

ARTICLE II: DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purpose of this ordinance, have the meanings indicated in this section. Words using the present tense include the future; the singular number includes the plural and the singular. Where terms are not defined in this section, they shall have their ordinarily accepted meaning or such as the context may imply. The word "shall" is mandatory, the word "may" is permissive. The word "person" includes a firm, association, partnership, trust, company, corporation or other entity as well as an individual, and shall apply to the owner, agent, contractor, and others acting on behalf of the above. The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied."

ABANDONED. The discontinuance of a use or structure for a continuous period of at least two years with no intent of claiming one's right or interest in it.

ABUTTER. Any person whose property is located in New Hampshire and adjoins or is directly across the road or stream from the real estate under consideration.

ACCESS WAYS. A corridor for vehicular traffic including driveways and private roads.

ACCESSORY BUILDING, STRUCTURE OR USE. A building, structure, or use subordinate and customarily incidental to the principal building on, or principal use of, the same lot. This will include telecommunication facilities.

ACCESSORY USE OF STRUCTURE. A use of a structure subordinate and customarily incidental to the principal use of the structure.

ACRE. 43,560 square feet measured horizontally.

ADMINISTRATOR. The administrator of this ordinance. The Selectboard or its designee shall be the Administrator. See Article IX.

AGRICULTURE. Agriculture shall mean all operations of a farm such as the cultivation, conserving, and tillage of the soil, dairying, greenhouse operations, the production, cultivation, growing and harvesting of any agricultural, floricultural, sod or horticultural commodities, the raising of livestock, bees, fur-bearing animals, fresh water fish or poultry, or any practices on the farm as an incident to or in conjunction with such farming operations including, but not necessarily restricted to, the following: preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm; the transportation to the farm of supplies and materials; the transportation of farm workers; and forestry or lumbering operations.

ALTERATION. As applied to a building or structure, a change or rearrangement that would result in a change in the footprint or height of the building. As applied to use, a change in the character or intensity of a use.

AQUIFER AREA. An aquifer is an underground zone of soil, sand, gravel, or porous or fractured rock with the capacity to transmit and store large amounts of groundwater having the potential to meet public or private water needs. An aquifer area is the land surface overlying an aquifer.

BEST MANAGEMENT PRACTICES. Those management practices recommended by the US Natural Resources Conservation Service, NH Department of Resources and Economic Development, NH Department of Environmental Services or other responsible public agency to prevent soil erosion, to protect water quality, and to maintain the productive capacity of the soil. Publications include “Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire,” “Manual of Best Management Practices for Agriculture in New Hampshire,” and “Best Management Practices to Control Nonpoint Source Pollution.”

BOARD. The Zoning Board of Adjustment.

BUILDING. Any combination of any materials whether portable, moveable or fixed, having a roof and built for the shelter of persons, animals, or property.

BUILDING ENVELOPE. At the discretion of the Planning Board or the ZBA, an area of a lot designated as the only area in which structures such as a residence, a non-residential structure, and accessory structures including the septic system and well may be constructed or installed. It includes the driveway unless specifically noted. This area shall be included on any final plans for recording. Only the board designating the building envelope may approve a change to that envelope.

BUILDING FOOTPRINT. The area of a lot upon which a single building stands measured from the exterior surfaces of the structure, including roofed over areas such as terraces, decks, and porches.

BUILDING ZONE. The area within a lot measured 200’ from any point of a principal residential building footprint existing prior to March 14, 1989. The Building Zone shall be excluded from the Agricultural Soils Conservation District.

BUSINESS. Non-residential use, including but not limited to retail, service, recreational, manufacturing, professional office or clinic, and lodging accommodations, but not including institutional, agriculture, or forestry use.

CHURCH or HOUSE OF WORSHIP. A non-residential building, together with its accessory buildings and uses, where persons assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLINIC. A place for medical or similar examination or treatment of persons or animals as outpatients.

CONFORMING USE. Any use that is a permitted use as specified in this ordinance.

CONSERVATION EASEMENT. A permanent restriction granted to a land trust or governmental agency that limits development and use of a property in order to protect conservation values for the public benefit.

CONSERVATION LOT. A Conservation Lot is a lot which is protected permanently through the grant of a conservation easement to a governmental agency or a conservation organization approved by the Planning Board. The lot may have no road frontage, but must have adequate access as approved by the Planning Board. Such conservation easement shall restrict the uses of the lot to silviculture, agriculture, and outdoor recreation

conducted in accordance with sound conservation practice and shall otherwise be in form and substance satisfactory to the Planning Board.

CONVERSION. The changing of a use to another use or uses in an existing single building.

COTTAGE INDUSTRY. A profession, occupation, or business use that is clearly incidental and secondary to the use of the single dwelling and does not change the residential character thereof. There shall be no more than the equivalent of three (3) full-time employees including the employer, on the residential premises of at least one of those employees or the employer. Such occupation or business must not change the existing character of the neighborhood, but may occur in an accessory building or buildings.

DESTROYED. The condition of a building which has been ruined, demolished, dismantled, or smashed by natural casualty or neglect.

DEVELOPED LOT. Shall mean a separately deeded lot with a structure, an established access, water supply, and sewage disposal system.

DEVELOPMENT. Any human-made change to improved or unimproved real estate including, but not limited to construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling.

DEVELOPMENT OF REGIONAL IMPACT. Any proposal which in the determination of the Zoning Board of Adjustment could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- I. Relative size or number of dwelling units as compared with existing stock;
- II. Proximity to the borders of a neighboring community;
- III. Transportation networks
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters that cross municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

DRIVEWAY. Shall mean an area located on a lot and built for direct access to a structure or off-street parking space. A driveway shall not serve more than two lots.

DWELLING UNIT. A room or rooms arranged for use as a separate, housekeeping unit established for regular occupancy.

DWELLING, SINGLE. A residential building which may include 1.) an attached apartment or 2.) a detached dwelling as allowed under section 4.42.

DWELLING, MULTI. A residential building and accessory buildings on one lot containing three or more dwelling units.

EARTH. Sand, gravel, rock, soil, or construction aggregate.

EXCAVATION. A land area which is used, or has been used, for the commercial taking of earth, including all slopes, resulting in the removal of more than 100 cubic yards of earth.

FILLING. The placing or depositing of any type of material using earth moving machinery.

FIRE PROTECTION STRUCTURES. Any structure built or placed for the purposes of fire protection which has been authorized by the Chief of the Lyme Fire Department including fire ponds, water storage tanks, and hydrants.

FLOOD PRONE AREA. Flood prone areas are (1) areas of land lower in elevation than the land-water boundary at the high water mark along a watercourse flowing at its 1% frequency (100 year flood); (2) areas of land lower in elevation than the land-water boundary of other surface water at the high water mark of such surface water at its 1% frequency (100 year flood); and (3) those soils classified by the National Cooperative Soil Survey as "soils subject to flooding".

FOOD SERVICE. An eating establishment in the Skiway District developed for active skiing participants, their guests, and spectators, to eat at tables, booths, or a counter as part of Skiing Facilities Use.

GOVERNMENT USE. Uses by agencies and departments of local, county, state, and federal governments. The type of function of the governmental facility is stated below:

Office Includes such functions as governmental office, laboratory, post office, clinic, assembly, and court.

Education Includes such functions as elementary schools, middle schools, junior high schools, and high schools; colleges, vocational, or technical schools; kindergartens; libraries; and similar educational facilities.

Public Safety Includes such functions as fire, police, rescue, and ambulance services.

Service Includes such functions as recreation centers, senior citizen centers, gymnasiums, auditoriums, and outdoor recreation facilities such as playing fields, tennis courts, and golf courses.

Waste Disposal Includes areas or structures for disposal of sewage, septage, solid waste, and garbage under the control of a governmental unit, including sanitary landfills, incinerators, sewage treatment plants, and similar methods of disposal.

Cemetery Includes such functions as cemetery, cemetery vaults, and necessary maintenance structures.

Parking Includes, but is not limited to, municipal-owned parking facilities available for use by the general public.

GOVERNMENTAL USE. A use, construction, or development of land owned or occupied, or proposed to be owned or occupied by the state, university system, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.

GROSS FLOOR AREA, RESIDENTIAL. The sum of the gross floor area of each of a building's floors measured from the interior limits of the structure where there is at least five feet in height between the floor and the ceiling. The floor area of a residential building includes attic, cellar, and garage floor areas only if used for living space. It includes closets and stairwells, but does not include unenclosed porches.

GROSS FLOOR AREA, NON-RESIDENTIAL. The sum of the gross floor area of each of a building's floors measured from the interior limits of the structure where there is at least five feet in height between the floor and the ceiling.

HEAVY EQUIPMENT. Machinery or equipment used for excavation, lifting, road building, and earth moving to include but not limited to: bulldozers, backhoes, front end loaders, cranes, heavy trucks, dredges and other like equipment used in construction, earth moving, or dredging or related businesses.

HEIGHT. The vertical distance measured from the average finished lot grade where it meets the base of the building to the highest point of the structure.

HOME OCCUPATION. Any use conducted entirely within a dwelling or its accessory buildings and carried on by the residents with no other employees which use is clearly incidental and secondary to the residential use of the property and does not change the residential character thereof, and in connection with which there is no display and no outside storage of equipment, machinery, or materials. A sign is allowed as provided in Article VI.

IMPROVEMENT. Improvements to property shall mean any structure, road, driveway, parking area, wastewater disposal facility, or water supply facility.

INSTITUTIONAL USE. Public service uses provided by governmental and non-profit organizations including, but not limited to, education, recreation, health, public worship, and cultural enrichment.

LIGHT MANUFACTURING AND PROCESSING. Manufacturing and/or processing activity which does not create objectionable noise, smoke, odor, dust, dirt, noxious gases, glare, heat, or hazards to health by reason of fire, effects of industrial wastes, psychological effects, and generation of motor vehicle traffic or otherwise.

LIVING SPACE. One or more rooms in a building used by one or more persons for living or sleeping quarters.

LODGING ACCOMMODATIONS. Overnight quarters provided to transient guests, which could include as Site Plan Review: accessory uses such as meal preparation, meal service, and functions such as weddings, meetings, and reunions.

LOT. A parcel of land occupied or to be occupied by a principal building and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet the minimum zoning requirements for use, coverage and area, and to provide such setbacks and other open spaces as are herein required. A lot shall have boundaries identical with those recorded at the Registry of Deeds. Except in the case of two parcels developed with dwellings or other principal structures prior to common ownership, contiguous parcels of land held in one ownership (except for lots created by an approved subdivision, which shall remain separate) shall constitute a single lot for all purposes of this ordinance, even though the parcels comprising such lot may (1) have been acquired by separate deeds, (2) have been described in the deed to the owner as separate parcels, or (3) be physically divided by a public highway. A lot contiguous with a parcel held in common ownership acquired after March 31, 2007 will not merge with the contiguous parcel, notwithstanding the above, unless the owner voluntarily merges the parcels pursuant to RSA 674:39-a. Certain contiguous parcels of land in common ownership that were merged into a single lot prior to March 31, 2007 may be demerged as provided in section 4.57.

LOT, NON-BUILDABLE. A lot created for other than building purposes.

LOT COVERAGE. The area of a lot occupied by structures and improvements, not including subsurface septic systems, wells, and fire protection structures. Driveways do not apply in calculating lot coverage in the

Rural, East Lyme and Mountain and Forest Conservation Districts although commercial parking areas do apply.

LOT MEASUREMENTS. Depth of a lot shall be the average distance between the road and rear lot lines. Width of a lot shall be the average distance between the side lot lines.

LOT OF RECORD. A lot which is part of a subdivision approved by the Lyme Planning Board and recorded in the Grafton County Registry of Deeds, or a lot or parcel, the description of which was recorded prior to the effective date of this ordinance and is not contiguous to another lot in common ownership, as described in the definition of the term, "lot."

LOT SIZE. Shall mean the total horizontal land area within the boundaries of a lot, exclusive of:

- (a.) 100% of road rights- of- way, surface waters and wetlands.
- (b.) 80% of flood prone areas, areas within the Wetlands Conservation District buffer zone, areas within the Steep Slopes Conservation District, and areas within the Shoreland Conservation District as defined in Sections 3.251, 3.252 and 3.253 of the Lyme Zoning Ordinance.
- (c.) 60% of areas having agricultural soils of national or statewide importance as defined in Section 3.254 of the Lyme Zoning Ordinance.
- (d.) 40% of areas having agricultural soils of local importance as defined in Section 3.25.4 of the Lyme Zoning Ordinance.

Lot size in accordance with the foregoing definition shall be the basis for applying the requirements of Article V.

The foregoing area adjustments (a. – d. above) shall not apply in determining lot size or the dimensional requirements of Article V in the case of one minor subdivision of a lot of record on March 14, 1989, the effective date of the Lyme Zoning Ordinance.

LOT SIZE AVERAGING. The ability to create lots which may not meet the minimum lot size or dimensional criteria of Table 5.1.

MASTER PLAN. The Lyme Master Plan.

MINOR SUBDIVISION. Minor subdivision shall mean: 1) the subdivision of land into no more than two lots or condominiums requiring no new roads, utilities, or other municipal improvements; or 2) lot line adjustments (annexation) in which there is merely a sale, conveyance or exchange of adjacent land among two or more owners and which does not increase the number of owners or lots. It shall not mean the division of a residential structure into two dwelling units only.

NON-CONFORMING LOT. Any isolated lot of record, bounded by land of other than the owner, not meeting the requirements of this ordinance, which was legally created or existed by itself prior to the adoption of the provision in the zoning ordinance which would currently prohibit such a lot. See Section 8.30.

NON-CONFORMING STRUCTURE. Any structure which does not meet the requirements of this ordinance. See Section 8.20.

NON-CONFORMING USE. Any use in a District where it is not specifically allowed and which legally existed prior to the adoption of the provision in the zoning ordinance which prohibits the use.

OFFICE. A room, set of rooms, or building used for administrative or professional purposes.

OPEN SPACE. An undeveloped area of land used for farming, forestry, wildlife habitat, or recreation which may include improvements related to those uses such as fences and trails.

OUTDOOR RECREATION ACTIVITIES. Outdoor recreation activities include, but are not limited to, cross country skiing, hiking, snowmobiling, ATV use, swimming, horseback riding, hunting, fishing, and field sports such as baseball, soccer, hockey, etc. Outdoor activities organized for educational purposes such as fly fishing or hunting shall be considered outdoor recreational uses. Structures related to outdoor recreation activities may be allowed as provided by the zoning ordinance. Outdoor recreation activities shall not mean a business such as a marina, campground, recreational vehicle park, water slide, miniature golf or driving range, go cart tracks, race tracks, or other similar business uses.

PARENT LOT. Any of the land shown on the plat of a subdivision proposal which has been part of any previous subdivision which has been approved, constructed, or created by conveyance no more than ten years prior to a new proposal. Any such previous subdivision (including lots created) will be treated as part of the new proposal for purpose of analyzing its effect and applying all review criteria.

PERMIT, BUILDING & ZONING. A permit issued after all zoning ordinance requirements, special exceptions, Site Plan Review, and all other governmental requirements have been met.

PERMITTED/PROHIBITED USE. A permitted use (including customary accessory uses) is a use that is allowed as a matter of right under the terms of this ordinance. A use permitted by Site Plan Review or special exception is a use that is allowed if the conditions to the use are satisfied, including the approval of the Planning Board or Zoning Board of Adjustment. All other uses are prohibited.

PERSON. Any natural individual, firm, trust, partnership, association, corporation, company, or other legal entity.

PLANNING BOARD. The Lyme Planning Board.

PLANNED DEVELOPMENT. A mix of residential and institutional or business uses on a single lot in more than one building on a single lot.

RESIDENCE. A dwelling unit.

RESTAURANT. An eating establishment which is primarily developed for its patrons to eat at tables, booths, or a counter. Take-out services are only incidental to the main purposes of the establishment.

RETAIL USE. The sale of merchandise to customers primarily for personal use by customers.

ROAD. A class V or better highway or a street shown on a subdivision plat approved by the Planning Board pursuant to its official duties and built to subdivision standards. The word road includes the entire

right-of-way. For the purposes of this ordinance, the end of the maintained portion of the road is the end of the road.

ROAD, PRIVATE. Shall mean a road that remains under private use and ownership and is so recorded in deeds of all abutting lots.

ROAD, SERVICE. An access way serving three or four lots and meeting the requirements within the Town of Lyme Subdivision Regulations.

SETBACK. The minimum horizontal distance from the property lines established by the requirements of this ordinance. It is defined by a line which runs parallel to a property line. The areas between the property lines and the minimum setback line shall remain unoccupied by structures. Road setbacks are measured from the road rights of way lines where such lines are known and otherwise from a line which is 25 feet from the centerline of the road. Where a lot fronts on two or more roads, the minimum road setback shall apply to each of the roads. See Table 5.1.

SERVICE USE. Shall include uses such as barber, hairdresser, shoe repair, and businesses providing similar services of a personal nature. Service use does not include dry cleaners, business laundries, car washes, and other uses which generate large volumes of waste water.

SIGN. Any structure or part thereof or device attached thereto or painted or represented thereon which displays or includes any letter, word, model, banner, flag, pennant, insignia, device, or representation used as or which is in the nature of an announcement, direction, or advertisement.

SIGN AREA. Sign area shall mean the entire area of the sign together with any frame but excluding the necessary supports or uprights on which the sign is placed. Only one side of flat, back to back signs shall be included in calculating sign area.

SKIING FACILITIES. The use of land to include:

- (a) all operations customary and incidental to Alpine and/or Nordic skiing including, but not limited to, food service, nursery for skiers' children, equipment rental and retail sales (ski shop) and first aid;
- (b) all facilities and structures customary and incidental to Alpine and Nordic skiing including, but not limited to ski trails, ski lifts, skier service lodges, shelters, maintenance buildings, and ski racing facilities;
- (c) all equipment customary and incidental to Alpine and Nordic skiing including, but not limited to, grooming, snowmaking, and lighting. For the purposes of this ordinance, the principal building shall be considered the skier service lodge with the greatest gross floor area.

SKI LODGE. The use of land and buildings in the Skiway District only as part of Skiing Facilities Use to provide services included within the definition of Skiing Facilities. In addition, the Ski Lodge Use would include, constituting an incidental, but not primary use, the following: the use of the ski lodge and adjoining premises for functions such as weddings, retirement parties, class reunions, and similar activities.

SLOPE, AVERAGE. The steepness of the surface of an area. Average slope is calculated as a percentage by dividing the total change in elevation of the area by the distance across the area and multiplying by 100. Change in elevation and distance are measured perpendicular to the contours.

SPECIAL EXCEPTION. A use which would not be appropriate generally or without restriction in a particular district and, accordingly, is allowable only if all applicable standards, conditions, and requirements established by or pursuant to this ordinance are met and only after public hearing and determination by the Zoning Board of Adjustment. See Section 10.40.

STRUCTURE. Anything constructed or erected with a fixed location on, above, or below the ground, or attached to something having a fixed location on, above, or below the ground. Structure includes, but is not limited to a building (see definition), recreational vehicle used as a dwelling unit, manufactured housing, septic system, well, storage tanks, swimming pool, billboard, satellite antenna with 3 feet diameter or more, dock, tennis court, and like structures. It shall not include minor installations such as a fence, children's play equipment and houses, animal shelter under 15 square feet, stone wall, mail box, flag pole, minor retaining wall not located in a conservation district and with a height of 4 feet or less as measured from the toe of the wall to the top of the wall at its tallest point, tent for camping and temporary tent structure used for functions and gatherings, or patio and walkway with some permeability. For flood management purposes, structure also means any walled and roofed building (regardless of size).

STUDIO. The working room of an artist, sculptor, photographer, musician, or other artisan.

SURFACE WATER. Shall include the surface of all water bodies.

SWITCHBACK. A horizontal road curve used for surmounting the grade of a steep hill, usually with a small radius and curving over 125 degrees.

TEMPORARY STRUCTURE. A structure used in conjunction with construction, agriculture, or forestry work, and permitted only during the period that the work is in progress.

TOWN. The Town of Lyme.

TOXIC SUBSTANCE. A solid, liquid, or gas which poses an unreasonable risk to the health of humans, animals, or plants.

UNIT. A room or rooms arranged for use by a separate, independent business, institution, or a separate dwelling established for regular occupancy or rental. See also, "Dwelling Unit."

VARIANCE. A variation from the terms of this ordinance which may be granted by the Zoning Board of Adjustment pursuant to Section 10.50.

WATER BODIES. Shall include any and all lakes, impoundments and ponds of one acre or greater, water courses, and wetlands.

WATER COURSES. Any and all brooks, rivers, and streams, except drainage ways carrying only temporary run off from snow melt or storms.

WATER STORAGE. A fire pond, a water tank, or tower where water is stored for health and/or safety purposes.

WETLANDS. Wetlands are hereby defined as any area that is inundated or saturated by surface or ground water at a frequency and duration to support, and that under normal conditions does support, a predominance of vegetation typically adapted for life in saturated soil conditions, together with a 100 foot buffer zone around

such areas. Wetlands include but are not limited to swamps, marshes, bogs, and similar areas. Wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology in accordance with the current New Hampshire Department of Environmental Services Wetlands Bureau Code of Administrative Rules.

WIRELESS TELECOMMUNICATIONS STRUCTURE. Any structure used in the transmission, broadcast, or relay of wireless communications.

ZONING BOARD OF ADJUSTMENT (ZBA). The Lyme Zoning Board of Adjustment established pursuant to the provisions of Article X of this ordinance.

ZONING EASEMENT. A recorded restriction limiting development and use in accordance with the provisions of the Lyme Zoning Ordinance.