33 NH RSA.

**Section 1003.** Appeals. As defined by NH RSA 676:5, the Board has the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.

**Section 1004.** Special Exception. As defined by NH RSA 674:33, the Board has the power and is required to hear and decide application for Special Exception uses as provided for in this Ordinance, and the Board may, in appropriate cases and subject to appropriate conditions and safeguards, as determined by the Board, authorize the Zoning Administrator to issue a permit for such Special Exception use. Before application is approved the Board shall determine that:

- [1]. The proposed site is an appropriate location for such use.
- [2]. The use will not adversely affect the neighborhood, including but not limited to such considerations as: the nature of the proposed use relative to surrounding properties; size and extent of structures and outdoor activities; the proposed operation; proposed lighting, screening, signs and outside storage; proposed hours of operation; amount of parking and other impervious surface; potential odor, fumes, vibration and noise; projected delivery and customer traffic; and number of employees,.

- [3]. Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.
- [4]. The use complies with all regulations established by this Ordinance.

**Section 1005.** Variance. As defined by RSA 674:33, the Board has the power to authorize a variance from the terms of this Ordinance only where it finds that all the conditions listed below apply. If a variance is authorized, the Board shall notify the Zoning Administrator of the details of such authorization.

The criteria for granting a variance are:

- 1. The variance will not be contrary to the public interest;
- 2. The spirit of the ordinance is observed;
- 3. Substantial justice is done;
- 4. The values of surrounding properties are not diminished; and
- 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

**Section 1006.** Determination of Regional Impact. Pursuant to RSA 36:56, upon receipt of an application for subdivision, the Board shall review it and determine whether or not the development, if approved, could reasonably be construed as having the potential for impact beyond the boundaries of Lyman. This regional impact could result from a number of factors, such as, but not limited to, the following:

- 1. relative size or number of lots or units compared with existing stock;
- 2. transportation networks;
- 3. proximity to the borders of a neighboring community;
- 4. anticipated emissions such as light, noise, smoke, odors or particles;
- 5. proximity to aquifers or surface waters which transcend municipal boundaries; and
- 6. shared facilities such as schools and solid waste disposal facilities.

Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. Upon determination that a proposed development has a potential regional impact, the Board shall afford the Regional Planning Commission and the affected municipalities the status of abutters for the limited purpose of providing notice and giving testimony. Within 72 hours of reaching a decision that a development has regional impact, the Board shall, by certified mail, furnish the Regional Planning Commission with copies of the minutes of the meeting at which the decision was made and copies of the initial project plan and the affected municipalities with copies of the minutes of the meeting at which the decision was made. At least fourteen (14) days prior to the public hearing, the Board shall notify, by certified mail, all affected municipalities and the Regional Planning Commission of the date, time and place of the hearing and the right to testify concerning the development.

**Section 1007.** Multiple Applications Required. An application for a variance and an application for a special exception may not be considered concurrently.

**ARTICLE 11 -- AMENDMENTS**

This Ordinance may be amended in accordance with the provisions of Chapter 675 of the NH RSA as it is or may be amended.

**ARTICLE 12 -- SEPARABILITY**

The invalidity of any provision of this Ordinance shall not affect the validity of any other provisions.

**ARTICLE -- 13**

This Ordinance shall become effective immediately upon its passage.

**ARTICLE 14 -- 2006 PETITION WARRANT ARTICLE**

To see if the Town will vote by official ballot to define that a tower, pole or similar structure erected to facilitate scientific wind data gathering is an industrial use.