

12175 NYS RT. 12E • PO BOX 66  
CHAUMONT, NY 13622

# ZONING ORDINANCE

## LOCAL LAW NO. 1 FOR THE YEAR 1989

THAT A LOCAL LAW FOR THE TOWN OF LYME REPEALING ALL PRIOR ZONING LAWS AND ORDINANCES AND PROVIDING FOR A REVISED COMPREHENSIVE ZONING LAW FOR THE TOWN OF LYME, NEW YORK. ENACTED, BY THE TOWN BOARD OF THE TOWN OF LYME, ON JANUARY 16, 1989.

### AMENDMENTS:

1. LL #3 of 1989 (Corrections)
2. LL #3 of 1993 (Section 420)
3. LL #1 of 1997 (Section 425)
4. LL #1 of 2002 (Section 535)
5. LL #2, #3 of 2011 & LL #2 of 2012  
(Section 750 & 930 & consolidation of laws Dated 2-08-2012)
6. LL #1, #3 of 2012 (Section 770 & 775)
7. LL #3 of 2017



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## **ARTICLE I - PURPOSE, TITLE, AND APPLICATION OF REGULATIONS**

### **Section 105: Purpose and Authorization**

For the purpose of promoting the public health, safety and welfare, and the most desirable use for which the land in each district may be adapted, of conserving the value of buildings and of enhancing the value of land throughout the Town, pursuant to the authority conferred by Article 16 of the Town Law and Section 10 of Municipal Home Rule Law, and in accordance with a general plan, with reasonable consideration, among other things, of the character of each district and its peculiar suitability for the particular uses, the Town Board of the Town of Lyme in the County of Jefferson, State of New York, hereby ordains and enacts this local law. Pursuant to Municipal Home Rule Law, where this law is inconsistent with the Town Law, General Municipal Law, or any other State Law, this local law shall control and supersede those inconsistent laws.

### **Section 110: Title**

This Law shall be known and may be cited as "The Town of Lyme Zoning Law".

### **Section 115: Application of Regulations**

1. No building, structure or land shall be used or occupied and no building, structure or part thereof shall be erected, moved or altered (to change the exterior physical dimensions) unless in conformity with the regulations for the district in which it is located, as specified by this local law.
2. Within each district, the regulations established by this law shall be minimum regulations and shall be applied uniformly to each class or kind of structure or land.
3. Any use which is not listed as a permitted or special permit use in the appropriate district pursuant to this Law shall be deemed to be prohibited.

### **Section 120: Prior Existing Laws and Ordinances**

All prior Zoning Laws and Ordinances, and all amendments thereto are hereby repealed.

## ARTICLE II - DEFINITIONS

### **Section 205: General Construction of Words**

When used in this Law, words in the present include the future and words of one gender include all genders. The singular number includes the plural and the plural includes the singular.

Except where specifically defined in Section 210 below, all words or terms used in this law shall carry their customary meaning. In addition, the following provisions hold true:

1. Words used in the present tense include the future tense;
2. The word "person" includes a firm, partnership, corporation, company, association, organization or trust as well as an individual;
3. The word "lot" includes the words tract of land, plot or parcel;
4. The words "used" or "occupied" as applied to any buildings, structure, or land include the words intended, arranged, or designed to be used or occupied;
5. The word "shall" is intended to be mandatory.

### **Section 210: Definitions**

When used in this Law, unless otherwise stated, the following words and terms shall have the meanings indicated:

ABOVE GROUND LEVEL (AGL): A measurement of height from the lowest natural grade of a site to the highest point of a structure directly above. [Amended by LL #3 of 2017]

ACCESSORY BUILDING/STRUCTURE: A building or structure, the use of which is customarily incidental to that of a principal building and which is located on the same lot as that occupied by the main building. Examples of an accessory building are swimming pool, patio, garage, or, storage shed. [Amended by LL #3 of 2017]

ADMINISTRATIVE EXPENSES: All actual expenses and liabilities incurred by the Town or any of its officers or agencies in processing and reviewing applications or appeals hereunder and insuring compliance with this law and all other applicable laws or regulations, including but not limited to, engineering fees and disbursements, legal fees and disbursements, publication expenses, actual charges of the Zoning Enforcement Officer, administrative expenses and any other actual expenditure incurred or accrued by the Town.

ADULT ENTERTAINMENT USE: Any person, establishment, business, or use which has 10% or more of its Net Floor Area set aside for or 10% or more of its stock-in-trade devoted to the display, viewing or dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or related to Sexual Activity or Specified Anatomical Areas, including but not limited to: bookstores, motion picture theaters, massage establishments employing persons giving massages not licensed to do

so by the State of New York , and any establishment that allows or promotes dancers, performers, employees or invitees, whether male or female, to display specified Anatomical Areas. [Amended by LL #3 of 2017]

ADVERSE IMPACT: A condition that creates, imposes, aggravates or leads to inadequate, impractical, unsafe or unhealthy conditions on a site proposed for development or on off-tract property or facilities. Among other things it could relate to circulation, drainage, erosion, potable water, sewage collection and treatment. It may also relate to noise, traffic, visual impacts, lighting and glare, aesthetics, quality of life and impact on the environment. [Amended by LL #3 of 2017]

AGRICULTURAL STRUCTURE: A structure that is used in association with agricultural production including shelter for livestock, crop storage, manure storage, machinery, supplies and implements pursuant to NYS Ag and Markets Law Section AML 301 as of 2016. [Amended by LL #3 of 2017]

AGRICULTURAL: Refers to agricultural production, farming, farm related activities, or farm structures. [Amended by LL #3 of 2017]

AIRSTRIP: An area used by aircraft for take-offs and landings.

ALTER: To externally change or rearrange any structural part of the existing facilities of a building or structure, or to enlarge the building or structure whether by extending any side or increasing the height thereof, or to move the same from one location or position to another.

AMBIENT SOUND: All sound present in a given environment, generally a composite of sounds from many sources near and far. It includes intermittent noise events, such as nearby aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along nearby roads. Ambient sounds also includes insect and other sounds from birds and animals or people. Audible transient events are part of the ambient sound environment but are not considered part of the long-term background sound.

ANIMAL HOSPITAL: Any facility used commercially for the treatment of injured or ill animals.

ANTENNA: A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not limited to, radio navigation, radio, television, Personal Communication Systems, and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

AUTOMOBILE SERVICE STATION: Any lot or building or portion thereof used or occupied for the sale or supply of gasoline or motor vehicle fluids, oils, or lubricants, or for the polishing, greasing, washing or servicing of motor vehicles.

BACKGROUND SOUND (L90): Sounds heard during lulls in the ambient sound environment present at least 90% of the time, i.e., when transient sounds from flora, fauna, and winds are not present. Background sound levels vary with time or day. Background sound levels of interest for this law are those during quieter periods which typically occur early evening and night.

BAR: establishment, or part thereof, used primarily for the sale or dispensing of alcoholic beverages by the drink. This definition does not include craft brewery. [Amended by LL #3 of 2017]

**BED AND BREAKFAST:** A private dwelling, structure, or part thereof in which lodging is provided to ten or less transient occupants in five or less bedrooms by the live-in owner or operator, which may or may not provide in-house food service to its customers. [Amended by LL #3 of 2017]

**BEEKEEPING/APIARY:** The raising of bees to produce apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, and queens. Definition from NYS Ag and Markets Law (AML §301). [Amended by LL #3 of 2017]

**BIOMASS ENERGY SYSTEM (HYDRONIC SYSTEMS ONLY):** Any device or combination of devices or components which burn wood for the source of heat to supply energy to liquid heat exchange media such as water that is circulated to the heating load and returned to the heat source through pipes.

**BOATHOUSE:** A covered structure solely used to store motorized or un-motorized marine craft and located wholly or partly in the waterway abutting waterfront property. [Amended by LL #3 of 2017]

**BOAT STORAGE FACILITY:** A commercial facility for storing boats out of water. This is principally a land operation, where boats are stored until such time as they are transferred to the water for use. [Amended by LL #3 of 2017]

**BUFFER STRIP:** Open spaces, landscaped areas, fences, berms or any combination thereof used to physically separate or screen one use or property from another so as to shield or block noise, views, lights or other nuisances. Criteria considered for properly placed buffers are the width of the buffer and the type of material to be planted or installed relative to its surroundings and adjoining parcels so as to avoid an adverse impact. [Amended by LL #3 of 2017]

**BUILDING:** Any structure having a roof supported by columns or by walls which is used or occupied for the shelter, housing or enclosure of animals, persons or property. The term, unless differentiated, includes both principal and accessory buildings.

**BUILDING AREA:** The total area taken on a horizontal plane at main grade level of the principal building and all accessory buildings, excluding chimneys, uncovered porches, patios, terraces, steps and open areaways.

**BUILDING LINE:** The line that is formed by the face of the building or the attached part of the building nearest the lot line. This includes measurements from porches, patios, terraces, attached garages and other similar protrusions.

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS:** A solar energy system that consists of photovoltaic arrays attached to the building such as the roof or the façade.

**CAMOUFLAGED:** A wireless communications facility that is disguised, hidden part of an existing or proposed structure, placed within an existing or proposed structure, or completely hidden by surrounding vegetation is considered “camouflaged”. When facilities include a new tower or other tall structure, camouflage will conceal both the tall structure and the accompanying antennas and other equipment through the use of technology, which gives these facilities the appearance of structures, which are compatible with the surrounding area.

**CAMPING:** An outdoor recreational activity involving the spending of one or more nights in a tent,



primitive structure, a travel trailer or recreational vehicle. (Amend. 4)

CARRIER: A company licensed by the Federal Communications Commission which provides wireless communications services to customers.

CESSATION: The termination period of a ZBA approved (valid) pre-existing condition as set by the specific RV law as related to such condition. (Pursuant to Section 750. Recreational Vehicles)

CHILD DAY CARE FACILITY: A State licensed facility which provides non-medical care, protection, and supervision to more than 5 children under 18 years of age, on a less than 24-hour basis. A commercial or non-profit child day care facility includes infant centers, preschools, sick-child centers, and school-age day care facilities. These may be operated in conjunction with business, school, or church facilities, or as an independent land use. [Amended by LL #3 of 2017]

CO-LOCATION: The use of a single wireless communication facility, either on the ground or on an existing building or structure, by more than one wireless communications carrier.

COMMERCIAL FUR FARM: Any lot or building or part thereof used or occupied for raising or keeping for compensation or profit of rabbits, foxes, minks, skunks or other fur bearing animals.

COMMERCIAL HOG FARM: A commercial operation having more than five (5) resident pigs three months of age or older.

COMMERCIAL POULTRY FARM: A commercial operation with more than fifty (50) birds in residence at any one time.

COMMERCIAL CAMPGROUND: Any lot or parcel of land, or part of thereof, used or occupied by one or more tents or other similar temporary living quarters, by persons other than the owner of the real estate or his immediate family, for commercial or business purposes. (Amend. 4)

COMMERCIAL RECREATION: Business enterprises primarily devoted to the amusement of the general public. Examples include theaters, bowling alleys, indoor amusement arcade, health club, golf driving range, golf pitch and putt course, par three golf course, recreation court, open space, play-field, swimming pool, bike trails, hiking trails, and similar facilities for outdoor recreation. Incidental food service is also included.

CONTOUR MAP: A map illustrating the ground form, with contour lines that indicate the elevations of the land, in intervals that collectively indicate the slope of the land. [Amended by LL #3 of 2017]

CONVENIENCE STORE: A retail establishment or building of up to 5,000 square feet of floor area selling primarily food products, household items, newspapers and magazines, candy and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption. This type of store often sells gas for vehicular use to the public. [Amended by LL #3 of 2017]

CRAFT BREWERY: A farm winery, distillery, brewery, or cidery agricultural operation for the growing of grapes, apples, or other crops such as grains and berries, and the preparation, processing, marketing, distribution, and sale of wine, beer, or other alcoholic beverages and ciders, in addition to the uses permitted by the Farm Winery Act of 1976. [Amended by LL #3 of 2017]

CROPS, LIVESTOCK, or LIVESTOCK PRODUCTS: including, but not limited to the following: Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans. Fruits, including apples, peaches, grapes, cherries and berries. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk, eggs and furs. Maple sap. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump. Aquaculture products, including fish, fish products, water plants and shellfish. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony. Definition from NYS Ag and Markets Law (AML §301). [Amended by LL #3 of 2017]

CUT-OFF OR SHIELDED LIGHT: A lamp or source of illumination with elements such as a shield, reflector or refractor panels that direct and cut off the light at a cutoff angle of less than 90 degrees. [Amended by LL #3 of 2017]

DAY CARE CENTER: A facility duly permitted by the New York State Department of Social Welfare for the care of three (3) or more adult persons away from their homes for more than three (3) but less than twenty-four (24) hours each day with or without compensation. This definition includes "adult day care center". [Amended by LL #3 of 2017]

DBM: Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

DECIBEL (dB): Unit of sound level based on a reference where 0 dB represents the threshold of hearing at 1000 Hz for a healthy young adult. The suffix, A (i.e., dBA) denotes that the frequencies have been adjusted to represent the relative loudness of sounds in air as perceived by the human ear. Specifically, sounds at low frequencies are reduced because the human ear is less sensitive at low audio frequencies, especially below 1000 Hz. The suffix, C (i.e., dBC) denotes that the frequencies have not been adjusted to reflect the sound frequency response of the human ear.

DIGITAL/LED SIGN: A non-static sign employing actual motion or the illusion of motion by artificial means. Such signs constitute a broad category of which are differentiated from manually changeable or blinking signs as defined and regulated by these regulations. Digital signs include the following types: electronic display screens, message display or message centers. [Amended by LL #3 of 2017]

DIRECTIONAL SIGN: A sign limited to directional messages to assist in navigating to a location or within a project site. [Amended by LL #3 of 2017]

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. (*Pursuant to Section 750. Recreational Vehicles*)

DWELLING, ONE FAMILY: Detached building designed for or occupied exclusively by, one (1) family.

DWELLING, TWO-FAMILY: Building designed for, or occupied by, two (2) families living independently of

each other.

DWELLING, MULTI-FAMILY: A building designed for, or occupied by, three (3) or more families living independently of each other.

EAF: Environmental Assessment Form used in the implementation of the SEQRA as defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

EQUIPMENT SHELTER: An enclosed structure, cabinet, shed or box at the base of the mount within which are housed the electronic receiving and relay equipment for a wireless communications facility. Associated equipment may include air conditioning and emergency generators. This term does not include offices, long-term storage of vehicles or other equipment storage, or broadcast studios.

ERECT: To construct, build, or re-erect, reconstruct, rebuild, or excavate a building or structure.

EROSION: The natural process by which the surface of the land is worn away by the action of water, wind or chemical action.

ESSENTIAL SERVICES: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations, sewers and wastewater treatment plants and similar facilities.

EXTRANEOUS NOISE: Sound from animals, wind, insects, birds, aircraft, unusual traffic conditions, or any other infrequent component of the ambient noise.

FAA: Federal Aviation Administration.

FALL ZONE: The area on the ground within a prescribed radius from the base of a wireless communications facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAMILY: One or more persons living together as a single housekeeping unit.

FARM OPERATION: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, and timber operation, and compost, mulch or other biomass crops and commercial equine operation as defined by NYS Ag and Markets Law (AML §301). Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other. (Refer to the definition of crops, livestock, livestock products, and farm winery). [Amended by LL #3 of 2017]

FARM WINERY: A farm operation for the growing of grapes and/or the preparation, processing, marketing and distribution of wine in addition to all uses that are allowed by the Farm Winery Act of 1976. [Amended by LL #3 of 2017]

FCC: Federal Communications Commission, an independent agency of the United States Government which regulates interstate communications by radio, television, wire, satellite, and cable.

**FEMA ELEVATION CERTIFICATE:** An administrative form used by FEMA, completed by a surveyor, engineer, or architect to rate a building or certify the lowest floor of a building's elevation. Note: according to the FEMA program requirements, all new and substantially improved structures must have the lowest floor elevated to or above the Base Flood Elevation (BFE). Non-residential buildings may be flood-proofed below the BFE. [Amended by LL #3 of 2017]

**FENCE:** A structure of wood, stone or other materials intended for defense, security, screening, partitioning or enclosure. A wall, hedge, or other screening device shall be considered a fence. [Amended by LL #3 of 2017]

**FIFTH WHEEL TRAVEL TRAILER:** A unit designed to be affixed and towed by a pickup equipped with special hitch in the truck bed and designed to serve as self-contained living quarters for camping or other recreational activities. (Amend. 4)

**FLOOD DAMAGE PREVENTION LAW:** The Town of Lyme Flood Damage Prevention Law, as adopted by Local Law No. 2-1993. [Amended by LL #3 of 2017]

**FLOOD ELEVATION:** Base Flood Elevation is the computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles. [Amended by LL #3 of 2017]

**FREE STANDING TOWER:** A vertical mount for wind powered generators that is not attached to a building or other structure and may or may not use guy wires for additional stability.

**FUNCTIONALLY EQUIVALENT SERVICES:** Services that include, but are not limited to, Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio, and Paging.

**GENERAL PLAN:** The goals, objectives, and policies of the Town which are embodied by the planning process upon which these Zoning regulations are based pursuant to Section 263 of the Town Law.

**GROSS DENSITY:** The number of dwelling units divided by the total acreage of the land upon which they are located, excluding any land used for non-residential purposes.

**GROSS FLOOR AREA (GLA):** The total area of a building measured by adding together the outside dimensions of the building at each floor.

**GROSS LEASABLE AREA (GLA)** The gross floor area designed for the exclusive use of tenants, clients, and customers, not including public or common areas, such as public toilets, corridors, stairwells, elevators, lobbies or enclosed atria.

**HEDGE:** A barrier of natural plantings intended to act as a fence (not including shade trees). [Amended by LL #3 of 2017]

**HEIGHT:** The vertical distance measured from the average elevation of the main grade at the front of the building/structure to the highest point of the roof.

HELIPORT: An area of land used on a recurring basis for helicopter take-offs and landings.

HOME OCCUPATION: Any use of a service character conducted within the principal dwelling by the resident thereof which is clearly secondary to the use of the dwelling for living purposes.

IMPERVIOUS SURFACES: The impermeable or non-porous surfaces of roads, buildings, and other structures or materials on or above the ground that do not allow precipitation to be readily absorbed into the underlying soil.

IMPULSIVE NOISE: Sound from impulse sources comprising a single pressure peak or sequence of peaks, or a single burst with multiple pressure peaks with amplitude decaying with time, or a sequence of such bursts.

INSTITUTIONAL USES: Any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

1. Religious Institutions, including convents, monasteries, churches, synagogues, and rectories.
2. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority and generally open to the public.
3. Schools.
4. Public Libraries.
5. Not-for-profit fire, ambulance and public safety buildings.
6. Public or private meeting halls, or places of assembly, not operated primarily for profit.
7. Hospitals.
8. Nursing Homes.

JUNKYARD: An area of land, with or without buildings, substantially used for the storage outside of a completely enclosed building, of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, including junk, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage of two or more inoperative motor vehicles, or the major parts of two or more such vehicles, shall be deemed to make the lot a junkyard.

KENNEL: A facility set up to breed, house, groom, board, or train a number of dogs or domesticated animals. [Amended by LL #3 of 2017]

LANDSCAPING: Lawns, trees, plants and other natural materials such as rocks and wood chips, and decorative features including but not limited to sculpture, patterned walks, fountains, pools, and ponds.

LANDSCAPE NURSERY: A lot, building or structure located thereon used principally for the growing and/or sale of trees, shrubs, flowers, plants, grass seed, peat moss, mulch and other products, tools, implements and equipment for lawn or garden care. The term shall include commercial greenhouses. [Amended by LL #3 of 2017]

LATTICE TOWER: A self-supporting mount constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

LICENSED CARRIER: A company authorized by the FCC to construct and operate a commercial mobile radio services system.

LIGHT INDUSTRY: A light industry is a facility which manufactures a product for wholesale or retail sale, does not produce significant volumes of pollution and is compatible with the surrounding neighborhood.

LOT: A parcel of land occupied or capable of being used or occupied by one (1) principal building or structure and the accessory buildings or uses customarily incident to it, including such open spaces and yards as are required by this Law.

LOT, CORNER: A parcel of land at the junction of, and fronting on, two or more intersecting streets.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines.

LOT, WATERFRONT: Any parcel abutting Lake Ontario, its bays, or the Chaumont River.

LOT WIDTH: The horizontal distance between the side lot lines measured at the front lot line.

LOT LINE:

1. Front Lot Line: The property line separating a plot or parcel of property from a street line or highway right-of-way line. If a lot adjoins two (2) or more streets or highways, it shall be deemed to have a front lot line respectively on each. Water-front lots shall be deemed to have a front lot line on that side of the lot closest to the water body they abut and on the side of the lot closest to any street, road, highway or private right-of-way. On waterfront lots, the front lot line will be the naturally occurring mean high water mark, not including the water line created by artificially constructed boat slips.
2. Rear Lot Line: That lot line which is opposite and most distant from the front lot line. A rear lot line shall not be adjacent to a front lot line. In the case of a corner or waterfront lot, there might be no rear lot lines.
3. Side Lot Lines: A lot line not a front lot line or a rear lot line.

LOW FREQUENCY NOISE: Noise with perceptible and definite content in the audible frequency range below 250 Hz.

MANUFACTURED BUILDING: A building which is:

1. Mass-produced in a factory; and
2. Designed and constructed for transportation to a site for installation and use when connected to required utilities or either an independent, individual building or a module for combination with other elements to form a building on the site.

MANUFACTURED HOUSING: A manufactured building or portion of a building designed for long-term residential use.

MARINA: Any lot, building, structure or part thereof located on the waterfront that:

1. Provides docking and secure mooring facilities for three or more yachts, motor boats, sail boats and other marine vehicles or craft; or
2. Provides for the sale, rental and/or storage of marine and boating vehicles; as well as supplies, service, repair and other related facilities and/or operations necessary to maintain such craft.

MEAN HIGH WATER: the approximate average high water level for a given body of water at a given location that distinguishes between predominantly aquatic and predominantly terrestrial habitat as determined, in order of use, by the following: available hydrologic data, calculations, and other relevant information concerning water levels - Mean high water elevations are established, using this method, for certain waterbodies as defined in Part 608 NYS DEC Use and Protection of Waters, Section 608.11. [Amended by LL #3 of 2017]

MEAT PROCESSING PLANT: a facility for the slaughter and processing of animals and fowl for food as per NYS Agriculture and Markets Law 5-A. [Amended by LL #3 of 2017]

MOBILE HOME: Manufactured housing, built on a chassis, factory designed to be less than 18 ft. in width. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle.

MOBILE HOME PARK: A lot or adjacent lots with common ownership with two or more mobile homes placed on it for commercial purposes.

MONOPOLE: A self-supporting mount constructed of a single shaft of wood, steel or concrete with below grade foundations and a platform (or racks) for panel antennas arrayed at the top.

MOTEL/HOTEL: A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public, including buildings designated as auto cabins, auto courts, motor lodges, tourist courts and similar terms.

MOTOR HOME: A motor vehicle built on a truck or bus chassis and designed to serve as self-contained living quarters for camping or other recreational activities. (Amend. 4)

MOUNT: The structure or surface upon which antennas are mounted, including the following four types of mount:

- Roof-Mounted – Mounted on the roof of a building.
- Side-Mounted – Mounted on the side of a building.
- Structure-Mounted – Mounted on a structure other than a building.
- Ground-Mounted – Mounted on the ground.

NET METERING: A billing arrangement that allows solar customers to get credit for excess electricity generated on-site and delivered back to the grid.

NOISE: Any loud, discordant, or disagreeable sound or sounds. In an environmental context, noise is an unwanted sound.

NONCONFORMITY: A lot, building, structure, or use of land legally and substantially existing at the time of enactment of this Law which does not conform to the regulations of the district in which it is situated.

NON-PARTICIPANT: Any landowners not hosting a WECS or owning property that is part of the WECS site.

OFFICES: The use of offices and related spaces for such services as are provided by medical practitioners, attorneys, architects, engineers, real estate agents and similar uses.

OFF-PREMISE SIGN: Any sign or other object used to advertise goods or services not available on the property on which the advertisement is located. [Amended by LL #3 of 2017]

OWNER: The individual or entity that intends to own and operate the renewable energy system in accordance with this law, typically the owner of the property on which the system resides.

PARKING SPACE: An off-street space available for the parking of one (1) motor vehicle and having an area of not less than one hundred eighty (180) square feet exclusive of passage ways and accesses thereto, and having direct access to a street, road or highway.

PARTICIPANT: A landowner who is hosting a WECS on his/her tax map ID or a landowner who has entered into an agreement with the WECS licensee to become part of the WECS site.

PEDESTRIAN WALKWAY: A right-of-way for pedestrians, separate from vehicular traffic, including sidewalks, trails, access ramps, stairs, mechanical lifts, and routes through buildings and other areas that are available for public use. [Amended by LL #3 of 2017]

PLANNING BOARD: The Planning Board appointed by the Town Board pursuant to NYS Town Law. All references to "PB" shall mean the Planning Board. [Amended by LL #3 of 2017]

PHOTOVOLTAIC (PV) SYSTEMS: A solar energy system that produces electricity by the use of semiconductor devices (photovoltaic cells) that produce electricity when exposed to light.

PRE-EXISTING CONDITION: (Pursuant to Section 750. Recreational Vehicles) A presently existing condition which was valid when established but is not in compliance with current law. A grace period, as set by the specific violation, shall be granted for valid pre-existing conditions. (See CESSATION)

- A. A pre-existing condition is classified in three categories;
  - 1. Pre-existing nonconforming use
  - 2. Pre-existing nonconforming building
  - 3. Pre-existing nonconforming lot

PRIMARY RESIDENCE: A dwelling unit in which is conducted the main, dominant or principal use of the lot on which such structure is located. (Pursuant to Section 750. Recreational Vehicles)



**PRINCIPAL BUILDING:** A building in which is conducted the main or principal use of the lot on which such building is located.

**PRINCIPAL USE:** The primary or predominant purpose, for which any lot, land, building or structure is used, utilized, employed or occupied. When the principal use is agricultural, any dwellings occupied by the owner, operator or full-time employee engaged in agricultural work on the premises, and their immediate families, shall be deemed part of the principal use. In the Agricultural and Rural Residence and Waterfront District , when the principal use of a lot is a commercial business, additional use of the lot as a single-family dwelling used by the owner/operator shall be deemed part of the commercial business use. In the Waterfront District only, those uses defined as permitted accessory uses may be principal uses subject to site plan review. (*Pursuant to Section 750. Recreational Vehicles*)

**QUALIFIED SOLAR INSTALLER:** A person listed as an eligible photovoltaic installer by the New York State Energy Research and Development Authority (NYSERDA) or who is listed as a certified solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be a qualified solar installer for the purpose of this definition. Persons who are not on NYSEDA's nor NABCEP's list of certified installers may be allowed to install solar equipment if the Town of Lyme determines that the person has had adequate training to perform the installation safely and effectively. Training shall include, as a minimum, the proper use of personal protective equipment and the practice of special precautionary techniques. The skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of the exposed parts must also be demonstrated.

**QUARRY:** A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or soil for sale as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

**RADIO FREQUENCY RADIATION:** The emissions from wireless communications facilities.

**RECREATIONAL VEHICLE:** Shall include motor homes, truck campers, camping trailers, travel trailers, pop-up trailers, watercraft, ATV's, snowmobiles and similar licensed vehicles and their trailers used for recreational, travel and occasional dwelling purposes. (*Pursuant to Section 750. Recreational Vehicles*)

**RECREATIONAL VEHICLE PARKS;** Any lot or parcel of land, or part thereof, used or occupied by one or more recreational vehicles or similar temporary living quarters, by persons other than the owner of the real estate or his immediate family, for commercial or business purposes.

**REPEATER:** A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage directly from a primary sending and receiving site in a wireless communications network.

**RESIDENCE:** A habitable dwelling. A residence may be part of a multi-dwelling or multipurpose building, and includes structures such as hunting camps, seasonal residences, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

RESTAURANT: Any establishment however designated at which food is sold for consumption to patrons seated within an enclosed building or on the premises (may or may not include alcoholic beverages). However, a snack bar or refreshment stand that is an accessory to a pool, playground, park or other recreational facility and is operated for a convenience of the patrons of such facility shall not be deemed to be a restaurant. [Amended by LL #3 of 2017]

RETAIL, LARGE-PRODUCT: Include sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, and farm implements, auctioneers where auctions take place on-site, retail tree nurseries and garden shops, and self-storage units.

RETAIL, SMALL PRODUCT: A commercial activity characterized by the direct on-premises sale of goods and services to the ultimate consumer, including on premise manufacturing, processing, and servicing and preparation customarily associated therewith and generally involving either stock in trade such as are normally associated with department stores, food markets and similar establishments, or services such as barbers, hairdressers, shoe repair, laundry, or similar uses. Small retail shall also include furniture and large appliance sales but not large product retail.

RIDING ACADEMY A facility that rents horses for riding and may offer riding instruction.

ROTOR DIAMETER: Two times the length of a rotor blade as measured from the center of the hub.

ROTOR SWEEP AREA: The area swept by the rotor blades, in square feet; also called the 'capture area'. (Area Swept by the Blades = pi times blade length in feet, squared)

SATELLITE RECEIVER: A structure attached to the ground or another structure, built or intended for receiving television or radio programming transmitted or relayed from an earth satellite.

SCENIC CORRIDOR: A roadway and its right-of-way with scenic views and scenic sites with generally a high percentage of open landscape within and alongside it.

SCENIC SITE: A building, structure, field, resource, natural condition or other feature that has scenic qualities and which has been specifically identified by the Town in the environment and natural resources chapter of its comprehensive plan or other inventory and assessment as worthy of protection because of its scenic qualities.

SCREENING: A method of visually shielding or buffering one abutting or nearby structure or use from another by a certain percentage of opaque fencing, walls, berms and/or densely planted vegetation. [Amended by LL #3 of 2017]

SCHOOL: Includes parochial, private, public and licensed nursery school or day care center, college, university, and accessory uses; and shall exclude commercially operated schools of beauty culture, business, dancing, driving, music and similar establishments.

SEASONAL OCCUPANCY: A period of use defined as being between April 1 and November 30 (Amend. 4)

SEASONAL RV PERMIT: A permit to use an RV on a seasonal basis on a lot lacking a primary residence.

Refer to section 750 D. for specific requirements. [Amended by LL #3 of 2017]

SECURITY BARRIER: A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SEPARATION: The distance between one carrier's array of antennas and another carrier's array.

SEQR: The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SEMI PERMANENT RESIDENCY: Any occupancy of a semi-permanent structure on a seasonal occupancy basis. (Amend. 4)

SEMI PERMANENT STRUCTURE: Any primarily mobile vehicle such as a travel trailer which retains its mobility but has a fixed location. (Amend. 4)

SETBACK: Distance measured between the building line and the appropriate lot line.

SHADOW FLICKER: The on-and-off strobe light effect caused by the shadow of moving blades cast by the sun.

SHARED ACCESS: Any pathway or roadway serving two or more adjoining lots. [Amended by LL #3 of 2017]

SHOPPING CENTER: A group of commercial establishments, three or more, built on a site that is planned, developed, owned and managed as an operating unit related in location, size, and type of shops to the trade area that the unit serves; it provides on-site parking in definite relationship to the type and total size of the stores.

SIGN: Any material, structure, or object, or part thereof, composed of lettered or pictorial matter which is located outdoors or on the exterior of a building, which is used for the purpose of bringing the subject matter thereof to the attention of others, but excluding any flag, emblem, or insignia of a nation, political unit, school, or religious group. Interior signs, if located in a window or within a distance equal to the greatest dimension of the window and if intended for viewing from the exterior, shall be considered an exterior sign. [Amended by LL #3 of 2017]

SITE: The continuous land area defined for the purpose of meeting all siting requirements for a single or multiple WECS, including but not limited to sound, setback, and shadow flicker limits. A site can consist of multiple contiguous parcels owned by different individuals or entities. A site cannot contain non-participant parcels. Any loss of participant land continuity will require the establishment of another site.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS): A system that uses wind to spin an electrical generator with a capacity of 50 kW or less.

SOLAR ACCESS AREA: Space open to the sun, mostly clear of overhangs or shade that allows the use of

active and/or passive solar energy systems on individual properties.

SOLAR ARRAY: A group of multiple solar panels or modules linked into a single unit.

SOLAR COLLECTOR: A photovoltaic cell, panel, array, or other device that converts solar radiation to electricity or transfers solar energy to air, water, or another storage media.

SOLAR EASEMENT: An easement recorded pursuant to the NY Real Property Law 335-b, the purpose of which is to secure the right to receive direct sunlight across neighboring property to operate a solar energy system.

SOLAR ENERGY SYSTEM: A combination of components that uses radiant energy (direct, diffuse, or reflected) from the sun to generate electricity or other forms of energy such as heat.

SOLAR THERMAL SYSTEMS: Systems that directly heat water or other liquids using solar radiation.

SOUND: A disturbance or oscillation that propagates outwardly from the source.

SOUND FREQUENCY: The number of oscillations per second expressed in hertz (Hz).

1. Audible or tonal sound – sound frequencies between 20-20,000 Hz.
2. Broadband – a wide range of frequencies above 100 Hz.
3. Low-frequency – sound with frequencies below 100 Hz, including audible sound and infrasound.
4. Infrasound – sound frequencies below 20 Hz, which, if sufficiently intense, may be perceived by individuals.

SOUND LEVEL: The A-weighted or C-weighted sound pressure level in decibels as measured using a sound level meter that meets the requirements of a Type 2 or better precision instrument according to ANSI S1.4.

STREET: A public or private thoroughfare for motor vehicles which affords the primary means of access to abutting properties.

STREET LINE OR HIGHWAY RIGHT-OF-WAY LINE: The dividing line between a lot and a street, road or private right-of-way line, as dedicated by deed or record. Where there is no right-of-way line established, the street line shall be considered to be twenty-five (25) feet from the center line of the street pavement or the generally traveled portion of the street, road, or private right-of-way.

STORMWATER POLLUTION PREVENTION PLAN: a plan for erosion and sediment control during site construction and for installation of treatment for post-construction runoff (NYS ECL Article 17, Titles 7, 8 and Article 70). [Amended by LL #3 of 2017]

STRUCTURE: Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, and any fixtures, additions, and alterations

thereto. [Amended by LL #3 of 2017]

TELECOMMUNICATION FACILITY: The same as Wireless Communication Facility.

TEMPORARY PORTABLE STORAGE CONTAINER: is a large container designed and rented or leased for the temporary storage of commercial, industrial, or residential household goods, that does not contain a foundation or wheels for movement. Examples of this use include piggyback containers that can be transported by mounting on a chassis, and “POD” type boxes also known as EZ-Boxes or Smartboxes that can be transported on a flatbed or other truck; but do not include prefabricated sheds that are not designed for transport after erection, or commercial trailers used by construction or other uses in the regular performance of their business. Temporary portable storage container, except those included in temporary construction permits, are subject to the provisions under the Zoning Law. [Amended by LL #3 of 2017]

TOTAL HEIGHT (WECS, SWECS): The distance from the ground to the tip of an upward pointing vertical turbine blade. [Amended by LL #3 of 2017]

USE: The specific purposes for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

1. Use, Special Permit: A use requiring Special Permit Approval by the Zoning Board of Appeals prior to the issuance of a zoning permit by the Zoning Enforcement Officer.
2. Use, Permitted: A use not requiring Zoning Board of Appeals review, but requiring a zoning permit issued by the Zoning Enforcement Officer.
3. Use, Temporary: An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work, and seasonal produce stands.

TRAVEL TRAILER: A unit whose original design required registration and licensing for public road use with transportation to be provided by towing by a car, van or pickup by means of a bumper or frame hitch and designed to serve as self-contained living quarters for camping or other recreational activities. The travel or recreational trailer definition shall exclude a mobile home or any other form of recreational vehicle. (Amend. 4)

VARIANCE: A variance is any departure from the strict letter of this Law granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.

1. Area Variance: A variance of the dimensional requirements of this Law.
2. Use Variance: A variance of the use requirements of this Law.

VIEWSHED: The area that can be seen from a viewpoint.

VETERINARY CLINIC: Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, comparable household pets, or livestock and wherein the overnight care of said animals is prohibited except when

necessary in the medical treatment of the animal. [Amended by LL #3 of 2017]

WAREHOUSE: A facility that stores goods for future transport, including self-storage units, truck terminals and distribution centers.

WATER STRUCTURE: Any pier, boat dock, boat ramp, boat slip, wharf, dolphin, weir, boom, boathouse within the water, breakwater, bulkhead, revetment, riprap, jetty, or piling that requires review and approval by an appropriate regulating agency. [Amended by LL #3 of 2017]

WETLAND: as defined, mapped and protected by the New York State Department of Environmental Conservation pursuant to the NYS Freshwater Wetlands Act (NYS ECL ARTICLE 24, Title 23 of Article 71). The U.S. Army Corps of Engineers (ACOE) also defines and protects wetlands, under Section 404 of the Clean Water Act. [Amended by LL #3 of 2017]

WIND ENERGY CONVERSION SYSTEM (“WECS”): A commercial machine with a generating capacity equal to or greater than 500 kW that converts the kinetic energy of wind into electricity (also called a “wind turbine”).

WIND ENERGY FACILITY: Any Wind Energy Conversion System, including all related infrastructure, electrical lines and substations, access roads, wind measurement tower(s), and/or accessory structure.

WIND MEASUREMENT TOWER: A tower used for the measurement of meteorological data such as temperature, wind speeds and wind direction.

WIND OVERLAY DISTRICT: Those areas within the Town of Lyme where wind energy conversion systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures may be site.

WIRELESS COMMUNICATION ANTENNA: An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission, including but not limited to, whip, panel and dish communications antenna.

WIRELESS COMMUNICATIONS FACILITY (WCF): A facility for the provision of wireless communications services, as defined by the Telecommunications Act of 1996, and usually consisting of an equipment shelter, a mount, and/or antenna(s). Radio or television transmission towers and repeaters shall be included in the definition of wireless communications facilities.

WIRELESS COMMUNICATIONS SERVICES: Three types of services regulated by this law include commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services for Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio and Paging Services. Excluded from this definition are services used for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen’s bands, amateur radio and other similar private, residential communications.

YARD: Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of a building and shall not project into a required yard.

1. Yard, Front: The space within and extending the full width of the lot from the front lot line to the

part of a building or structure (except water structure) which is nearest to such front lot line. If a lot adjoins two (2) or more streets, highways or water frontage, it shall be deemed to have a front yard respectively on each. Therefore, not all lots will have a rear yard. [Amended by LL #3 of 2017]

2. Yard, Rear: The space within and extending the full width of the lot from the rear lot line to the part of the building or structure which is nearest to such lot line.
3. Yard, Side: The space within the lot extending the full distance from the front yard to the rear yard or second front yard and from the side lot line to the part of the building or structure which is to such side lot line. [Amended by LL #3 of 2017]

ZONING BOARD OF APPEALS: The Zoning Board of Appeals appointed by the Town Board pursuant to Town Law. All references to "ZBA" shall mean the Zoning Board of Appeals. [Amended by LL #3 of 2017]

ZONING ENFORCEMENT OFFICER: A person appointed by the Town Board to carry out the regulations of this Law.

## **ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS**

### **Section 305: Establishment of Districts**

For the purpose of promoting the health, safety, morals, and general welfare of the community, the Town of Lyme outside the Village of Chaumont, is hereby divided into the following districts:

1. AR - Agricultural and Rural Residence District. All areas of the Town outside the Village of Chaumont not included in any other district.
2. WF -Waterfront District. The areas of land which are within 500 ft. of the mean high water mark of Lake Ontario, all of its bays, and the Chaumont River. Refer to the Zoning District Map for specifically designated locations.
3. FPD - Floating Planned Development Overlay District. Those areas of the Town within the Waterfront District so designated.
4. Wind Overlay District – Those areas of the Town within the Wind Overlay District so designated by Article VII, Section 770 H. paragraph 8.

### **Section 310: Zoning Map (Next Page)**

The boundaries of the above-named zoning districts are bounded as shown on the map entitled "Zoning Map, Town of Lyme", dated January 2017 and filed in the Town Clerk's Office, which is by this reference made a part of this Law.

Any changes in district boundaries or other matter shown on the map shall be promptly made on the map with a statement describing the nature of the change and the date of the amendment.

### **Section 315: Interpretation of District Boundaries**

Where uncertainty exists with respect to the exact boundaries of districts as shown on the Zoning Map, as determined by the Zoning Officer, the decision or interpretation will be made by the Zoning Board of Appeals. Boundaries shown as a set distance from the waterfront shoreline shall be construed to be measured from the mean high water mark. [Amended by LL #3 of 2017]

### **Section 320: Lots in Two Districts**

Where a district boundary line divides a lot in single or joint ownership, existing at the time of enactment of this Law, the regulations pertaining to each district will govern the use of land within that district.

### **Section 325: Limited Exemption for Filed Subdivision**

If the plat of a residential subdivision containing one or more new streets has been duly filed in the Jefferson County Clerk's Office prior to the adoption of this Law, the lots of the subdivision may be developed with the lots and yards delineated on the plat, and any provisions of this Law requiring larger lots or yards shall not apply to the subdivision, for a period of three years from the date of such filing of the plat with the Jefferson County Clerk.



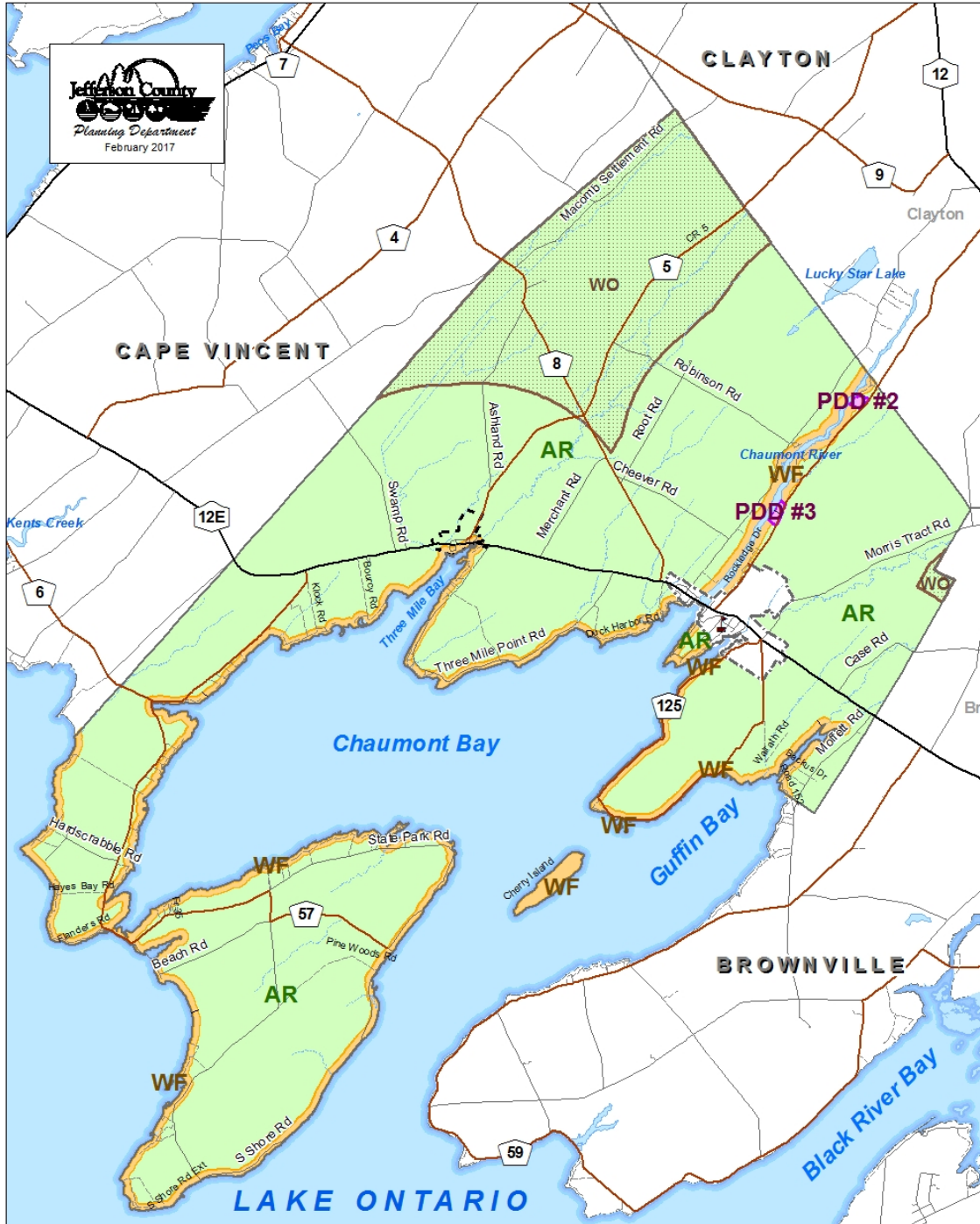
# ZONING DISTRICTS

## Town of Lyme



### Legend

- Schools
- Three Mile Bay Lighting District
- Zoning**
- AR Agriculture & Rural Residence
- WF Waterfront
- PDD
- Wind Overlay District



Sources: Jefferson County Real Property Tax Office, NYS Office of Cyber Security, Town of Lyme Planning Board, Jefferson County Planning Department

**ARTICLE IV - DISTRICT REGULATIONS**

**Section 405: Agricultural and Rural Residence District – AR**

A. Intent

The Agricultural and Rural Residence Districts - AR are primarily for agricultural and suburban residential uses.

B. Permitted Uses

The Agricultural and Rural Residence Districts - AR are primarily for agricultural and suburban residential uses. In them, no building or other structure shall be built, altered or erected to be used for any purpose other than the following, except by special permit as hereinafter provided:

- |                           |  |
|---------------------------|--|
| 1. Farm Operation         | 6. Home occupation   |
| 2. One-family dwelling    | 7. Accessory Building/Structure or Accessory Use                       |
| 3. Two-family dwelling    | 8. Sign  |
| 4. Multi-family dwelling  | 9. Recreational Vehicles (as provided in Section 750)                  |
| 5. Individual mobile home | 10. Day Car Facilities/respice homes.                                  |
|                           | 11. Child Day Care Facilities.   |
|                           | 12. Solar Energy System (SEC), Rooftop/Building Mounted                |
|                           | 13. Solar Energy System (SEC), Building-Integrated Photovoltaic (BIPV) |

C. Special Permit Uses

The following uses require a special permit, additional regulations. See Articles VI and VII.

- |                                |   |
|--------------------------------|---|
| 1. Motel/Hotel                 | 17. Bar/Craft Brewery                                       |
| 2. Mobile Home Park            | 18. Commercial Campground                                   |
| 3. Airstrip                    | 19. Commercial Recreation                                   |
| 4. Heliport                    | 20. Commercial Hog, Poultry or Fur Farm                     |
| 5. Animal Hospital             | 21. Office  |
| 6. Institutional Use           | 22. Recreational Vehicle Parks (as provided in Section 765) |
| 7. Essential Service           | 23. Wireless Communication Facilities                       |
| 8. Quarry                      | -see Section 535(C) – Applicability/Exclusions              |
| 9. Riding Academy              | 24. Small Wind Energy Conversion System (SWECS)             |
| 10. Automobile Service Station | 25. Biomass Energy System (BES)                             |
| 11. Junkyard                   | 26. Commercial Biomass Energy System (CBES)                 |
| 12. Light Industry             | 27. Solar Energy System (SES), Ground Mounted/Free Standing |
| 13. Large Product Retail       | 28. Solar Energy System (SES, Commercial                    |
| 14. Small Product Retail       | 29. Boat Storage Facility                                   |
| 15. Warehouse                  |   |
| 16. Restaurant                 |   |

**SECTION 405D: DIMENSIONAL REQUIREMENTS (NOTE 1)**

<b>USE</b>	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Front Setback (ft.)</b>	<b>Minimum Rear Setback (ft.)</b>	<b>Minimum Side Setback (ft.)</b>	<b>Minimum Lot Width (ft.)</b>
Farm Operation Primary Bldg.	40,000	30' from front lot line	30' from rear lot line	60' from side lot line (2)	200
<i>Farm</i> Operation Accessory Bldg.	40,000	30' from front lot line	30' from rear lot line (3)	30' from side lot line (3)	200
Single & Two Family Dwelling, Individual Mobile Home	20,000	30' from front lot line	50' from rear lot line	15' from side lot line	100
Sign (Section 605)	N/A	5' from front lot line	N/A	15' from side lot line	N/A
Multi Family Dwelling	10,000 per unit	30' from front lot line	50' from rear lot line	15' from side lot line	150
Accessory Bldg. for Residential Use (4)	20,000	30' from front lot line	15' from rear lot line	15' from side lot line	100
Special Permit (5)	20,000	30' from front lot line	50' from rear lot line	60' from side lot line	150
Accessory Building Special Permit	20,000	30' from front lot line	15' from rear lot line	30' from side lot line	150

**Note:**

1. All dimensional regulations are minimums. Greater areas or setbacks may be required. NYS regulations govern on-site septic systems.
2. An additional 2' for each foot the building exceeds 35' in height.
3. Or 50' from the nearest residential lot line, whichever is greater.
4. Accessory building on a lot with no principal use or structure requires the minimum lot size. If they are located on the same lot as a principal use or structure they require no additional lot area.
5. Unless otherwise specified in Article 805.

**Section 410: Waterfront District — WF**

A. Intent

The Town recognizes that it's most important and sensitive resource is its extensive shoreline. Development of, access to, and scenic views of this resource are issues of major interest to the Town.

The Waterfront District - WF is established to allow for residential development and limited commercial activity which would not harm this valuable resource, if developed according to the procedures established by this law. However, this District is also established to work in conjunction with the Floating Planned Development Overlay District, described in Section 415.

B. Permitted Uses

Waterfront Districts - WF are established primarily for the purpose of providing for residential development and limited commercial activity. In them, no building or any other structure shall be built, altered or erected for any purpose other than the following, except by special permit as hereinafter provided;

1. Single-Family Dwelling
2. Two-Family Dwelling
3. Accessory Building/Structure or Accessory Use
4. Boathouse
5. Sign
6. Recreational Vehicles (as provided in Section 750)
7. Day Car Facilities/respice homes.
8. Child Day Care Facilities.
9. Solar Energy System (SES), Building-Integrated Photovoltaic (BIPV)
10. Solar Energy System (SES), Rooftop/Building Mounted

C. Special Permit Uses

The following uses require a special permit, according to the procedure outlined in Article V. These uses may be subject to additional regulations. See Articles VI and VII.

- |                          |  |
|--------------------------|--|
| 1. Home Occupation       | 8. Office  |
| 2. Restaurant            | 9. Marina  |
| 3. Bar/Craft Brewery     | 10. Farm Operation   |
| 4. Institutional Use     | 11. Biomass Energy System (BES)                                |
| 5. Essential Service     | 12. Solar Energy System (SES),<br>Ground Mounted/Free Standing |
| 6. Retail, Small Product |  |
| 7. Retail, Large Product |  |

**SECTION 410D: DIMENSIONAL REQUIREMENTS (NOTE 1)**

USE	Minimum Lot Area (sq. ft.)	Minimum Front Setback (ft.)	Minimum Rear Setback (ft.)	Minimum Side Setback (ft.)	Minimum Lot Width (ft.)
Single Family Dwelling	20,000	30' from front lot line	30' from rear lot line	15' from side lot line	100
Two Family Dwelling	10,000 per unit	30' from front lot line	30' from rear lot line	15' from side lot line	200
Sign	N/A	5' from front lot line	N/A	15' from side lot line	N/A
Accessory Building for Residential Use (2)	20,000	30' from front lot line	15' from rear lot line	15' from side lot line	100
Special Permit Use (3)	43,560 1 acre	30' from front lot line (4)	30' from rear lot line	30' from side lot line (5)	200
Boathouse (6)	20,000	0'	0'	15'	50'

**Note 1:**

1. All dimensional regulations are minimums. Greater areas or setbacks may be required. NYS regulations govern on-site septic systems.
2. Accessory building on a lot with no principal use or structure requires the minimum lot size. If they are located on the same lot as a principal use or structure they require no additional lot area.
3. Unless otherwise specified in Article 805.
4. Unless otherwise determined by the Planning Board through the Special Permit Procedure.
5. An additional 2' for each foot the building exceeds 35' in height.
6. A boathouse on a waterfront lot may be located no closer than 15 feet from any side lot line.

<b>SECTION 412: USE SCHEDULE – Town of Lyme</b>		
<u>Uses</u>	<b>Zoning District</b>	
	<b>WF - Waterfront</b>	<b>AR – Agricultural Rural Residence</b>
<b>Accessory Building/Structure or Accessory Use</b>	Permitted	Zoning Permit
<b>Airstrip</b>	NP	Special Permit
<b>Animal Hospital</b>	NP	Special Permit
<b>Automobile Service Station</b>	NP	Special Permit
<b>Bar/Craft Brewery</b>	Special Permit	Special Permit
<b>Boathouse</b>	Zoning Permit	NP
<b>Boat Storage Facility</b>	NP	Special Permit
<b>Biomass Energy System (BES)</b>	Special Permit	Special Permit
<b>Commercial Biomass Energy System (CBES)</b>	NP	Special Permit
<b>Commercial Campground</b>	NP	Special Permit
<b>Commercial Recreation</b>	NP	Special Permit
<b>Commercial Hog, Poultry, or Fur Farm</b>	NP	Special Permit
<b>Child Day Care Facility</b>	Zoning Permit	Zoning Permit
<b>Day Care Facility/Respite Home</b>	Zoning Permit	Zoning Permit
<b>Dwelling, One-family</b>	Zoning Permit	Zoning Permit
<b>Dwelling, Two-family</b>	Zoning Permit	Zoning Permit
<b>Dwelling, Multi-family</b>	NP	Zoning Permit
<b>Essential Service</b>	Special Permit	Special Permit
<b>Farm Operation</b>	Special Permit	Zoning Permit
<b>Heliport</b>	NP	Special Permit
<b>Home Occupation</b>	Special Permit	Zoning Permit
<b>Individual Mobile Home</b>	NP	Zoning Permit
<b>Institutional Use</b>	Special Permit	Special Permit
<b>Junkyard</b>	NP	Special Permit
<b>Light Industry</b>	NP	Special Permit
<b>Marina</b>	Special Permit	NP
<b>Mobile Home Park</b>	NP	Special Permit
<b>Motel/Hotel</b>	NP	Special Permit
<b>Office</b>	Special Permit	Special Permit
<b>Recreational Vehicle (as per Section 750)</b>	Seasonal Permit	Seasonal Permit
<b>Recreational Vehicle Park (as per Section 765)</b>	NP	Special Permit
<b>Retail, Small Product</b>	Special Permit	Special Permit
<b>Retail, Large Product</b>	Special Permit	Special Permit
<b>Restaurant</b>	Special Permit	Special Permit
<b>Riding Academy</b>	NP	Special Permit
<b>Sign</b>	Zoning Permit	Zoning Permit
<b>Small Wind Energy Conversion System (SWECS)</b>	NP	Special Permit
<b>Solar Energy System (SES), Building-Integrated Photovoltaic (BIPV)</b>	Zoning Permit	Zoning Permit
<b>Solar Energy System (SES), Commercial</b>	NP	Special Permit
<b>Solar Energy System (SES), Ground Mounted/Free Standing</b>	Special Permit	Special Permit

<b>Solar Energy System (SES), Rooftop/Building Mounted</b>	Zoning Permit	Zoning Permit
<b>Wind Energy Conversion System (WECS) (1)</b>	NP	NP
<b>Wireless Communication tower</b>	NP	Special Permit
<b>Quarry</b>	NP	Special Permit
<b>Warehouse</b>	NP	Special Permit

\*NP = Not permitted within the District.

[Amended by LL #3 of 2017]

(1) Wind Energy Conversion Systems or WECS are allowed with a Special Permit within the Wind Overlay District refer to Sections 305 and 770.

**SECTION 415: FLOATING PLANNED DEVELOPMENT OVERLAY DISTRICT**

A. Intent and Applicability:

The Town recognizes that it's most important and sensitive resource is its extensive shoreline. Development of, access to and scenic views of this resource are issues of major interest to the Town. While the Town wishes to encourage the use and development of this resource, it believes such development must be of high quality and not in conflict with adjacent land uses. Because this land, which is coterminous with the land within the Waterfront District, can be used for a variety of uses, residential and commercial, the Town finds that its development must be monitored closely. It therefore creates this FPD - Floating Planned Development Overlay District, to review and oversee development that might otherwise cause injury to this most valuable resource.

The limits of this District are defined as coterminous with the boundaries of the Waterfront District as defined in this law. The regulations of the Waterfront district shall apply until the Town Board approves the Zone change pursuant to this Article.

It is the intent of this Floating Planned Development Overlay District to provide flexible land use and design regulations so that certain uses may be developed within the Town that incorporate a variety of residential and non-residential uses, and contain both individual building sites and common property which are planned and developed as a unit. This section encourages innovations in residential and Waterfront or retail commercial development so that the growing demands for such development may be met by greater variety in type, design, and siting of development and by the more efficient use of land in such developments. Planned developments do not require a mix of residential and non-residential uses to be considered for Planned Development Overlay District status.

While the standard zoning function (use and area) is appropriate for the regulation of land use in some areas or neighborhoods, these controls represent a type of regulatory strictness which may be inappropriate to the innovative techniques of quality land development contained in the Floating Planned Development Overlay District (FPD) concept. A rigid set of space requirements along with area and use specifications would frustrate the application of this concept. Thus, where FPD techniques are deemed appropriate through the rezoning of land to a Planned Development Overlay District by the Town Board, the use and dimensional specifications found elsewhere in this Law are herein replaced by the General Requirements and Planned Development Review Standards outlined in Article IV, Section 415.B.

B. General Requirements and Planned Development Review Standards:

The following is a list of the requirements that a proposal must meet to be considered for FPD status.

1. **Minimum Area:** A minimum lot size and frontage for a Planned Development use, which is less than the minimum specified by Section 410 of this law, shall be specified at the discretion of the Town Board, provided that an innovative layout, which provides for increased common property and/or recreational areas and the maximum gross density specified for the particular use as specified by Article IV, Section 410.D is not increased. The common property created by this technique shall remain permanently dedicated to the purposes described below under Section 415.B.6.
2. **Ownership:** An application must be filed by all the owners of the property to be included in a proposed project. In the case of multiple ownership, the approved plan shall be binding on all owners.
3. **Permitted Uses:** All uses must be approved by the Town Board. In reviewing and acting on applications for FPD Status, the Town Board will evaluate each proposed use in accordance with the spirit and intent of this Article.
4. **Parking:** Parking provisions shall be regulated by the provisions of Article 610.
5. **Traffic and Circulation:**
  - a. Straight and uniform grid iron road patterns should be avoided but are subject to the discretion of the Town Board.
  - b. Entrances must also be located to allow safe line-of-sight distances to and from their points of intersection with a public road.
  - c. Internal road widths and corner radii must facilitate movement of emergency vehicles.
  - d. There should be adequate storage areas for snow that will not interfere with sight distance at intersection or pedestrian movement.
  - e. Special consideration should be given to pedestrian movement from the standpoint of safety, convenience and amenity. Sidewalks, curbs and gutters should be considered in the design of the overall circulation system. Walk-through to adjoining areas should also be considered.
6. **Common Property:** Common property is not required for Planned Development District unless any aspect of the development does not meet the dimensional regulations of the Waterfront District. Common property in a Planned Development is a parcel or parcels of land, with or without the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, the Town Board must approve the arrangements for the improvement, operation and maintenance of such common property and facilities, including private streets, drives,



service and parking areas, utilities and recreational and open space areas.

C. Planned Development District Procedure:

The following are procedural steps that shall be followed when applying for Planned Development status:

1. In order to establish a Planned Development District, the Zoning Map must be amended by the following procedures outlined herein and the prescribed regulations for amendments to this Zoning Law found in Section 935.
2. Application for a zone change for the establishment of a Planned Development District shall be made to the Town Board by the owner(s) of the property to be included in the District. Prior to the Town Board's consideration of any application, the applicant must comply with the provisions of Section 925.
3. The applicant must provide a preliminary development plan which would enable the Town Board to determine if the proposed development is in the Town's best interest. The plans must, at a minimum, include the following:
  - a. A general layout of the development
  - b. Gross and net densities
  - c. Size of uses involved
  - d. Types of uses involved
  - e. Number of proposed units
  - f. General traffic circulation
  - g. Necessary highway improvements
  - h. Number and location of highway access points.
  - i. Other details that the Town Board may find necessary in order to evaluate the proposed development and its effects on nearby land uses and public services.
  - j. An environmental assessment pursuant to SEQR.
4. The Town Board shall have the discretion, in reviewing applications, to approve, approve with modifications or disapprove the proposed zoning amendment application. In considering an application, it shall weigh the need for the proposed use in the proposed location, and its consistency with the General Plan and the existing character of the neighborhood in which the use would be located. It also must consider safeguards to minimize possible detrimental effects of the proposed use on the adjacent properties, on public services, on the natural elements making up the environment of the area, and on the historic character of the area.

5. If such an amendment is enacted, the permitted development must be confined to the specific designated area and adhere to the approved development plan and special permit approval. Anything different from this constitutes a violation of this Zoning Law.
6. If the proposal is rezoned as a Floating Planned Development Overlay District, the applicant then has a maximum of 180 days to submit a special permit application to the Planning Board for a Special Permit Review in accordance with the procedural and substantive requirements of Article V, Special Permits. The Planning Board shall also review the proposal in light of the requirement for Planned Development District, Section 415.B above. [Amended by LL #3 of 2017]
7. Should the applicant fail to submit a special permit application to the Planning Board within the 180 day time period, the zone status of Planned Development District, granted by the Town Board, shall automatically revert to the Waterfront District. [Amended by LL #3 of 2017]
8. In addition to the requirements and criteria outlined in Article V, the Planning Board shall consider: [Amended by LL #3 of 2017]
  - a. Whether existing and proposed streets and roads are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
  - b. Whether existing and proposed utility services, including but not limited to water, sanitary sewer and storm water sewer are adequate for the proposed development.
  - c. That each phase of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscaping and utility areas necessary for creating and sustaining a desirable and stable environment.
9. If the Town Board determines that no substantial construction of the development has occurred within one (1) year from the date of the special permit approval it shall advise the owner(s) of the property within the FPD District that the land has automatically reverted to the Waterfront District.
10. A Planned Development shall not be changed to increase the number of dwelling units, increase housing density, permit a change in a type of use or an expansion of a designated use without undergoing a complete Planned Development procedure outlined in this section, including special permit review by the Zoning Board of Appeals.
11. A finally approved Planned Development District shall not be changed to affect the following elements without an additional special permit review pursuant to Article V:
  - a. natural resources: water, fish, wildlife, vegetation
  - b. drainage and erosion plans
  - c. historic and scenic resources
  - d. any pollution
  - e. vehicular traffic access and circulation - site layout, including structural

alterations installation or layout of any improvements (e.g. sidewalks, curbs, water, sewer, landscaping) The Planning Board shall exercise discretion in determining if a Planned Development change should require an additional site plan review under the above conditions.

**Section 425: Planned Development District No. 2 - "Sportsmen's Hideaway Charters"**

- A. Area Included. The Planned Development District No. 2 shall include 10.3 acres of land bordered on the west by the Chaumont River and on the east by County Route 179 and known as lands now or formerly of Gerald Kitzi, Thomas Kitzi, and Debra Slater, pursuant to deeds dated July 20, 1986 and July 21, 1986 and recorded in the Jefferson County Clerk's Office at Liber 1034 of Deeds at Page 59 and Liber 1031 at Page 150 respectively, known as Town of Lyme tax map parcels 52.09-1-1-, 52.09-1-11, and 52.09-1-12.
  
- B. Project Scope. The project shall be in accordance with the narrative and map submitted to the Town Board and shall include the following: 15.4 acres on which may be developed up to 14 recreational vehicle sites and 20 tent sites, together with a pavilion, parking area, boat storage and docking area, and bath house clustered off of private roads and serviced by private water and sewer facilities. Ownership of all open spaces, roads, water and sewer services, and any other infrastructure improvements in common areas shall be under the control and ownership of the owners. All construction is subject to special permit.
  
- C. Other Approvals. Prior to commencing any construction of the Planned Development District, the owner must obtain Special Use Permit approval from the Zoning Board of Appeals of the Town of Lyme.
  - 1. Flood hazard development permit from the Town of Lyme.
  - 2. Sewage system\SPDES permit from the New York State Department of Environmental Conservation.
  - 3. Water supply\water system permit from the New York State Department of Health.
  - 4. Highway right-of-way approval from the County Highway Department.
  - 5. Permit for construction in navigable waters from the United States Army *Corps* of Engineers.
  - 6. Such other and further permits as may be applicable by other agencies, including further review by the Jefferson County Planning Board pursuant to Section 239-m of the General Municipal Law.
  
- D. Special Conditions. The Zoning Board of Appeals in reviewing any project in Planned Development District No. 2 for a special permit shall consider and provided for the following specific conditions and items:
  - 1. Roads.
    - a. Width. Road width should be a minimum of 35 feet for a length of 200 feet from County Route 179 on any access road into the project. Further

requirements should be reviewed with the Jefferson County Highway Department.

- b. Road width within the project should be designed to assure access for emergency vehicles.
  - c. Roads within the project may be paved if found to be appropriate by the Zoning Board of Appeals. Such paving however, may be phased to coincide with development of the project as the Zoning Board of Appeals shall direct.
2. Drainage.

The Zoning Board of Appeals shall specifically require that a drainage plan be provided and that a drainage study be provided to show how surface water run-off will be handled. Specific attention should be given to how such surface water drainage may affect the road system within the project. All drainage facilities should be designed to minimize erosion and discharge of particulate matter into the Chaumont River.

3. Noise.

The Zoning Board of Appeals shall determine what is appropriate buffering along the southerly boundary of the project, including evergreen barriers if appropriate along such boundary. A landscaping plan and time table for planting must be submitted and approved by the Zoning Board of Appeals.

- 4. The Zoning Board of Appeals shall consider what provisions must be made for fire protection to adequately service the project.
- 5. Other. The Zoning Board of Appeals may also consider such other factors as it deems appropriate, including potential impacts of the project upon wetland areas and wild life habitats.

**Section 430: Planned Development District No. 3 Chaumont River (Cohen) RV Park and Campground**

[Originally adopted in resolution 2015 - 114, and added by LL #3 of 2017]

- A. Area Included. The property included with PDD #3 shall be Town of Lyme Tax Map Parcel #62.00-2-3.121 to be known as Planned Development District No.3 located off County Route 179 in the Town of Lyme consisting of 19.15 acres. (Cohen Campground) as follows:
- B. Project Scope. The permitted uses within PDD3 shall be Campground and RV Park.
- C. Other Approvals. Prior to commencing any construction of the Planned Development District, the owner must obtain
  - 1. Special Use Permit approval from the Zoning Board of Appeals of the Town of Lyme.
  - 2. Sewage system/SPDES permit from the New York State Development of Environmental Conservation.
  - 3. Water supply/water system permit from the New York State Department of Health.
  - 4. Right-of-way approval from the Town/County Highway Department.
  - 5. Permit for construction in navigable waters from the United States Army Corps of

Engineers, if applicable.

6. Such other and further permits as may be applicable by other agencies, including further review by the Jefferson County Planning Board pursuant to Section 239-m of the General Municipal Law.

- D. Special Conditions. The Zoning Board of Appeals in reviewing any project in Planned Development District No. 3 shall consider and provide for the following special conditions:
  1. The parcel must be delineated from neighboring parcels sides of property by 2 parallel, orange nylon ropes of at least ½ inch diameter.
  2. Signs must be posted on the sides of property boundaries indicating no trespassing. Signs must be no further apart than 50 feet.
  3. There must be a thirty (30) foot setback to be considered a buffer zone along the sides of the property to be “forever wild”. This is a defined area that cannot be cut or cleared, but left as the natural buffer for sound and view.
  4. All RV sites must be designed to provide a minimum of twenty five (25) foot separation between RV units with the further understanding that there would be no more than fourteen (14) RV units per acre.
  5. Prior to occupancy, a property septic system must be designed in accordance with all applicable New York State Department of Health regulations sized officially for the proposed occupancy of the property.
  6. Provision for adequate potable water for all sites must be provided in accordance with all applicable New York State Department of Health regulations.
  7. Lighting on all buildings shall be inspected by the CEO.
  8. All signage shall follow the zoning law set by the Town of Lyme – section 605.
  9. Section 640 of the Town of Lyme Zoning Code shall be followed with regard to fire protection including the provision for an adequate emergency turn-around set by the State of New York.
  10. A quiet hour’s time from 10:00 p.m. to 7:00 a.m. shall be posted, observed and enforced by the site owner/operator similar to such provisions at the New York State Parks and Campgrounds.
  11. Parking shall follow article 610 in the Town of Lyme Zoning Code.
  12. Fire pit areas shall be designated at each site and no larger than three (3) square feet in diameter in accordance with New York State law.
  13. Where not provided for herein, all pertinent requirements of the current Town of Lyme Zoning Law applies.

## ARTICLE V - SPECIAL PERMITS

### **Section 505: Purpose and Scope**

The purpose of the special permit procedure is to allow the Planning Board to attach reasonable safeguards and conditions to those uses which might otherwise produce deleterious effects on the environment the neighborhood character, or the Town residents' health, safety and welfare. Furthermore, it is the purpose of the special permit procedure to authorize the Planning Board to deny a permit for any use, the deleterious effects of which cannot be mitigated. [Amended by LL #3 of 2017]

### **Section 510: General Requirements**

- A. All uses which require a special permit shall be subject to all applicable requirements of this Law, including this Article.
- B. No zoning permit shall be issued for any such use until it has been granted a special permit by the Planning Board. [Amended by LL #3 of 2017]
- C. The Planning Board shall review and approve, approve with conditions, or disapprove special permit applications for all uses which require special permits under the terms of this Law. [Amended by LL #3 of 2017]

### **Section 515: Application for Special Permits**

All applications for special permits shall be submitted in writing by all owners of the real property concerned to the Planning Board through the Town Clerk. Applications shall be deemed submitted when all required documents are filed with the Town Clerk and all fees deposited with the Town Clerk. [Amended by LL #3 of 2017]

- A. Presubmission Conference: If the applicant or Planning Board so requests, a pre-submission conference between the applicant and the Planning Board may be held to review the proposed development in light of existing conditions and to generally determine the information to be required on the special permit application. At the conference the applicant should provide a statement and a rough sketch depicting what is proposed and showing the location of the tract and its relationship to surrounding area.
- B. Application Requirements: The Planning Board may require at the presubmission conference that any or all of the following elements be included in the special permit application. If no presubmission conference is held, then all of the following elements shall be included in the special permit application.
  - 1. Name and address of applicant and owner, if different, and of the person responsible for preparation of all drawings, maps or depictions.
  - 2. A map or drawing of the proposed buildings, structures, infrastructure, landscaping and other improvements which shows;
    - a. Date, north point, written and graphic scale;

- b. Boundaries of the lot plotted to scale, including distances, bearings, and areas;
  - c. Location and ownership of all adjacent lands;
  - d. Location, name, and existing width and right-of-way of adjacent roads;
  - e. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use located either on the site or adjoining the property;
3. Location, size, design of the following: existing and proposed buildings, driveways, parking, outdoor storage, sidewalks or pedestrian paths, drainage facilities, sewage facilities, water facilities, signs, outdoor lighting, landscaping or screening. Written plans for controlling soil erosion and sedimentation during the construction.
  4. Written or depicted plans for grading and drainage showing existing and proposed contour lines of five foot intervals or less,
  5. Written designation of the amount of gross floor area and gross leasable area proposed for each non-residential use;
  6. An Environmental Assessment Form (EAF) or draft Environmental Impact Statement (E.I.S.) and other documents, where required pursuant to 6NYCRR Part 617 (SEQRA).
  7. Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any federal, state, or county permits required for the project's execution.
  8. All applicants shall deposit with the Town Clerk, sufficient security to cover the anticipated administrative expenses of the Town as provided in Section 925 of this local law.
  9. Location and design of any structures, facilities and processes that potentially impact on the quality of ambient air, the quantity of the impact and the mitigating measures that will be taken to reduce the adverse impacts on the quality of the ambient air.
- C. Once an application has been submitted the Planning Board shall have a maximum of 124 days (from the date of receipt) to review and approve, approve with conditions, or disapprove the proposal.
  - D. Within 62 days from the date the Planning Board has received the completed application, a public hearing shall be held on the proposal to entertain public comment. At least ten (10) days advance public notice of the hearing shall be published in the Town's official newspaper.
  - E. The final decision by the Planning Board must be made within 62 days following the hearing, in writing, specifying any conditions that may be attached to an approval, the reasons that the PB approved or denied the proposal and the vote of each member of the PB. All decisions shall be filed in the Office of the Town Clerk and a copy mailed to the applicant.

- F. A special use permit will be invalid and of no further effect if the property for which it was granted is not used for the approved special permit for a continuous one year period or if the improvements to be made under the approved are not substantially made or finished within one year after the approval is filed.
- G. The Planning Board shall refer all applications to the Jefferson County Planning Board as are required by General Municipal Law, Section 239-m and will not vote on approval, conditional approval or denial until all requirements of General Municipal Law Article 12B have been complied with.

### **Section 520: Review Criteria**

The Planning Board review of the special permit application shall include, where appropriate, the following considerations:

- A. Status of any federal, state, or county permits required.
- B. Environmental (including physical, social and economic factors) impact on community and adjacent areas.
- C. Compatibility with the General Plan.
- D. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- E. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, roads widths, pavement surfaces, dividers and traffic controls.
- F. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
- G. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
- H. Adequacy of storm water and drainage facilities.
- I. Adequacy of water supply and sewage disposal facilities.
- J. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of vegetation.
- K. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- L. Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.
- M. Conformance with all other provisions of this Law.



- N. Location, arrangement and design of any ventilation or exhaust device or other heat, moisture or odor producing process or use.

**Section 525: Reasonable Conditions**

In addition to the regulations mandated in Article VII of this local law, the Planning Board may also attach reasonable safeguards and conditions to any special permit including, but not limited to, approval of any required federal, state or county permits; redesign of building access, parking, pedestrian path location or arrangement; additional landscaping or screening; intersection improvement of traffic controls; and redesign or additional facilities for drainage, water provision, and sewage disposal. [Amended by LL #3 of 2017]

The Planning Board is hereby specifically empowered to require any reasonable screening, landscaping, walls, or other methods necessary to protect residential uses from the noise, glare, odor, vibration, traffic or activity of an adjacent commercial use. [Amended by LL #3 of 2017]

**Section 530: Guarantees For Installation and Maintenance of Improvements \***

- A. Installation Guarantee: In order that the Town has the assurance that the construction and installation of such infrastructure improvements including but not limited to storm sewer, water supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities, and road surfacing will be constructed, the Planning Board shall require that the applicant complete said improvements before final approval is granted or the applicant shall enter into the one of the following agreements with the Town: [Amended by LL #3 of 2017]
  - 1. Furnish bond with the Town named as obligee executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the Planning Board. Any such bond shall require approval of the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety; or
  - 2. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit a certificate of deposit, or other forms of financial security acceptable to the Town Board. Acceptable substitutes, if furnished, shall be kept on deposit with the Town for the duration of the bond period,
  - 3. All plans and specifications for the improvements and infrastructure shall be approved by the Highway Superintendent or an engineer hired by the Town.
- B. Maintenance Guarantees: In order that the Town has the assurance that the construction and installation of such infrastructure and improvements, including but not limited to storm sewer, water supply, sewage disposal, sidewalks, parking, access facilities, and road surfacing have been constructed in accordance with plans and specifications, the Planning Board shall require that the applicant shall enter into the one of the following agreements with the Town: [Amended by LL #3 of 2017]
  - 1. Furnish a maintenance bond with the Town named as obligee executed by a surety

company equal to the cost of construction of such improvements and infrastructure as built or constructed and approved by the Town Highway Superintendent or engineer retained by the Town. Any such bond shall be for a minimum period of one year and approved by the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety; or

2. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit, a certificate of deposit, or other forms of financial security acceptable to the Town Board. Acceptable substitutes, if furnished, shall be kept on deposit with the Town for the duration of the bond period.
3. After construction of the improvements and infrastructure they shall be approved by the Highway Superintendent or an engineer hired by the Town.

**\* The above requirements apply to any construction and/or installation projects not created by the town but where ownership is transferred to the town upon completion whence the town accepts maintenance responsibility.**

### **Section 535: Wireless Communications Facilities**

The Town Board of the Town of Lyme has previously enacted Local Law #1 of 1989, the "Town of Lyme Zoning Law," and subsequently amended it by local law in 1989, 1993 and 1997. Prior to the adoption of this local law, no specific procedures existed to address recurrent issues related to the siting of wireless communication facilities. The Town of Lyme wishes to maximize services and benefits to the community by accommodating the needs for these facilities. Since such uses were not originally contemplated when the Town of Lyme zoning Law was enacted, it is the purpose of this local law to add regulations for the development of wireless communication facilities. [Amended by LL #3 of 2017]

#### **A. Findings**

1. While the federal government has regulated the wireless communication industry, it has reserved to local governments the power to regulate such uses with regard to placement, construction and other related issues.
2. Local government may not exclude such uses or unreasonably discriminate among providers of functionally equivalent services, nor regulate such uses on the basis of radio frequency radiation.
3. The Town has an interest in minimizing the number of towers that are located within its borders, since such structures can have an aesthetically detrimental impact upon surrounding properties, especially in residential areas.
4. In many cases, antennas mounted on existing structures can provide the same level of service with minimal or no aesthetic impacts upon neighboring uses.
5. Where the construction of new towers is necessary in order to provide services often it is possible to house more than one such provider on a given structure, thus reducing the proliferation of new tower construction.

## B. Purpose

1. Promote the health, safety and general welfare of the residents of the Town through the establishment of minimum standards to reduce the adverse visual effects of wireless communication facilities through careful design, siting and screening.
2. Protect property values.
3. Provide standards for the safe provision of wireless communication facilities consistent with applicable Federal and State regulations.
4. Protect the natural features and aesthetic character of the community.
5. Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures.
6. To minimize the total number of wireless communication towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures.

## C. Applicability/Exclusions

1. No wireless communication facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
2. No existing structure shall be modified to serve as a wireless communication facility unless in conformity with these regulations.
3. Location on antenna by other service providers on an existing tower or structure shall not require a new or modified special permit if there would be no increase in the height of the tower or structure and is allowed by Zoning Permit only. However, construction of accessory structures will require a Special Permit. The Zoning Officer will issue a zoning permit for the antennae when the applicant submits:
  - a. A NYS licensed professional engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower.
  - b. Documentation of intent from the owner of the existing tower or structure to allow shared use.
4. Exclusions
  - a. New Wireless Communication Facilities are allowed by Special Permit in the Agricultural and Rural Residence District (AR) only, excluding the Hamlet of Three Mile Bay as defined by the boundaries of Town of Lyme Water District #2.

- b. New Wireless Communications Facilities may not be located within 1500 feet of NYS Route 12E (The Seaway Trail), the shorelines of Lake Ontario, its Bays and the Chaumont River, the Ashland Wildlife Preserve, and The Barrens.
- c. The following types of Wireless Communication Facilities are not subject to the provisions of this law:
  - 1. Antennae used solely for residential household reception.
  - 2. Satellite antennae measuring two (2) meters or less in diameter and located in commercial districts and satellite antennae one (1) meter or less in diameter, regardless of location.
  - 3. Law enforcement, fire control, E911 and medical emergency facilities.

#### D. Application Requirements

- 1. The following requirements for review of Wireless Communications Facilities shall be in ADDITION to those outlined under Sections 515, 520, 525, and 530 of this Article.
- 2. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that any existing towers or structures in a neighboring municipality can be considered for shared use, the Board shall require that:
  - a. An applicant who proposes a wireless communication facility shall notify in writing the legislative body of each municipality within the Town and each municipality that borders the Town, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility, and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use.
  - b. Documentation of this notification shall be submitted to the Board at the time of application.
- 3. An application for a Wireless Communication Facility shall include, in addition to a copy of the applicant's Federal Communications Commission (FCC) license, a site plan setting forth specific site data on a map, acceptable in form and content to the Planning Board, prepared to scale in sufficient detail and accuracy and indicating the following:  
[Amended by LL #3 of 2017]
  - a. Legal description (metes and bounds) of the property that the proposed tower will be located on;
  - b. Proof of ownership of the property or proof of the landowner's consent if the applicant does not own the property;
  - c. The exact location of the proposed Wireless Communication Facility with any tower guy wires and anchors;

- d. The location of property lines and names of adjacent landowners within 500 feet of the parcel on which the facility is located;
- e. The location of all structures on the property and all structures on any adjacent property within ten (10) feet of the property lines, together with the distance of these structures to the wireless communication facility;
- f. The location and nature of existing and proposed easements;
- g. The location and specifications of the site access road and any and all other on-site roads and walkways;
- h. The height of the proposed Wireless Communication Tower;
- i. The location and proposed type and intensity of any lighting on the Tower;
- j. A side elevation or sketch of the tower showing the proposed antennas and elevation of any accessory structures;
- k. The location, nature and extent of any proposed fencing, landscaping and/or screening;
- l. The location of all trees exceeding four inches in diameter (measured at a height of four feet off the ground) and other significant and/or unusual features of the site and on any other adjacent property within ten (10) feet of the property line;
- m. The site plan shall bear the seal of a professional engineer licensed to practice in New York State.

#### 4. Supporting Documentation

- a. All information prepared by the manufacturer of the antenna and/or tower including, but not limited to the following:
  - 1. Make and model of tower to be erected;
  - 2. Detail of tower type with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - 3. Manufacturer's design data for installation instructions and construction plans;
  - 4. Applicant's proposed tower maintenance and inspection procedures and records systems;
  - 5. Anti-climb devices for the tower and any guy wires.
- b. The application shall include an inventory report specifying the location and height of existing, or approved, wireless communications towers and all

structures over seventy (70) feet in height, within a five (5) miles radius (search ring) of the proposed site. The report shall outline opportunities for shared use of these existing facilities (including municipal water towers, multiple story buildings, church steeples, farm silos, utility poles, barns, signs, belfries, cupolas, dome monuments, windmills, chimneys, smokestacks etc.) as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. Written requests and responses for shared use shall be provided. The applicant shall provide such information regarding his attempts for possible co-location on existing structures.

- c. All applicants for a Wireless Communication Facility shall submit an Environmental Assessment Form (EAF) (long) with Visual Addendum, and an analysis demonstrating that location of the Wireless Communication Facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's wireless communications system and to provide adequate service and coverage to the intended area.
- d. The Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF, such as: [Amended by LL #3 of 2017]
  - 1. A Zone of Visibility Map showing locations from which the tower or facility may be seen.
  - 2. Assessment of the visual impact of the tower or facility base, guy wires, accessory structures and overhead utility lines from abutting properties and roads.
  - 3. Possible techniques for camouflaging the tower.
- e. A New York State licensed professional engineer's report and certification as to the structural capacity of the tower and that it is designed for shared use by at least two other wireless communication service providers.
- f. Documentation for the justification of the height of any tower or facility.
- g. Justification for any vegetative clearing required.
- h. A New York State licensed professional engineer's certification that transmissions from the Wireless Communication Facility are in compliance with Federal radio frequency emission standards and will not interfere with existing signals such as household television and radio, etc.

E. Special Permit Procedure [Amended by LL #3 of 2017]

- 1. Applications. All applications for a Special Permit shall be submitted to the Planning Board.

- a. Within sixty-two (62) days of receipt of a complete application the Board shall hold a public hearing.
- b. At least ten (10) days before such hearing, the Planning Board shall mail notices thereof to the applicant and to the County Planning Board as required by Section 239m of the General Municipal Law. The notice shall be accompanied by a full statement of the matter under consideration.
- c. Such public hearing shall also be noticed at least five (5) days prior to the hearing in a newspaper of general circulation in the Town.
- d. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a tower or facility is proposed. Notification, in all cases, shall be made by certified mail at least ten (10) days prior to the public hearing.
- e. Documentation of this notification shall be submitted to the Board prior to the public hearing.
- f. Within sixty-two (62) days of the hearing the Planning Board shall render a decision. This time period may be extended by mutual consent of the parties.

2. Application for area variance

Notwithstanding any provision of law to the contrary, where a proposed special permit contains one or more features which do not comply with zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning law.

3. Conditions attached to the issuance of special permits [Amended by LL #3 of 2017]

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special permit. Upon the granting of said special permit, any such conditions must be met in connection with the issuance of permits by the enforcement official.

4. Waiver of requirements [Amended by LL #3 of 2017]

The Planning Board may waive any requirements for review of a special permit. Any such waiver may be exercised in the event that such requirement is found not to be essential to the review in the interest of the public health, safety or general welfare or inappropriate to a particular special permit.

5. Consultant

The municipality may employ its own Consultant to assist in reviewing the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the

applicant. Reasonable and customary charges for such service shall be the expense of the applicant.

6. Decision of the Board

The decision of the Planning Board after the holding of the public hearing shall be filed in the office of the town clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

7. State Environmental Quality Review Act (SEQRA)

The Planning Board shall comply with the provisions of SEQRA.

F. Special Permit Review Criteria for Wireless Communication Facilities

No special permit, renewal or modification of a current special permit, for a Wireless Communications Facility shall be authorized by the Planning Board unless it finds that such Facility conforms to the following criteria: [Amended by LL #3 of 2017]

1. The proposed location is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area;
2. Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies;
3. The facility is designed and constructed in a manner which minimizes visual impact to the extent practical;
4. Complies with all other requirements of this local law; unless expressly superseded herein;
5. Additional factors to be considered in reviewing special permits relating to towers:
  - a. Proximity of the proposed tower to residential structures and residential district boundaries.
  - b. Nature of uses on adjacent and nearby properties.
  - c. Surrounding topography.
  - d. Surrounding existing tree coverage and foliage.
  - e. Design of the proposed tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

G. Shared Use of Existing Towers or Structures

1. At all times, shared use of existing towers shall be preferred to the construction of new towers.



2. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate upon an existing structure. Copies of written requests and responses for shared use shall be provided.

#### H. New Towers

1. The Planning Board shall consider a new tower only when the applicant demonstrates that shared use of any existing or approved tower or structure tower is impractical as proven by the required inventory report. [Amended by LL #3 of 2017]
2. The applicant shall design a proposed new tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other wireless communication providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The letter shall commit the new tower owner and successors in interest to:
  - a. Respond within 90 days to a request for information from a potential shared use applicant.
  - b. Negotiate in good faith concerning future requests for shared use of the new tower by other wireless communication providers.
  - c. Allow shared use of the new tower if another wireless communications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land cost, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

#### I. Site Design Standards for Wireless Communication Facilities

##### 1. Dimensional Standards

- a. All proposed wireless communication facilities shall be located on a single parcel;
- b. The tower should be disguised or camouflaged to blend in with the surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function;
- c. The setback for towers shall be 110% of the towers height, unless the developer can provide an engineers' report indicating a smaller debris fall zone then a smaller setback may be provided. The fall zone may not include public or private roads and must be located on property either owned or leased by the applicant,

or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the wireless communication facility. If the facility is attached to an existing structure, relief may be granted by area variance by the Zoning Board of Appeals on a case-by-case basis.

- d. Guy wire anchors shall be setback from property lines the same distance as accessory structures;
- e. Minimum lot size will be determined by setback requirements;
- f. If the project property is leased, then any required setbacks shall be measured from the lease lines as identified on the site plan;
- g. A lot leased or owned for the purpose of construction of a tower as a part of a wireless communication facility shall not result in the creation of a non-conforming lot;
- h. If the proposed tower is within 1000 feet of a residential structure, then additional screening may be required.

## 2. Visual Impact Assessment

- a. All towers and accessory facilities shall be sited and constructed to have the least practical adverse visual effect on the environment.
- b. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- c. Pictorial representation of before and after views from key viewpoints both inside and outside of the town including but not limited to: State highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The board shall determine the appropriate key sites at a pre-submission conference with the applicant.
- d. The boards shall make an assessment of alternative tower designs and color schemes.
- e. The Planning Board shall make an assessment of the visual impact of the tower base, guy wires, accessory building and overhead utility lines from abutting properties and streets. [Amended by LL #3 of 2017]

- f. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

### 3. Screening and Existing Vegetation

The Planning Board shall require that the facility have vegetative buffering, consisting of one row of native evergreen shrubs of trees capable of forming a continuous hedge of at least six (6) feet in height within two (2) years of planting, around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm. Such screening shall include the maximum feasible retention of existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground), shall take place prior to the approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public. [Amended by LL #3 of 2017]

### 4. Parking & Access

- a. Access ways shall make maximum use of existing public or private roads to the extent practicable. Driveways must provide adequate emergency vehicles and service access.
- b. Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.
- c. Motion activated or staff activated security lighting around the base of a tower or accessory structure entrance may be provided. Such lighting shall not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- d. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by an unauthorized vehicle. Such gate must not protrude into the public right-of-way.
- e. There shall be no permanent climbing pegs within fifteen feet of the ground on any tower.
- f. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived when meeting the objectives of this subsection.

5. Fencing

Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence at least eight (8) feet in height, design of which shall be approved by the Board.

6. Signs

No portion of any tower or accessory structure shall be used for signage for advertising purposes. The Planning Board may require a sign not to exceed eight (8) square feet to be placed on an accessory building or fence identifying the owner and/or operator of the facility, its business address, telephone numbers (business number and emergency number), and that no trespassing upon the site is allowed. [Amended by LL #3 of 2017]

7. Maintenance and Repair

Every facility shall be inspected annually for structural integrity by a New York State licensed professional engineer retained by the facility owner and/or operator and a copy of the inspection report shall be submitted to the Zoning Enforcement Officer.

8. Utilities

All utility connections shall be installed underground.

9. Antennae Affixed To Existing Structures

Antennae affixed to the face of existing structures may not protrude in excess of five (5) feet horizontally between the antenna and the existing structure face.

10. System Connections

Where technologically feasible, connections between wireless communication facilities and the system of which they are a part shall be made by land cable rather than by parabolic dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six (6) feet.

11. Removal of Towers

The applicant shall submit to the Board a Letter of Intent committing the tower facility owner and successors in interest to notify the Zoning Enforcement Officer within thirty (30) days of the discontinuance of use of the tower or facility. This letter shall be filed with the Zoning Enforcement Officer prior to issuance of a permit. Obsolete or unused towers or facilities and accessory structures shall be removed from any site within four (4) months of such notification. Failure to not notify and/or remove the obsolete or unused tower or facility in accordance with these regulations, shall be a violation of this law.

## ARTICLE VI - GENERAL REGULATIONS

### **Section 600: Applicability**

In all zoning districts, the following regulations and standards shall apply whether the use is permitted by right or upon special use permit approval. In the case of special permit uses, these standards and regulations must be reviewed as part of the special use zoning permit approval process. In the case of permitted uses, the Zoning Enforcement Officer is responsible for determining that these regulations and standards are met.

### **Section 605: Signs**

#### **A. Exempt Signs**

A permit shall not be required for the following signs. All other signs require a zoning permit. Exempt signs are subject to the provisions of Section 605.C, General Sign Regulations.

##### **1. Temporary Signs**

- a. **Special Event Signs:** Two temporary special event signs advertising events, activities or other similar instances that will be terminated on a set date. Yard sales, garage sales and similar on-lot sales shall be considered temporary activities and as such, signs advertising these events shall fall under the requirements of this section. Such signs shall be removed at the end of the event by the sponsor of the event or those who placed the sign. Such signs shall not be used more than 60 days a year.
- b. **Real Estate and Construction Signs -** Signs announcing the construction of a project or the sale of lots or buildings. Such signs shall be removed within thirty (30) days of the completion of the construction or the sale of the building or lot.
- c. **Special Sale Signs -** Signs advertising special sales of goods or services shall be removed within thirty (30) days of the end of the sale period. Window signs are exempt from this time limit.

##### **2. Flags**

Official flags of government jurisdictions, including flags indicating weather conditions and flags which are emblems of on-premises business firms; religious, charitable, public, and nonprofit organizations.

##### **3. Plaques**

Commemorative plaques placed by historical agencies recognized by the Town, the County of Jefferson or the State of "New York.

##### **4. Other Exempt Signs**

1. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

2. Signs not exceeding two square feet in area and bearing only property numbers, post office box numbers, or names of occupants of premises.
3. Trespass signs or other signs advising the public of hazardous conditions.
4. Holiday decorations, including lighting, are exempt from the provisions of this local law and may be displayed in any district without a permit for a period of no more than 60 days.

B. Prohibited Signs

The following sign types shall not be allowed at any location within the Town.

1. All portable signs, other than those allowed in the previous Section 605.A.
2. Any sign which has flashing lights.
3. Any sign that does not qualify as an exempt sign under Section 605.A, or does not meet the General Sign Requirements, Section 605.C.

C. General Sign Regulations

1. All signs shall be subject to the following general standards:
  - a. Unless otherwise specified, sign area shall not exceed thirty-two (32) square feet.
  - b. No sign shall exceed 30 feet in height.
  - c. No luminous sign, indirectly illuminated sign, or lighting device shall cast glaring or non-diffuse beams of light upon and public road, highway, sidewalk, or adjacent premises, or otherwise cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall employ any mirror or mirror like surface.
  - d. No signs shall be painted or drawn upon trees, or natural features on the site, or on utility poles, bridges, culverts, towers, unregistered vehicles and watercraft or similar structures.
  - e. Any business, enterprise, institution, or other advertisement entity that ceases operations shall remove their signs, supports, and electrical work within 90 days of such cessation. This provision shall not apply to seasonal businesses which are open at least ten weeks a year.
  - f. In the event a standard established in this law conflicts with another standard in this law, the more restrictive standard shall apply.
  - g. No sign shall project into the public right-of-way without specific written

approval from the authority having jurisdiction over the right-of-way.

**Section 610: Parking**

A. General

If the parking space required by this Law cannot be reasonably provided on the same lot on which the principal use is conducted, the Planning Board may permit through special permit review or the ZBA if the use is a permitted use, by variance, such space to be provided on other off-street property owned by the applicant provided such space lies within 400 feet of the main entrance to such principal use. Either Board shall ensure that such off-street property shall be dedicated to the parking required as long as the principal use remains. [Amended by LL #3 of 2017]

1. A parking space shall not be less than nine (9) feet by twenty (20) feet exclusive of access ways and driveways.
2. Existing uses need not provide additional off-street parking unless the use expands its gross floor area in existence at the time of the enactment of this law, by twenty (20) percent or more.
3. To the greatest extent possible the number of all parking spaces, other than those for dwelling units and dwelling units with a home occupation, shall be based on gross leasable area. Where gross leasable area figures are unavailable, the same standards will be used with the phrase "gross floor area" substituted for "gross leasable area".

4. Minimum standards are:

a. Dwelling Unit (per)	2 spaces
b. Dwelling unit with a home occupation	(1) One space for each two hundred fifty (250) square feet (per) of the floor space devoted to the home occupation in addition to the two (2) residential spaces required.
c. Offices	1 space/250 sq. ft. GLA
d. Retail, small product	1 space/250 sq. ft. GLA
e. Retail, large product	1 space/400 sq. ft. GLA
f. Shopping Centers	
(1) Shopping Center Site	
(sq. ft. GLA)	(Spaces)
25,000-400,000	1 space/250 sq. ft. GLA

400,000-600,000	1 space/225 sq. ft. GLA
600,000+	1 space/200 sq. ft. GLA

(2) Office space occupying greater than ten (10) percent GLA must meet office standards.

g. Facilities with Drive-Up Service Windows

In addition to the required parking for the GLA of the facility, three twenty (20) foot car length waiting spaces for each drive-up window are required. Also, in the event there is more than one drive-up window, there shall be one additional waiting space which may be a common lane for all windows

- h. Public Facilities (churches, municipal buildings) 1 per 4 seats
- i. Funeral Homes 1 per 4 seats
- j. Industrial Facilities 1 per 1.5 employees on the largest shift
- k. Restaurant or Bar 1 per 4 seats

- 5. All fractional portions of parking spaces shall be deleted if the fraction is less than .50; otherwise one additional parking space is required
- 6. Where the use, traffic generation or function of a site is such that the applicant can show that the number of parking spaces is not justified, the Zoning Board of Appeals may modify these requirements.
- 7. Uses not included in this section are required to have adequate parking, according to the evident need. The Zoning Board of Appeals has the authority to require specific numbers of parking spaces for unlisted uses. In doing so, the Board shall use its sound judgment, personal experience, and information gathered through the public hearing process.

B. Off-Street Loading

- 1. All special permitted uses other than dwelling units or dwelling units with home occupations must comply with the following off-street loading standards;

First 5,000 sq. ft. GLA	1 Berth
Each additional 10,000 sq. ft.	1 Berth

- 2. With the exception of funeral homes, each loading berth shall be a minimum of twelve (12) feet wide fifty (50) feet long and fourteen (14) feet in height.
- 3. Loading area berths for funeral homes shall be a minimum often (10) feet wide, twenty-five (25) feet long and eight (8) feet in height.



4. Where the use, traffic generation, or function of a site is such that the applicant can show that the number of berths required is not justified, the Zoning Board of Appeals may modify these requirements.

#### **Section 615: Well and Septic Tank Covers**

All new well covers and septic tank covers shall be made of a substance not subjected to rot or decay (e.g. cement) and have sufficient strength to prevent persons or animals from falling through said covers.

#### **Section 620: Temporary Uses and Structures**

Temporary permits may be issued by the zoning enforcement officer for a period not exceeding one year, for the uses incident to housing and construction projects, including such structures and uses as the storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered for sale, provided such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed upon application to the Zoning Board of Appeals and such renewals shall be reviewed in accordance with Article 5.

#### **Section 625: Drainage**

- A. To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed.
- B. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.
- C. Provisions for storm drainage shall safely retain storm water or adequately carry and discharge accumulated run-off into drainage channels, storm sewers or natural water courses so it does not cause increased damage or increased flooding downstream.
- D. Whenever the Planning Board, in its review of special permit uses, requires an engineered drainage plan, such plan shall be based on, and shall safely accommodate, a 25 year frequency rainstorm. [Amended by LL #3 of 2017]

#### **Section 630: On-Site Sewage Disposal Systems** [Amended by LL #3 of 2017]

- A. All on-site sewage disposal systems shall meet the requirements of New York State Public Health Regulations, 10 NYCRR Part 75, governed by NYS Department of Health.
- B. If a use meets all other requirements of this Law, including dimensional regulations, but does not meet the requirements of 10 NYCRR Part 75, it shall not be permitted.
- C. All septic installations, renovations, and/or additions require a permit from the Code Enforcement Officer prior to the commencement of any work.

- D. To confirm proper system updates, or suspicion of an on-site sewage disposal malfunction, the Code Enforcement Officer shall require a dye diagnostic permit to ensure proper system functionality.

**Section 635: Fences** [Amended by LL #3 of 2017]

Fences which are not regulated in other sections of this chapter are subject to the following requirements. However, fences erected as part of an agricultural use for the confinement or restriction of animals shall not be regulated.

- A. No fences shall be placed closer than 6 inches to an adjacent property line.
- B. Fences shall be constructed of standard construction materials or of materials acceptable to the zoning officer at the time of the fence being built and shall be maintained in a safe condition.
- C. No fence shall exceed 4 feet in height in any yard considered to be a “front yard” or 6 feet in height elsewhere.
- D. In all districts fences over 3 and 1/2 feet in height above street level are not permitted in a triangular area of any corner lots. This area is bound by lines along both streets to points 40 feet from the intersection of the road right-of-way and a line connecting these two points.
- E. On waterfront lots, fences between the building line of the principal building closest to the water and the required building setback from the water front shall not exceed a height of four (4) feet.
- F. On waterfront lots, fences shall not extend between the required building setback and the waterfront unless the fence is open, and does not interfere with the view of the water and in either case, shall not exceed a height of four (4) feet. Open is defined as a fence having open spaces equal to or at least 50 percent of the area of each section. Wood or vinyl panels, wrought iron, or chain link could be used so long as the required openness is met within the required area.
- G. The side of the fence facing away from the fence owner’s property shall have a finished quality.
- H. Fences shall not restrict access of emergency vehicles.

**Section 640: Private Roads and Driveways**

- A. All streets, or street ways that are constructed by private individuals or enterprise, and which are intended to serve the public as a public thoroughfare shall meet highway and street standards as adopted by resolution of the Town Board. Such standards include grade, horizontal curves, right-of-way, width, type of surface, line of sight, tangents, shoulders, driveways, and drainage.
- B. All driveways, residential and commercial, Fire Roads, and Private Roads that are constructed by private individuals or enterprise shall conform to the policies and standards contained in New York State Dept. of Transportation's, "Policy and Standards, For Entrances to State Highways", published and adopted in 1983 as amended from time to time, regardless of whether such driveways enter onto state, county or local roads. A minimum access width of 10’ must be provided for Emergency Vehicles. [Amended by LL #3 of 2017]

## ARTICLE VII - SPECIFIC USE REGULATIONS

### **Section 705: Mobile Homes**

- A. Construction Standards: All Mobile homes shall be constructed in accordance with regulations set forth in the Compilation of Federal Regulations (CFR), Title 24 Housing and Urban Development, Chapter XX Office of Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280 Manufactured Mobile Home Construction and Safety Standards.
- B. Mobile Home Installation:
1. The location and installation of mobile homes in the Town of Lyme shall be in compliance with the New York State Uniform Fire Prevention and Building Code.
  2. Each mobile home shall be installed on a firm base with adequate support for the mobile home.
  3. The mobile home base shall be graded to ensure adequate drainage but in no event shall the difference in grade exceed six (6) inches from one end of the stand to the other.
  4. Each mobile home shall be provided with a stand which shall have a dimension approximately the width and length of the mobile home and any expansions or extensions thereto.
  5. Well anchored tie-downs shall be provided at least on each corner of the stand.
  6. Stands shall be either:
    - a) Ten (10) inches of compact gravel; or
    - b) A full concrete slab at least six (6) inches thick; or
    - c) Six (6) inches of compacted gravel with a reinforced concrete runner on each side of the stand to provide support. Such runner shall be a minimum of four (4) feet wide, equal in length to the mobile home, and six (6) inches thick.
  7. Each mobile home shall be provided with a skirt to screen space between the mobile home and the ground.
  8. Such skirts shall be of permanent material similar to that used in the mobile home and providing a finished exterior appearance.
- C. Mobile Home Additions: All additions (excluding decks, patios, etc.) to mobile homes shall be sided in a material compatible with the siding on the mobile home.

### **Section 710: Shopping Center**

A minimum lot area of three (3) acres shall be required for Shopping Center.

### **Section 715: Hotel/Motel**

Hotel/Motels shall conform to the following requirements:

- A. The minimum land area per establishment shall be 50,000 square feet and the minimum width of the lot at the front building line shall be 200 feet.
- B. No rental structure or part thereof shall be placed closer to any street line than 50 feet or closer to a side property line than 30 feet.
- C. Automobile parking space shall be provided to accommodate not less than one car for each rental unit.
- D. Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet. All sanitary facilities including the waste disposal system and the water supply system must receive written approval from the New York State Departments of Health or Environmental Conservation, as appropriate.
- E. If the rental units are individual structures, each unit is required to have 3,000 square feet of land area.
- F. The minimum distance between structures shall be 15 feet.
- G. The property must be appropriately landscaped, graded, and seeded.

### **Section 720: Mobile Home Park**

- A. Mobile Home Parks shall be subject to the licensing provisions of the Town of Lyme Mobile Home Park Licensing Ordinance.
- B. The park shall be located on a well-drained site suitable for the purpose with an adequate entrance road at least twenty (20) feet wide.
- C. Individual mobile home sites shall have an area of not less than 5,000 square feet with a minimum width of 50 feet and a minimum depth of 100 feet.
- D. The total number of mobile home sites shall not exceed seven (7) per acre.
- E. All individual mobile home units shall be subject to the regulations in Section 705. F. Mobile Home Parks which accommodate 25 or more mobile homes shall provide at least one recreation area consisting of at least eight (8) percent of the gross site area of the mobile home park.

- G. An adequate supply of potable water shall be provided and wastes from showers, toilets and laundries shall be discharged into a suitable sewer system. Plans for the proposed water supply system and sewage disposal system must receive written approval from the New York State Department of Health and Environmental Conservation, and all other applicable agencies.
- H. Refuse shall be disposed of in a manner as required by law.
- I. The park shall keep a record of the name and permanent address of each occupant.
- J. Before the park commences operation, the Zoning Enforcement Officer shall make an inspection of the premises to determine that all requirements of this Law have been complied with and shall issue a certificate of compliance. No use shall be permitted until such certificate has been issued.

#### **Section 725: Quarry**

- A. No excavation of materials shall be located within 50 feet of the front lot line or within 20 feet of a side lot line.
- B. All excavation slopes in excess of 50% shall be adequately fenced, barricaded, signed or protected as determined by the Town Planning Board. [Amended by LL #3 of 2017]

#### **Section 730: Automobile Service Station**

- A. All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed as to require all servicing on the premises and be no closer than 30 feet to the front lot line and no gasoline pump shall be placed closer to any other lot line than 30 feet.
- B. No inoperative motor vehicles shall be kept on the premises of motor vehicle service stations for longer than four (4) weeks unless enclosed within a structure, or placed so that it is not visible from the road or adjacent properties.
- C. All waste material shall be stored within a structure or enclosed within fencing so as not to be visible from adjoining properties.
- D. All waste shall be disposed of in an environmentally safe manner.

#### **Section 735: Junkyards**

- A. Junkyards shall be subject to the licensing provisions of the Town of Lyme Junkyard Licensing Ordinance.
- B. The outside limits of the area used as a junkyard, including any fence or building, shall be located at least 50 feet from any residential, commercial, or institutional structures or lines, and at least 50 feet from any street line.

- C. The Junkyard shall be totally screened by a solid fence, berms, or vegetation, except that not more than two (2) openings, no wider than fifteen (15) feet each, shall be permitted for access.
- D. The premises shall be kept free from rodents or vermin and obnoxious odors.
- E. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard, except as shall be necessary for the transportation of vehicles in the reasonable course of business. All wrecking or other work on such motor vehicles and parts shall be accomplished within the enclosure.

**Section 740: Commercial Campground**

- A. The minimum land area for a campground shall be three (3) acres.
- B. All sanitary facilities, including the waste disposal system and the water supply system, must receive written approval from the New York State Departments of Health, Environmental Conservation or other appropriate State or local departments or agencies.

**Section 745: Satellite Receivers**

- A. The receiver shall be positioned on the lot so as not to obstruct the view of a driver entering or exiting a public or private road, driveway or right-of-way.
- B. Where possible, the receiver shall be positioned on the lot in such a manner as not to hinder the view from adjoining parcels.
- C. When establishing the required setback for a satellite receiver as an accessory structure, the distance shall be measured from the part of the satellite dish closest to the lot line, whether it be the stand, dish, or concrete pad.

**Section 750: Recreational Vehicles**

Purpose: The Town Board of the Town of Lyme recognizes that zoning regulations are necessary in all Districts for the regulation of recreational vehicles, particularly travel trailers, that exists in the town of Lyme. Of special interest is the potential negative impact on neighboring property by the placement of travel trailers whose use is inconsistent with their intended design. This law is intended to provide property owners an alternative to the existing occupancy limitation while providing for standards to maintain neighborhood integrity. This and current law are not intended to restrict the appropriate storage of unoccupied recreational vehicles for which the intended use is off site recreation. Travel trailers may be used only for the purpose for which they were intended i.e. temporary residential occupancy only, not for storage.

- A. Recreational vehicles (see definitions) may be stored unused and without external modifications or additions on a driveway or similar appropriate site while not in use off-site, on a lot with a primary residence and occupied by the real property owner, an on-premises tenant, or an immediate family member of that owner or tenant. RVs which do not meet NYS

motor vehicle inspection are not permitted.

B. This section provides for a Semi-Permanent Residency Permit as pertaining to travel trailers only. It allows for travel trailers, while maintaining mobile status, semi-permanent placement when used as a dwelling unit for seasonal or camping occupancy on a lot with a primary residence. A permit is required only when determination is made by the ZBA, at the request of the ZEO, that a permit is required to maintain health and public safety standards, such as pollution control, and to insure compliance with existing zoning laws including conditions listed below. Restrictions are required to maintain the integrity of neighborhoods by limiting the negative appearance of non-conforming structures. A travel trailer's status as a semi-permanent structure requires that the appropriate structural conditions of travel trailers shall apply and are listed below in addition to additional permit conditions approved by the ZBA prior to ZEO permit issuance. In those cases where a pre-existing condition exists (see definitions) see C) below;

1. One travel trailer, used for semi-permanent residency as an accessory use to a principal building, may be stored outside, on the same lot, as a semi-permanent structure. Ownership must be by the property owner or authorized lessee residing on the real property. Conditions are as follows:
  - a. Occupancy is limited to a cumulative total of 45 days.
  - b. The occupancy is limited for the seasonal period of April 1 to November 30 only.
  - c. Where a permit is required, the application shall include a copy of a registration or title proving ownership and providing identification i.e. make, model and year of manufacture of the trailer.
  - d. Travel trailers which do not meet NYS motor vehicle inspection are not permitted.
  - e. No external modifications or additions shall be made to any travel trailer used as a semi-permanent residency.
  - f. No additional recreational vehicles, used for living quarters, shall be located in any district.
  - g. All applicable requirements including setbacks and septic/water systems of the current zoning law shall apply. The exception shall be where the unit in question shares water, sanitary facilities and electric with the primary residence on which the travel trailer is located.
  - h. Travel trailers shall be permitted with the following procedures below and under the terms and conditions for approval stated in the permit issued.
  - i. A violation of any condition set within Section 750 or set by the ZBA by an approved permit is cause for immediate permit revocation by the ZEO. Revocation is reviewable by the ZBA upon appeal.

2. Permit conditions:
  - a. The permit shall be issued only if neighborhood appropriate by taking into consideration any undesirable change having an adverse effect on the physical, environmental, character, health, safety and welfare of the community.
  - b. Any permit issued is not valid for transfer, i.e. ownership change, nor may it be used for commercial purpose such as rental. (Nontransferable, requires new permit upon change of ownership.)
- C. In those cases where a pre-existing condition (see definitions) exists, as determined in a public hearing by the ZBA, conditions as related to travel trailers that cannot comply with 1989 and subsequent zoning laws, the following shall apply:
  1. Beginning with the implementation of this law a grace period commences and concludes with cessation as follows: A pre-existing nonconforming use or structure (see definition) may be continued, with a Non-Conforming Continuation Permit approved by the ZBA and issued by the ZEO, for a period, beginning at the date authorized by this law and extending to the year 2018 of the same date. After the expiration of said period, any such pre-existing nonconforming use shall become an unlawful use and the permit shall be terminated. The pre-existing condition must have been found valid, at a hearing by the ZBA. For approved pre-existing conditions, at five years, after enactment of this law, in the year 2016, each property owner shall be notified by certified mail, including a required signed return receipt acknowledging receipt that two years remain in the compliance cycle. If the property changes ownership without a change in status of the non-conforming use or structure, the original date of the establishment of the pre-existing condition shall still apply
  2. Changes to the non-conforming preexisting condition may not result in an increase of the non-conforming condition without the loss of preexisting status. See B) i above.
- D. Purpose: It also recognizes that the current zoning laws do not have zoning regulations for limited, area sensitive, single lot residential access and use of property that does not have a primary residence. The purpose of this law is to provide the Town of Lyme a means by which to enable the owner(s) of property to make such singular use of their property by allowing living quarters other than a permanent residence on a seasonal basis.

Individual single lot and single use seasonal residency shall be permitted with the following procedures and under the terms and conditions for approval stated.

1. Procedures:
  - a. A seasonal permit application for seasonal residency shall be made to the Zoning Enforcement Officer (ZEO). Prior approval, by the Zoning Board of Appeals is required, after a public hearing for all permits issued under this law.
  - b. Application shall include a detailed site plan and an application fee assigned by the Town Board of the Town of Lyme. The site plan shall be a drawing to approximate scale showing exact location of all structures, both fixed and



mobile, including front, rear and side setbacks. Proposed and existing water, septic and electrical connections are to be shown in detail. A detailed description and intended use of the area shall be supplied. The vehicle (motor home, travel trailer or fifth wheel travel trailer) shall be described in detail, with year, type, and recent picture. Also required is a copy of the last registration or title showing ownership and year of manufacture.

- c. The site plan will be the basis for which the permit is issued and any changes will require a re-submission and subsequent permit amendment. The purpose of the site plan, considering the transient nature of the occupancy, is to ensure continued compliance with permit terms and conditions.
- d. The seasonal permit is valid for the period, April 1 to November 30 of the current calendar year, and must be renewed annually including an annual fee set by the Town Board of the Town of Lyme.

2. Terms and Conditions for Approval:

- a. The applicant(s) must be the sole owner(s) of record for the lot for which the permit is requested and the sole seasonal resident(s) for which the permit is approved. Multiple residencies are not permitted. Subdivision for purposes of implementation of this law is not permitted.
- b. The permit is issued for the seasonal period of April 1 to November 30 and shall be renewed yearly. The permit is valid for the calendar year issued only.
- c. Approved vehicles include motor home, travel trailer or fifth wheel travel trailer. Vehicles which do not qualify for a New York State motor vehicle inspection sticker are excluded from consideration.
- d. Vehicles are not permitted on the site, for which the permit was issued, during the non-seasonal period (December 1 to March 31).
- e. Suitable provision for water and septic and grey water waste shall be described in detail in the permit application. The issuance of the permit and the ZBA approved method of removal shall be a condition of the permit.
- f. Accessory structures must comply with the current zoning law and shall be detailed in the site plan submitted for the permit.
- g. The permit is not valid for transfer, i.e. ownership change, nor may it be used for commercial purpose such as rental.
- h. The existence of a preexisting condition may be considered in granting a permit.
- i. The permit shall be issued only if neighborhood appropriate by taking under consideration the following criteria which shall be met; the permit shall be

issued only if neighborhood appropriate by taking into consideration any undesirable change having an adverse effect on the physical, environmental, character, health, safety and welfare of the community.

- j. All appropriated articles of the current zoning law apply particularly setback requirements. The seasonal permit setback requirements are by the Single Family Dwelling requirements of tables 405D and 410D. Non-conforming requirements of Section 805 shall apply where applicable.
- k. A violation of any condition, either above or set by the approved permit, is cause for immediate permit revocation.

### **Section 755: Swimming Pools**

No outdoor swimming pool shall be placed closer than 75 feet from the front lot line or closer to a side or rear property line than 25 feet. On a waterfront lot no outdoor swimming pool shall be placed closer than 25 feet to the front property line. If required by State law or regulations, written approval for the installation of swimming pools must be obtained from the New York State Department of Health.

### **Section 760: Manufactured Housing** [Amended by LL #3 of 2017]

All single family dwellings that are manufactured housing shall meet the following standards.

- A. The minimum roof pitch shall be a minimum of 2 1/2 ft. rise over 12 ft. run.
- B. The roof and exterior walls shall have a traditional site-built appearance.
- C. Modular and Manufactured Home that is transported to its site shall also meet the minimum requirements of the NYS Building Code.

### **Section 765: Recreational Vehicle Park**

- A. There shall be a minimum distance of 25 feet between recreational vehicles.
- B. The park shall be located on a well-drained site suitable for the purpose and shall provide an entrance road at least twenty (20) feet wide.
- C. Individual recreational vehicle sites shall have an area of not less than 2,500 square feet.
- D. The total number of recreational vehicle sites shall not exceed fourteen (14) per acre.
- E. Recreational vehicles located in an approved recreational vehicle park shall be exempt from the limitations of Section 750.
- F. Recreational Vehicle Parks which accommodate 25 or more recreational vehicles shall provide at least one recreational area consisting of at least eight (8) percent of the gross site area of the park for use by all patrons of the park.
- G. An adequate supply of potable water shall be provided and wastes from showers, toilets

and laundries shall be discharged into a suitable septic or sewer system. The water supply system and septic or sewer disposal system must receive written approval from the New York State Department of health and Environmental Conservation, and all other applicable agencies.

- H. Refuse shall be disposed of in a manner as required by law.
- I. The park's owner and operator shall keep a record of the name and permanent address of each occupant and allow the Zoning Enforcement Officer access to these records on reasonable notice.
- J. Before the park commences initial operation or before an expanded section of the park commences operation, the Zoning Enforcement Officer shall make an inspection of the premises to determine that all requirements of this Law have been met. If so, the Zoning Enforcement Officer shall issue a certificate of compliance. No use shall be permitted until such certificate has been issued.

## **Section 770: Wind Energy Conversion Systems**

### **1). Permits and Applicability**

#### **A. Permits Required**

1. No WECS shall be constructed, reconstructed, modified, or operated in the Town of Lyme, except in compliance with this Local Law.
2. No WECS shall be constructed, reconstructed, modified, or operated in the Town of Lyme, except in a Wind Overlay District.
3. No WECS Permit shall be issued allowing construction, reconstruction, modification or operation of a WECS, until all other permits as may be required (e.g., FAA, DEC, etc.) have been issued and evidence of same provided.
4. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated, except in compliance with this Local Law.
5. Exemptions. No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for on-site agricultural operations.

#### **B. Applicability**

WECS may be regarded as either a principal or an accessory use. Any existing use or existing structure on a Site shall not preclude the installation of a Wind Energy Facility or a part of such facility on the Site.

### **2). Wind Overlay District, Applications, Reviews, and Standards**

#### **A. Creation of Wind Overlay District**

The Town of Lyme has designated areas for siting WECS and related infrastructure, electrical lines, transmission lines and substations, access roads and accessory structures. It consists of the Wind Overlay District which is defined as follows:

Section 305 of the Zoning Ordinance of the Town of Lyme is hereby amended, adding a new subparagraph 4 – Wind Overlay District.

Section 310 of the Zoning Map is hereby amended and restated as follows:

The boundaries of the above named District are shown on the map entitled “Zoning Map, Town of Lyme” which is by reference made a part of this Law.

B. Applications for Wind Energy Conversion Systems (WECS) – A complete application for a WECS or group of WECS known as a project shall include:

1. APPLICATION: A package containing all of the information required as described below.
2. LOCATION MAP: A section of the most recent USGS Quadrangle Map at a scale of 1:24,000 or similar showing the proposed WECCS Site, associated roadways, transmission lines and the area within two miles from the proposed site boundaries.
3. SITE PLAN: A site plan prepared by a Licensed Land Surveyor, Professional Engineer, Landscape Architect or Architect (as appropriate for the scope of practice and in compliance with New York State Education Law), including:
  - a. A description of the project, including the number of WECS and the power rating of each WECS.
  - b. Property lines and physical dimensions of the site.
  - c. Location, approximate dimensions and types of major existing structures and uses on the site; public roads and properties within 2,640 feet beyond the site boundaries; the Wind Overlay District boundaries.
  - d. Location, GPS coordinates, and elevation of each proposed WECS.
  - e. On-site locations of transmission lines with interconnection points, transformers, and all ancillary facilities or structures.
  - f. Plots of topographic contour lines, roads, rights of way, land cover, wetlands, streams, water bodies and areas proposed to be temporarily cleared of vegetation, areas to be permanently cleared of vegetation, areas of grading, and areas of cut and fill.
  - g. Location of residential structures within the site and their distance from each proposed tower.
  - h. Plans for long-term ingress and egress to the proposed project site, including:

- 1) A description of the access route from the nearest state, county, and/or town-maintained roads to include:
    - i. Road surface material, stating the type and amount of surface cover.
    - ii. Width and length of the access route.
    - iii. Dust control procedures.
  - 2) A road maintenance schedule.
- i. Landscaping plan, depicting existing land features and contours, average height of brush, trees, forest cover and other vegetation, and describing all proposed changes to existing features, the area to be cleared and the specimens proposed to be added, identification by species and size of the specimen at installation, and their locations.
  - j. Construction Access Plan, prepared by a Professional Engineer licensed to practice in New York State, reviewed in advance by the Jefferson County Highway Department, the Town Highway Department, the Chaumont Fire Department, and the Three Mile Bay Fire Dept. The Access Plan should include the following:
    - 1) Identification of all roads, including seasonal roads, and rights of way within the Town to be used for site access during construction, and a plan for marked detours where necessary, so traffic to residences and businesses can continue unobstructed,
    - 2) Estimate of the number of vehicle trips over each road by vehicle type and gross weight.
    - 3) Indicate any areas where clearing of trees, road widening, or realignment is necessary.
    - 4) The engineer shall provide an analysis of potential road damage.
    - 5) A video of the current condition of all roads to be used for construction and long term access.
    - 6) The anticipated staging areas.
    - 7) The execution of a Highway Use Agreement. [Amended by LL #3 of 2017]

The final, approved version of this plan is not expected to be complete at the time of the application submittal. It shall be available prior to final project approval.

- k. A fire protection and emergency response plan must be created in consultation with the fire department(s) having jurisdiction over the proposed site and the Jefferson County Office of Fire and Emergency Management.
- l. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, the 911 emergency notification system, and other wireless communication must be conducted by an independent contractor, following all applicable FCC requirements.
- m. An assessment, pre- and post-installation, must be performed to determine the potential existence of stray voltage problems on the site and on neighboring properties within one mile of the project boundary and to establish mitigating actions.
- n. A geotechnical report must be prepared that includes: soils engineering and geologic characteristics of the site using sampling and testing; a bedrock profile within one mile of the site boundary; information on depth and average flow rates of wells and, with permission by owner, performance of water quality tests for all wells within two miles of the site; grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.
- o. The Town shall require the applicant to deposit funds to cover the amounts by which the Town's customary and reasonable costs of review of the applications exceed the application fees paid by the Applicant. Those costs shall include, but not be limited to, engineering fees, legal fees, and the fees and/or costs of special consultants, as may be required.
- p. Proof of continuous liability insurance in the amount of \$5,000,000 per occurrence with a total policy minimum of \$20,000,000 per year shall be provided. The policy shall be submitted to the Town indicating coverage for potential damages and injury to landowners.
- q. For any financial interest held by a Municipal Officer or employee or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this local law, the Applicant shall disclose in a separate section of the application the Municipal Officer and his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each person. The disclosure shall include all such instances of financial interest of which the Applicant has knowledge, or through the exercise of reasonable diligence should be able to have knowledge, and the format of the submission shall be subject to the approval of the Town Board.
- r. Copies of all applications and proposed plans should be made available to the public within seven days of receipt by the Town Clerk and placed in the Town Library and Town Clerk's office as well as on the Town of Lyme website.

4. ELEVATIONS: A drawing of a WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing is sufficient to depict all WECS of the same type and total height. The make, model, picture and manufacturer's specifications, including noise (in decibels) data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed WECS design.
5. LIGHTING PLAN: Lighting Plan showing and FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure. However, if such determination is not available at the time of the application, no WECS permit for any lighted facility may be issued until such determination is submitted. Lighting shall be directed up and horizontal, minimizing the downward component to the extent permitted by FAA regulations. The Applicant must utilize any methods and equipment allowed by the FAA that minimize the time that the warning lights would be illuminated.
6. STORM WATER MANAGEMENT PLAN: Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, as applicable, and to standards that may be established by the Town of Lyme.
7. CONSTRUCTION SCHEDULE: A construction schedule describing commencement and completion dates, beginning and ending hours of daily construction, a traffic analysis with a description of the routes and times to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles. This schedule shall also include a construction plan detailing the staging processes. The final version of this schedule is not expected as part of the initial application but must be complete prior to issuance of the WECS permit.
8. DECOMMISSIONING PLAN: Decommissioning Plan that includes information required by this law.
9. PROPERTY OWNER LIST: List of property owners, with their mailing address, within one mile of the site boundary.
10. COMPLAINT RESOLUTION: A complaint resolution process that follows the process described in Article V, Section 1 of this law.
11. TRANSPORTATION PLAN: A description of impacts anticipated during construction, reconstruction, modification, or operation of WECS on the local transportation infrastructure shall be prepared. Transportation impacts to be considered shall include potential damage to local road surfaces, road beds, and associated structures; traffic impacts caused by haulers of WECS materials; effects on school bus routes; impacts of visitors to the WECS facilities. Local roads shall include all state, county, and town highways, and village streets, which will or may be used by the applicant. The transportation plan must describe routes used for delivery of project components,

equipment and building materials, and for access to the Site during and after construction. The plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes following construction.

12. EMERGENCY SHUTDOWN PROCEDURES: A description of emergency and normal shutdown procedures.
13. FULL EAF: A Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared for the Wind Energy Facility. If the Board decides the project could have potentially significant environmental impact(s), then an Environmental Impact Statement (EIS) shall be prepared, and at a minimum, shall include the following assessments, studies, reports and/or plans:
  - a. A study of potential Shadow Flicker, including a graphic to identify locations where Shadow Flicker may be caused by the Wind Turbines and expected durations of the flicker at these locations. The study shall identify areas where Shadow Flicker may affect residences and describe measures to be taken to eliminate Shadow Flicker problems. There shall be no Shadow Flicker on off-site properties.
  - b. A visual impact study of the proposed WECS, as installed, shall be prepared that includes digital simulations of views from the following vantages: major roadways, public recreation areas, state parks, wildlife management areas, and residences within one (1) mile of the site boundary. Color photographs of the site depicting pre-construction conditions shall be included. The visual analysis shall also describe exterior treatment of system components and any visual screening to reduce the system's visual prominence.
  - c. An analysis of impacts on local wildlife shall be prepared, describing impacts anticipated during construction, reconstruction, modification or operation of WES. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, and insects), ground inhabiting creatures, and flora. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must include at least two years of pre-construction data. Literature surveys for threatened and endangered species that provide relevant information on critical flyway location and potential impacts of proposed facilities on bird and bat species shall be performed. An impact avoidance or mitigation plan that meets the approval of the NYS DEC must be submitted, including a description of post-installation studies to determine plan effectiveness.
  - d. An assessment must be conducted to determine potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related to excavation, blasting, clear-cutting and grading during the site preparation phase.



- e. An assessment of archaeological, historical, and cultural resources that may be impacted by the project shall be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation and make use of the Town's Comprehensive Land Use Plan to identify local resources and stated priorities.
  - f. Any other issues that result from the SEQRA review must be addressed.
14. **AFFIRMATION:** A statement signed under penalties of perjury that the information contained in the application is true and accurate.
15. **SIGNATURES REQUIRED:** The application shall be signed in the presence of a Notary Public by the Licensee.

C. Application Review Process

1. Applicants are encouraged to have a pre-application meeting with the Planning Board, and with any consultants retained by the Town for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.
2. Twenty paper copies and a digital version in Adobe pdf format of the complete application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission.
3. Zoning Enforcement Officer with the Planning Board shall determine, within 60 days of receipt, or such longer time if agreed to by the applicant and the Planning Board, if all information required under this Article is included in the application. This determination may also require Town-designated consultants, which shall be retained at the expense of the applicant to make a like determination.

If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the application is more than 20% deficient, or there is a significant change in the application, as determined by the Planning Board, such as but not limited to an increase in the proposed number of WECS.

4. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by registered or certified mail with a return receipt requested, to property owners within two miles of the site boundary and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing produced by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

5. Any subsequent public hearing(s) may be combined with public hearings on any Environmental Impact Statement.
6. Notice of the project shall also be given, when applicable, to (1) the Jefferson County Planning Board, if required by General Municipal Law §239-l and §239-m, and (2) to adjoining Towns under Town Law §264.
7. SEQRA review. Applications for Commercial WECS Permits are deemed Type I projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said agencies shall be part of the record of the Planning Board's proceedings. The Town shall require sufficient financial deposit(s) from the applicant to cover the engineering and legal review of the applications and any environmental impact statements before commencing its review. The determination by the Town shall provide a minimum balance that the applicant must maintain with the Town from which the Town shall pay its professional fees for review.
8. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.
9. To the extent that this procedure conflicts within Article V of the Town of Lyme Zoning Ordinance, this Section shall control.
10. If approved, the Planning Board will issue a WECS Permit for each WECS, allowing construction. The Zoning Enforcement Officer will issue a Certificate of Compliance for each WECS, when complete and in compliance with the conditions with the conditions of this local law, allowing operation.
11. If any approved WECS is not fully operational within two (2) years, the WECS Permit shall expire for that WECS only and decommissioning procedures will commence.

D. General Standards for WECS

The following standards shall apply to all WECS:

1. All power transmission lines from the tower to any building or other structure shall be located underground, including all transmission lines and those transiting the Town of Lyme from WECS sited within other jurisdictions.
2. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Zoning Law. Applications may be jointly submitted for WECS and telecommunications facilities.
3. No advertising signs are allowed on any part of the WECS, including fencing and support structures.

4. No tower shall be illuminated except to comply with FAA requirements. Only downward directed security lighting for ground level facilities may be allowed as approved on the site plan.
5. All applicants shall use measures to minimize the visual impact of WECS. All structures in a project shall be finished in a single, non-reflective matte finish. WECS shall be constructed in a manner that provides reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades, or on surrounding property.
6. No WECS shall be installed in any location where its proximity with existing antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the WECS Certificate of Compliance for the WECS(s) causing the interference.
7. All waste including hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all State and Federal rules and regulations.
8. WECS shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top-soil disturbed during construction, reconstruction or modification of WECS shall be stockpiled and returned to the site upon completion of the activity, where possible. When additional soil is required, new soil must be of similar quality to that of the original site.
9. Pursuant to the SEQRA determination, WECS shall be located in a manner that minimizes negative impacts on animal species in the vicinity, particularly bird and bat species, including those that are listed by the U.S. Fish & Wildlife Service as threatened or endangered. Measures to mitigate or eliminate negative impacts will be determined on a case-specific basis.
10. WECS shall be located in a manner consistent with all applicable state and federal wetland laws and regulations, particularly as applied to the Chaumont Barrens and NYS Ashland Flats Wildlife Management Area.
11. Storm water run-off and erosion control shall be managed in accordance with all applicable State and Federal laws and regulations.
12. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to, both inside and outside of agricultural districts.

13. The maximum total height of any WECS, including the upward vertical extent of the blade, shall be 400 feet.
14. Constructions of the WECS shall be restricted to the hours of 7AM through 7PM Monday through Friday. No construction activities shall be permitted on Saturday, Sunday, or Federal holidays. Exceptions may be granted through written request/approval of the Planning Board or, for emergencies, verbal approval from the CEO or Town Supervisor.
15. Underground cables and wires, substations, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows, and/or as near the edge of any fields as possible to minimize disruption to residences, pasture land or tillable land. Following construction, the site shall be graded and seeded and restored to its preconstruction condition. During construction the licensee shall follow best agricultural practices to insure the post construction integrity of the site.
16. WECS shall be located in a manner that minimizes significant negative impact on the historical landmarks and cultural aspects of the community pursuant to the SEQR process.
17. This law supersedes all commercial, industrial, and private agreements affecting any aspect of this law, except as specified in this law.

#### E. Required Safety Measures

1. Fencing may be required to limit public access. Copies of any keys or key codes shall be given to the Zoning Officer who will ensure that other responsible town departments have access including, for example, the fire and police departments.
2. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building containing emergency contact information, including a local telephone number with 24 hour, 7 days per week coverage.
3. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers. Alternatively, the structure must be equipped with a locked anti-climb device.
4. The minimum distance between the ground and any part of the rotor blade system shall be thirty-five (35) feet.
5. WECS shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked. Copies of any keys or key codes shall be given to the Zoning Enforcement Officer who will ensure that other responsible town department have access including the fire and police departments.

6. Copies of all reports concerning operating and safety inspections for each WECS shall be filed with the Town Clerk.

#### F. Traffic Routes

1. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include:
  - a. Minimizing traffic impacts from construction and delivery vehicles;
  - b. Minimizing WECS related traffic during times of school bus activity;
  - c. Minimizing wear and tear on local roads; and
  - d. Minimizing impacts on local business operations.

Permit conditions limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public. This shall be coordinated with the Town Highway Superintendent, and Transportation Supervisor for the Lyme Central School District, in compliance with the provisions of the Agreement for Road Use, Repair, and Improvements.

2. Prior to commencement of construction of the WECS, the applicant shall bring all State Highways, County Highways, Town Highways and Village streets, including seasonal use roads, to the standards applicable to the loads anticipated as set forth by the Jefferson County Highway Department and the Town of Lyme Highway Superintendent and the NYS DOT.
3. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. The escrow agreement shall include an installation guarantee which shall be posted in cash to the escrow account prior to the issuance of any WECS Certificate of Compliance in an amount, determined by the Planning Board, sufficient to compensate the Town for any damage to local roads in accordance with Section 530 of the Town Zoning Law. The Planning Board shall coordinate with the State, County, and Town Highway Departments. The Town Board is responsible for approving and signing the final road agreement.

#### G. Noise Standards for WECS

The Sound Pressure Level shall not exceed 1 and 2 as follows. Permissible Sound Pressure Levels of 1 and 2 shall be modified if the sound includes Prominent Tones.

1. A-weighted SOUND PRESSURE LEVEL shall be less than or equal to 30 dB from the hours of 7:00pm to 7:00am and less than or equal to 35 dB at all other times, measured at the nearest, non-participant SITE BOUNDARY.

2. C-weighted SOUND PRESSURE LEVEL shall be less than or equal to the above values plus 18 dB as measured at the nearest, non-participant SITE BOUNDARY.

#### Sound Measurement Methods.

Sound Measurements shall use sound meters that meet the ANSI Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type I instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. The measurement spectrum shall be 6 Hz to 10 kHz. The testing method shall include the following provisions:

1. The BACKGROUND SOUND is the preconstruction Sound Pressure Level measured during the quiet time for the soundscape under evaluation (typically, between 10pm and 4am) and with test duration of ten continuous minutes. Several contiguous ten-minute tests may be performed in one hour to determine the statistical stability of the sound environment. Measurement periods such as at dusk or dawn when bird or insect activity is high are not acceptable measurement times. Test results are only valid when the A-weighted level exceeded 10% of the time is not more than 10dB above the A-weighted level exceeded 90% of the time during the same period. Furthermore, the C-weighted level exceeded 10% of the time minus the C-weighted level exceeded 90% of the time is not to exceed 10 dB to be valid. The Background Sound levels documenting the preconstruction baseline conditions shall be determined when the 10 minute maximum wind speed is less than 2m/s as measured within 5 m of the microphone and at the microphone height of 1.5 and the atmosphere is considered stable with no vertical heat flow to cause air mixing. Sound measurement points shall be taken between inflection points of the Site survey and at locations nearest residences. For example, a rectangle parcel contains 4 inflection points (the corners) and would result in a minimum of four measurement points, one along each side of the property. A five-sided parcel would have a minimum of five measurements points etc. Measurement points shall be quiet locations remote from streetlights, transformers, street traffic, flowing water and other local noise sources. The background sound may be measured following construction using the above method but with the WECS turned off if, with the consent of the Town, it is determined that the Background Sound level (both A and C weighted) exceeded 90% of the time has increased by more than 3 dB from those measured under the pre-construction nighttime conditions.
2. The SOUND PRESSURE LEVEL during turbine operation shall be measured when the maximum wind speed, sampled within 5m of the microphone and at its height, is less than 4 m/s. The wind speed at the WES blade height shall be at or above the nominal rated wind speed and operating at its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WECS blade height should be selected to as nearly as possible reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s.

#### H. Setback Standards for Wind Energy Conversion Systems.

Each WECS shall conform to the following setbacks:

1. One-half mile (2,640 feet) safety setback from the nearest public road or right of way.
2. One-half mile (2,640 feet) from non-participating property lines and boundaries with neighboring towns.
3. 1,600 feet from any non-WECS above-ground utilities located within the project boundary.
4. One-half mile (2,640 feet) from state-identified parks, wildlife management areas, nature preserves, and wetlands.
5. One mile (5,280 feet) from the current Village of Chaumont boundary and from the Hamlet of Three Mile Bay Lighting District boundary.
6. All WECS shall be setback a minimum of one mile (5,280 feet) from
  - a. Schools and churches
  - b. Public land where people gather (e.g., public access sites, ball fields, cemeteries)
7. One mile (5,280 feet) from NYS Route 12E, the Great Lakes Seaway Trail State Scenic Byway.
8. Two mile setbacks from Lake Ontario, Chaumont Bay, and the Chaumont River.
9. Setbacks resulting from the noise limitations set forth in this law shall apply when more restrictive than the setbacks defined in Sections A through G above.

I. Abatement or Decommissioning

1. If any WECS remains non-functional or inoperative for a continuous period of 12 months, the licensee shall, without further action by the Planning Board, remove said system at its own expense in accordance with the provisions of subsection C of Section 10. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSEDA or by lack of income generation. The applicant shall make available to a designee (i.e. town engineer, consultant, project manager, etc.) appointed by the Planning Board, all reports from the purchaser of energy from individual WECS, if requested to prove the WECS is functioning. Alternately, the applicant may provide an explanation for the extended period of inoperability and the plan for returning the WECS to operation for Planning Board consideration.
2. Decommissioning and Site Restoration Plan and Requirements

An Application for a WECS Building Permit shall include a decommissioning and site restoration plan containing the following information and meeting the requirements in this section.

- a. The Plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of, all WECS and other structures, hazardous materials, and electrical facilities and cables. The plan shall provide for the removal of all access roads that the owners of the Project Parcels want removed. The plan shall provide for the restoration of the Project Parcels to be graded to approximately the original topography.
- b. The Plan shall provide for the decommissioning of the site upon the expiration or revocation of the WECS permit, or upon the abandonment of the WECS. The WECS shall be deemed abandoned if its operation is ceased for 12 consecutive months and the owner/operator is not actively pursuing remedies to restore its operation.
- c. The Plan shall include: (a) estimated decommissioning cost in current dollars; (b) how the estimate was determined; (c) the method establishing the cash or other acceptable forms of funds for decommissioning and restoration; and (d) the method that will be used to keep the decommissioning costs current. The Town Board will make arrangements to ensure the fund amount is adjusted annually to reflect inflation and other cost increases.
- d. The Plan shall include provisions for financial security to ensure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a fund payable to the Town, in cash or other acceptable security as part of the decommissioning agreement in an amount to be determined by the Town for the period of the life of the facility. This fund shall be no less than 125% of the cost of full decommissioning. No credit for salvage value will be given. All decommissioning funding requirements shall be met prior to commencement of construction.
- e. The Plan shall include written authorization from the permit holder and the owners of all parcels within the project for the Town to access the Parcels and implement the decommissioning and site restoration plan, in the event the permit holder fails to implement the plan.
- f. Use of Decommissioning Fund
  - (1) Any non-functional or inoperative WECS, or any WECS for which the Certificate of Compliance has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration plan within 90 days of the date on which the facility becomes non-functional or inoperative, as defined above, or of the Certificate of Compliance revocation date.
  - (2) If removal of the WECS is required and the applicant, or successors, fail to remove the WECS and restore the site in accordance with the approved decommissioning and site restoration plan, the applicant, by accepting the Certificate of Compliance, authorizes the Town to



contract for such removal and restoration and to pay for the removal and restoration from the decommissioning and site restoration fund under the escrow agreement.

- (3) If the fund is not sufficient, the Town shall charge the permit holder for the costs over and above the amount of the fund.

J. Limitations on Approvals; Easements on Town Property

Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation to reduce turbulence and increase wind flow to the WECS other than what was described in the application. Nothing in this Local Law shall be deemed a guarantee against Town approvals of future construction that may in any way impact the wind flow to any WECS. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

K. Permit Revocation

1. Testing Fund. The Certificate of Compliance shall contain a requirement that the applicant fund noise testing by an accredited independent third-party acoustical measurement consultant, which may be required upon request of the Zoning Enforcement Officer to remedy any non-compliance sound issue.
2. Operation. A WECS shall be maintained in operational condition at all times, subject to maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Zoning Enforcement Officer. If the problem cannot be resolved within the required time frame, a request for time extension can be filed with the Planning Board. The request must address the basis for the extension.
3. Notwithstanding any other abatement provision under this Local Law, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular time frame, or (2) order revocation of the Certificate of Compliance for the WECS and require removal of the WECS within 90 days. If the WECS is not removed, the Town shall have the right to use the security posted as part of the Decommission Plan's escrow agreement to remove the WECS.

3). Wind Measurement Towers

A. Wind Site Assessment

Prior to construction of a WECS, an assessment is needed to determine local wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer (“Met”) towers, shall be permitted only in those areas within the Wind Overlay District.

B. Application for Wind Measurement Towers

1. An application for a Wind Measurement Tower shall include:
  - a. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the applications shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
  - b. Name, address, telephone of the property owner. If the property owner is not the applicant, the applications shall include a notarized letter or other notarized written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
  - c. A scale map showing the location of the site within the Town and the property lines.
  - d. The location, approximate dimensions and types of major existing structures and uses on the site, public roads and adjoining properties within 2,640 feet of the tower, and the Wind Overlay District boundaries must be indicated.
  - e. The location, GPS coordinates, and elevation of the proposed tower, and all onsite utility lines, including transformers, the interconnection point with transmission lines, and other ancillary facilities or structures must be indicated.
  - f. The locations of affected rights of way, land cover, wetlands, streams, water bodies and areas proposed to be temporarily cleared of vegetation, areas to be permanently cleared of vegetation, areas of grading, and areas of cut and fill must be indicated.
  - g. Ownership and land use information within a 2640-foot radius of the proposed tower location must be provided. The distance from the center of the tower to all on and off-site residences within 5,280 feet shall be noted.
  - h. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the requirements contained in the current edition of the National Electric Code.
  - i. A Decommissioning Plan and a security bond or cash to cover the cost for removal of the tower.

### C. Application Review Process for Wind Measurement Towers

1. Applicants may request a pre-application meeting with the Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.
2. Twenty copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. The Town Clerk shall transmit the application to the Planning Board.
3. The ZEO and Planning Board with Town-designated consultants, if necessary, shall within 60 days of receipt, or such longer time if agreed to by the applicant and Planning Board, determine if all information required under this Article is included in the application.
4. If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of Wind Measurement Towers proposed is increased or if the application submitted is more than twenty percent incomplete.
5. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within one mile of each proposed Wind Measurement Tower and published in the Town's official newspaper, no less than ten no more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
6. The public hearing may be combined with public hearings on any Environmental Impact Statement.
7. Notice of the project shall also be given, when applicable, to (1) the Jefferson County Planning Board, if required by General Municipal Law §239-l and 239-m, and (2) to adjoining Towns under Town Law §264.
8. SEQRA review. Applications for Wind Measurement Towers are deemed Unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Town will require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.
9. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

#### D. Standards for Wind Measurement Towers

1. The distance between a Wind Measurement Tower and the property line or any structure shall be at least 2 times the Total Height of the tower.
2. Certificates of Compliance for Wind Measurement Towers may be issued for a period of up to thirty (30) months. Permits may be renewed if the Facility is in compliance with the conditions of the Certificate of Compliance, subject to review by the Planning Board.
3. Anchor points for any guy wires for a Wind Measurement Tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.
4. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for WECS projects shall be adhered to both inside and outside of agricultural districts.

#### 4). Miscellaneous

##### A. Complaint Resolution Process

1. The offended party shall first bring their complaint to the Zoning Enforcement Officer. If the Zoning Enforcement Officer finds it to be valid, he will notify the WECS licensee of the complaint. The licensee shall have the opportunity to resolve the complaint. The time frame of resolution will be dependent on the nature of the complaint. The complaints may include, but will not be limited to: excessive noise, flicker or shadow effect, change in water quantity or quality, loss of or diminished telephone, TV, radio reception, interference with a medical device, changes in value to the residence, new or increased presence of radon gas. Should it be necessary for the validity of the complaint to be verified by an outside consultant, the Town will select and employ a firm to do testing, collect data or whatever else may be necessary to determine validity. The funds for payment of these services will come from the established escrow account.
2. The Complaint Resolution Process will apply, but not be limited to, the following categories:
  - a. Shadow Flicker Complaint Resolution Process: When a written complaint is received by the Zoning Enforcement Officer from a non-participant identifying a specific turbine(s) in the wind project with a complaint of shadow flicker, the licensee shall be notified within 72 hours by the Zoning Enforcement Officer. The validity of the complaint must be verified by the Zoning Enforcement officer using outside resources, as necessary. Upon establishment of the validity of the complaint, the licensee must mitigate the violation within 72 hours. If the licensee does not comply, the Town Board may take enforcement as established in Section 930 of this local law.

- b. Setbacks Complaint Resolution Process: When a written complaint is received by the Zoning Enforcement Officer from a non-participant in the wind development project identifying that a setback requirement is noncompliant and is determined by the Zoning Enforcement Officer to be valid, the licensee within 72 hours must correct the non-compliance violation or define a process to resolve the violation. If the licensee fails to comply, the Town Board may take enforcement as established in Section 930 of this local law.
  
- c. Noise/Sleep Interference Complaint Resolution Process: When a written complaint supported by a log listing the times of excessive noise is provided to the Zoning Enforcement Officer from a non-participant alleging noise disturbance from a wind turbine(s), the licensee will be informed of the complaint within 72 hours after receipt of the complaint. The validity of the complaint will be determined by the Zoning Enforcement Officer. The Town may retain an independent acoustic investigation paid for with the funds in the escrow account, as necessary. If the licensee is found to be non-compliant with the Town's wind facilities law noise standards, the violation must be corrected. If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

If the validity of the complaint requires the services of an acoustical consultant, the procedure described below must be followed:

Violations and enforcement shall be determined by measurement without undue timing constraints. The Town will use the services of an outside contractor, as necessary, to determine the violation and associated enforcement actions. The Town's acoustical consultant shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The protocol described below must generally be followed but may be modified as circumstances require by the acoustical engineer provided that modifications generally conform to the protocol.

- (1) Initially a preliminary study shall be conducted for a period of 30 minutes. During the 30 minute period, the equivalent level (LEQ) generated by the noise shall be measured. The measurement shall be on the complainant's property line nearest the noise source. Measurements shall be entirely within the appropriate time period e.g. during the nighttime for nighttime enforcement and the noise source shall operate continuously (if normal operation) during the 30 minute measurement. [Amended by LL #3 of 2017]
  
- (2) If the noise source is intermittent or if the noise is not present at the time of the preliminary enforcement survey, a more extensive and detailed survey shall be undertaken to monitor noise levels over a longer period. The licensee shall fully cooperate with Town officials and

their agents to ensure accurate measurements, including turning the source on and off as required.

- (3) For both types of surveys, the microphone shall be situated between 4 and 4.5 feet above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise floor shall be at least 10 dB below the lowest level measured.
  - (4) A calibrator shall be used as recommended by the manufacturer of the sound-level meter. The fundamental level of the calibrator and the sensitivity of the sound-level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.
  - (5) A wind screen shall be used as recommended by the sound-level meter manufacturer.
  - (6) An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least  $\pm 2$  miles per hour ( $\pm 0.9$  meters per second).
  - (7) For the detailed, long-term study a compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.
  - (8) For all measurements, the surface wind speed, measured at a 1.5 m height, shall be less than 5 m/s.
  - (9) The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacture, model, and serial number. This instrumentation listing shall also include the A-weighted and C-weighted noise floor due to weather or other natural phenomena and the one-third-octave band noise floors, if utilized, for each sound-level meter used.
- d. Electromagnetic/Stray Voltage Complaint Resolution Process: Upon receipt of a written complaint from a non-participant alleging violations associated with electromagnetic interference or stray voltage, the Zoning Enforcement Officer will

provide a copy of the complaint to the licensee within 72 hours. The Zoning Enforcement Officer will determine validity of the complaint. The Town may hire, if necessary, a certified electrical engineer consultant to conduct a stray voltage investigation or electromagnetic interference investigation at the cost of the licensee, to assist in determining complaint validity.

If the complaint is determined to be valid, the licensee shall resolve the problem and return the facility to full compliance with the law within a time period determined by the Zoning Enforcement Officer. If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

- e. Protection of Aquifers, Ground Water and Wells: When a written complaint is received by the Zoning Enforcement Officer from a resident regarding disturbance of an aquifer, ground water or well water, the Town will notify the licensee within 72 hours. The Zoning Enforcement Officer will determine the validity of the complaint. The Town may hire a qualified engineer at the expense of the licensee to verify validity of the complaint. If the complaint is found to be valid, the licensee must make potable water available to the resident(s) immediately and establish a course of action to resolve the complaint. If the complaint is verified and the well is found to contain toxins, the licensee and/or the Town must notify the Department of Conservation (NYS DEC) of the finding. If the circumstance falls under the jurisdiction of the NYS DEC, the NYS DEC will assume responsibility for corrective actions. If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

3. Fees Fees shall be established by the Town Board.

- a. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into Host Community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay engineering and legal costs that are fair, reasonable and customary for the area for application review, including the review required by SEQRA.
- b. The Town Board shall establish fees. [Amended by LL #3 of 2017]
- c. In addition to the amendments being made to the Zoning Ordinance of the Town of Lyme, the Town Board of the Town of Lyme also hereby exercises its right to opt out of the tax exempting provisions of the Real Property Tax Law Section 487, pursuant to the authority granted by Section 487 subdivision 8.

## Section 775: Renewable Energy Systems

### A. Application Requirements

1. No Renewable Energy System (RES) shall be constructed or installed without first receiving a special permit from the Town of Lyme Planning Board. A special permit shall also be required for a major physical modification to an existing RES. [Amended by LL #3 of 2017]
2. The Town of Lyme Zoning Enforcement Officer (ZEO) will provide application forms specific to the RES to be built. The applicant may request a pre-meeting with the ZBA or ZEO or any consultants retained by the PB for the purpose of reviewing the application. [Amended by LL #3 of 2017]
3. The property owner must submit the completed application for a RES special permit to the ZEO. The application must be on a form provided by the ZEO and must include, as a minimum, the following information.
  - a. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
  - b. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
  - c. A description of the project, including the manufacturer, output power rating, technical specifications, and other details of the RES. If the RES is a custom design, a full engineering review performed by a NYS licensed professional engineer with certification in the technical area associated with the RES must be presented with the application. The engineering review must include a certification that the custom design meets all the requirements and standards applicable to a comparable commercially manufactured unit.
  - d. Provide a drawing of the property, indicating property lines and physical dimensions, the location of the proposed RES, and the locations with approximate dimensions of major on-site structures. If applicable, indicate the locations of all on-site utility lines, transformers and other ancillary facilities, and the RES interconnection point.
  - e. For BES and SWECS only, identify public roads, rights of way, and properties within 1250 feet of the property lines on which the proposed RES will be located. Include ownership, land use information, and locations of residences on the identified properties.



- f. If applicable, provide a site map describing land cover, wetlands, streams, water bodies, and areas proposed to be temporarily or permanently cleared of vegetation, areas to be graded, and areas to be cut and filled sufficient to demonstrate that there will be no adverse impact on neighboring properties.
  - g. Provide a description of the system electrical components in sufficient detail to demonstrate that the installation conforms to the most recent version of the NEC electric code requirements.
  - h. For any system with an electrical output capacity equal to or greater than 10kw, provide written certification that the electric utility service provider has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan to connect the system to the electric grid and so states in the application.
  - i. Detailed manufacturer's installation specifications must be submitted with the application to provide the code inspector with sufficient information to ensure conformation with all applicable NYS fire and building codes, all industry and manufacturer requirements, and all requirements of this local law.
4. The ZEO, after a completeness review, will refer the application to the Planning Board for action. [Amended by LL #3 of 2017]
  5. The owner shall conspicuously post the special permit at the construction site until construction and installation of the RES is complete.
  6. The special permit shall lapse if construction does not commence and be substantially complete within one year from date of permit issuance.

#### B. Biomass Energy Systems (BES)

1. Special permit applications must include an engineering analysis demonstrating compliance with the Uniform Statewide Building Code. This analysis may be supplied by the manufacturer. Wet stamps shall not be required.
2. In addition to all other applicable construction codes, the provisions of the applicable, system-specific requirements within NYS DEC Regulation, Part 247: Outdoor Wood Boilers, must be met.
3. BESs must comply with all building and structure setbacks and height requirements for the zoning district in which the system is to be installed. Setbacks shall be adjusted to ensure that there is sufficient distance between the BES and adjacent properties to prevent unhealthy or unpleasant effects from BES emissions on neighboring residences. Emission effects from the BES on adjacent properties can be mitigated in several acceptable ways but not limited to the following: increasing the setback between the BES and the property lines; installing taller smokestacks; installing catalytic converters in smokestacks; incorporating emission-mitigating engineered solutions provided by the manufacturer or other technically qualified firms. The most up-to-date safety standards adopted by New York State at the time of application review shall be used by the

Planning Board in determining the acceptance of BES applications for a special permit. The Planning Board shall exercise judgment in requiring mitigation equipment to ensure that adjacent property owners are sufficiently protected from any harmful effects of BES emissions. Regardless of technology employed, no BES can be sited less than 200 feet away from all adjacent property lines. [Amended by LL #3 of 2017]

4. Current (i.e. at the time of application review) NYS and/or Federal safety standards shall be used by the Planning Board in determining the acceptance of the BES special permit application. Specifically: [Amended by LL #3 of 2017]
  - a. Ensure that the system is sized for its application in accordance with NYS code requirements, in particular, Manual J.
  - b. Indoor units that are “exempt” per NYS Part 247 shall include thermal storage capability acceptable to the PB to ensure system high performance and minimal emissions.
5. All exterior electrical and/or plumbing lines must be buried.
6. BESs must comply with the accessory structure restrictions contained in the zoning district where the system is located.
7. For systems using wood pellets as fuel: Bulk storage facilities for wood pellets shall be located external to habitable dwellings. In cases where this is not possible, a sealed wood pellet storage container shall be used that incorporates its own mechanical ventilation system to prevent carbon monoxide (CO) from entering the home. Exhaust from the ventilation system shall be located such that the CO cannot be entrained in the dwelling or adjacent buildings. CO monitors shall be installed per NYS “Amanda’s Law” for all circumstances in which stored wood pellets could release CO into living quarters.
8. An acceptable waste (combustion products) management plan must be in place at the time of initial BES operation and followed throughout the BES service life.
9. Acceptable operation of a BES will be determined by the CEO using, in part, the definitions and requirements stated in NYS Part 302.6.
10. No commercial BESs are permitted in the waterfront district.

#### C. Small Wind Energy Conversion Systems (SWECS)

1. SWECS systems with an output power rating equal to or less than 50kw are allowed within the Town of Lyme except in the Waterfront District. SWECS applications must include copies of letters sent to the owners of all adjoining properties by the applicant, at least 30 days prior to the submission of an application, informing them of his/her intent to apply for a special permit to construct a SWECS. No more than one SWECS shall be permitted on parcels up to 200 acres. Applications for an additional SWECS on parcels greater than 200 acres shall be considered by the ZBA on a case-by-case basis.

2. Tower height is allowed to vary, dependent on the technology employed, up to a **never to exceed maximum of 125 feet**, including the upward vertical blade length.
3. Setbacks from all property lines shall be maintained as follows:

<u>SWECS Design:</u>	<u>Minimum Setback to Property Line:</u>
Free-standing Tower, Horizontal Or Vertical Axis	5 times tower height
Roof Mounted	Conform to building code

4. Exterior lighting on any structure associated with the SWECS shall be limited to a maximum height of 20 feet above the ground except lighting which is specifically required by the Federal Aviation Administration.
5. The system’s tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and shall have non-reflective finishes on non-painted surfaces.
6. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
7. The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system until damage is mitigated.
8. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower manufacturer’s logo may be displayed on the generator housing in an unobtrusive manner.
9. Towers shall be constructed to restrict unauthorized access. Examples: tower-climbing apparatus located no closer than 12 feet from the ground; locked anti-climb device installed on the tower; other methods subject to CEO approval.
10. The lowest extensions of any horizontal axis wind turbine blade shall be at least 30 feet above any obstacle, in any direction, within 500 feet of the turbine.
11. All SWECS, including tower structures, shall be designed and constructed to comply with pertinent provisions of the Uniform Building Code and National Electric Code under the National Fire Protection Association (NFPA).

12. All SWECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
13. New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be followed both inside and outside of agricultural districts.
14. SWECS shall be designed, installed, and operated so that noise generated by the system shall not exceed 35 decibels, A-weighted (dBA) from 9:00pm to 7:00am and 50 decibels, A-weighted (dBA) from 7:00am to 9:00pm, as measured at the SWECS site property lines.

#### D. Solar Energy Systems (SES)

1. Rooftop and Building-Mounted Solar Collectors are permitted in all zoning districts in the Town of Lyme subject to the following conditions:
  - a. Height limitations shall not be applicable to solar collectors that extend three feet or less above the peak of the roof.
  - b. Rooftop solar units must be set back at least three feet from all roof boundaries.
  - c. Roof structures must be engineered to support the solar collector weight in addition to other weight bearing requirements.
2. Building-Integrated Photovoltaic (BIPV) Systems are allowed in all zoning districts. No separate special permit is required if the system is designed and installed as part of the original construction and the plans are reviewed and approved.
3. Ground-Mounted Racks and Free Standing Solar Collectors mounted on a pole are permitted as accessory structures in all zoning districts, subject to the following conditions:
  - a. Special permits are required for all Ground-Mounted and Free Standing Solar Collectors 10 feet or less in height above the ground. Height above ground is determined by the highest extension of any part of the solar array. For solar arrays that move to maintain optimal exposure to the sun, the highest extension of any array component in any attainable orientation shall serve as the limiting height.
  - b. For residential lots less than or equal to 5 acres, one 100 square foot solar array is permitted for each 10,000 square feet of lot area. For lot sizes greater than 5 acres, one 100 square foot solar array is permitted for each 5,000 square feet of lot area. The total capacity of the solar arrays cannot exceed 125% of the estimated site electrical needs.

- c. The arrays must be installed in accordance with all setback standards applicable to residences.
  - d. Solar systems with an output less than 1 kilowatt do not require any permit.
  - e. Solar arrays mounted on motor-driven mounts that allow optimal orientation toward the sun must meet environmental safety requirements including but not limited to, wind and snow loads appropriate for the local climate. Setback requirements must be met for any and all orientations of motor-driven arrays.
4. Solar-Thermal Systems (roof and building mounted) are permitted in all zoning districts, while ground mounted systems require a special permit prior to installation. [Amended by LL #3 of 2017]
  5. No commercial solar farms are permitted in the WF zoning district, while in the AR zoning district a special permit is required prior to installation. [Amended by LL #3 of 2017]

E. Additional Considerations

1. RESs must be maintained in accordance with all applicable manufacturers' requirements. Failure to abide by and faithfully comply with any and all conditions attached to the granting of the RES permit shall constitute grounds for revocation.
2. The CEO may issue a "Notice of Unsafe Energy System" ("Notice") to the owner of a RES that is determined to be unsafe. The owner shall repair or remove the RES at his/her expense within three (3) months of receipt of the "Notice". The owner has the right to respond, in writing, to the "Notice" within 30 days from receipt. If the owner demonstrates that the RES has been repaired or removed, the CEO shall withdraw the "Notice".
3. Any RES not used for twelve (12) consecutive months shall be deemed abandoned, shall be dismantled, and shall be removed from the property at the expense of the property owner within six months from the declaration of abandonment. If the owner fails to repair or remove the RES, the Town Board shall pursue legal, as necessary.
4. Agricultural structures in a County Agricultural District will be subject to review under this law, as may be modified by NYS Agriculture and Markets guidelines.

F. Fees

The most recent Town of Lyme fee chart will be used to determine charges for renewable energy system applications.

## ARTICLE VIII – NONCONFORMITIES

### **Section 805: Applications**

- A. A nonconforming use may be continued subsequent to adoption of this Law but the structure shall not be enlarged or altered in a way which increases its nonconformity, and use shall not be enlarged or increased to occupy a greater land area.
- B. A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption of this Law.
- C. Nothing in this Law shall be deemed to prevent the strengthening or restoration to a safe condition of any structure declared unsafe by the Zoning Enforcement Officer. However, unless a structure has been declared unsafe by the Zoning Enforcement Officer, a non-conforming structure cannot be rebuilt once it is demolished.
- D. A nonconforming structure or use may not be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located if:
  - 1. It has once been changed to a conforming one.
  - 2. A nonconforming use of a structure or land has ceased for a consecutive period of twelve months or a total of twenty-four months during any three year period.
- E. Nonconformities created by amendments to this law shall be subject to the provisions of this Article.
- F. Non-Conforming Lots. Any non-conforming lot in existence prior to the enactment of this local law and having lot width or lot depth less than the minimum area requirements set forth in this local law may be developed with any permitted or special permitted use listed for the district in which such nonconforming lot is located without requiring a variance provided that such lot:
  - 1. Does not adjoin other property held by the same owner where sufficient land could be transferred to eliminate the nonconformity without reducing such other property to non-conforming dimensions; and
  - 2. Has sufficient area, width and depth to undertake development which will:
    - a. Maintain the required minimum front and rear setback; and
    - b. Meet or exceed at least 1/2 of the required minimum side setbacks; and
  - 3. Otherwise satisfies all applicable provisions of this local law or any other law or ordinance of the Town.

## **ARTICLE IX - ADMINISTRATION AND ENFORCEMENT**

### **Section 905: Zoning Permits**

- A. No building or structure shall be erected or demolished, or use instituted, until a zoning permit for it has been issued. The exterior of any structure shall not be enlarged until a zoning permit therefore has been issued. If a new road or driveway is to enter onto a public road, no zoning permit will be issued until approval for such entry on a public road has been issued by the State or local agency having jurisdiction on said road.
- B. A zoning permit shall not be required for
  - 1. Routine maintenance and improvement (e.g., roofing, window replacement, siding replacement, etc.) that does not expand the exterior dimensions of the structure;
  - 2. Chimneys.
  - 3. Exempt signs.
  - 4. Structures less than 4 feet high and 25 sq. ft. in floor area. [Amended by LL #3 of 2017]
- C. When establishing measurements to meet the required front yards and structure setbacks, the measurements shall be taken from the street lot line to the furthest protruding part of the structure. This shall include such projecting facilities as cornices, eaves, porches, carports, attached garages, etc.
- D. No such zoning permit or certificate of compliance shall be issued for any building or structure where said construction, addition, and exterior expansion or use thereof would be in violation of any of the provisions of this law.
- E. Notwithstanding any other provision of this law, a zoning permit issued under this law shall expire one (1) year from the date of issue if substantial construction is not started. However, a zoning permit issued for the demolition of a building or structure shall require that the site of the demolition be restored to a pre-development appearance, and all construction and demolition debris be properly disposed of within ninety (90) days from the date of issue. Extensions may be granted by the approving authority for the permit if the applicant has shown that good reasons beyond his control were responsible for the delay.
- F. Any use that has been discontinued for a continuous period of twelve (12) months or longer shall be termed abandoned and may not be reinstated without applying for a new zoning permit.
- G. Applications for zoning permits, together with all fees, shall be submitted by the owner of the property involved to the Zoning Officer or Town Clerk and shall include two (2) copies of a layout or plot plan showing the actual dimensions of the lot to be built upon; the size and location on the lot of the structures and accessory structures to be; the distance from the building line to all lot lines, street right-way-lines, streams, and any other features of the lot; and such other information as may be necessary to determine and provide for the enforcement of this law. This

information, and other relevant application data, shall be provided on a form issued by the Town.

- H. Temporary permits may be issued by the Zoning Enforcement Officer, for a period not exceeding one (1) year, in accordance with Section 620. Such temporary permits are conditioned upon agreement by the owner or operator to remove the nonconforming structures or equipment upon expiration of the temporary permit or to bring the use into compliance by a specific time.
- I. Parking lots for places of public assembly and commercial or business uses shall require a zoning permit for placement. They shall meet the requirements of Section 610.
- J. The Zoning Enforcement Officer shall issue annual permits for certain recreational vehicles in accordance with Section 750.

### **Section 910: Certificate of Compliance**

- A. After a zoning permit is issued no structure or land shall be used or occupied until a certificate of compliance has been issued by the Zoning Enforcement Officer stating that the building, structure, or proposed use thereof complies with the provisions of this law and the zoning permit.
- B. All certificates of compliance shall be applied for at the same time as the application for a zoning permit. Said certificate shall be issued after the structure has been inspected and approved by the Zoning Enforcement Officer as complying with the provisions of this law and the zoning permit.
- C. The Zoning Enforcement Officer shall maintain a record of all certificates.
- D. No certificate of compliance shall be issued for a special permit use until all required improvements, such as storm sewer, water supply, sewage disposal, landscaping, traffic controls, sidewalks, curbs, parking, access facilities, etc., have been constructed or installed in accordance with the approved plan, including all conditions the Planning Board or the Town Board may have required in accordance with Article Five. [Amended by LL #3 of 2017]

### **Section 915: Zoning Officer**

- A. This law shall be enforced by the Zoning Enforcement Officer, who shall be appointed by the Town Board.
- B. The B. Zoning Enforcement Officer shall perform the following duties:
  - 1. Zoning Permits.
    - a. The Zoning Enforcement Officer shall approve or deny zoning permits within 30 days of receipt of application.
    - b. If the Zoning Enforcement Officer denies a zoning permit, he will inform the applicant that his decision can be appealed to the Zoning Board of Appeals as well as the reasons for his decision. If requested, he will provide the applicant



with an application for appeal or variance and assist the applicant in preparing it.

- c. The Zoning Enforcement Officer shall revoke a zoning permit where there is false, misleading or insufficient information on the application.

## 2. Special Permits

- a. If a use requires a special permit before a zoning permit can be issued, the Zoning Enforcement Officer must provide the applicant with a special permit application and direct him to the Planning Board. [Amended by LL #3 of 2017]

## 3. Certificates of Compliance

- a. The Zoning Enforcement Officer shall issue certificates of compliance in accordance with Section 910.

## 4. Records and Reports

- a. The Zoning Enforcement Officer shall keep accurate records of all permits issued and denied, and of all other actions taken.
- b. The Zoning Enforcement Officer should attend Planning Board, public hearings upon request and shall make reports to the Planning Board, Zoning Board of Appeals, or Town Board upon request. [Amended by LL #3 of 2017]

### **Section 918: Planning Board** [Amended by LL #3 of 2017]

The Planning Board shall have the power and duties prescribed by NYS Town Law Section 271 and by this Ordinance. Specifically, the Planning Board is hereby granted the authority to administer the special permit process and requirements found within Article V and other pertinent sections of this Ordinance. In addition, the Planning Board may be assigned other specific tasks from time-to-time by the Town Board.

Alternate Members: "The Town Board of the Town of Lyme may appoint (2) alternate members to the Planning Board in accordance with Section 271(15) of the Town Law. Such member shall be appointed by resolution of the Town Board. Alternate members shall be allowed to participate in any absence of regular members or in the event of a conflict of interest. The Chairperson of the Planning Board may designate alternate members to substitute for a member under those circumstances.

When so designated, the alternate member shall possess all the powers and responsibilities of the member for whom they are substituting. Such designation shall be entered into the minutes of the Planning Board meeting at which the substitution is made. Any alternate appointed shall be subject to all training and education, attendance and conflict of interest requirements as regular member and shall also have to meet all other criteria for eligibility.

**Section 920: Zoning Board of Appeals** [Amended by LL #3 of 2017]

A. Powers and Duties: The Zoning Board of Appeals shall have all the powers and duties prescribed by Section 267 of NYS Town Law and by this law, which include the following:

1. Interpretation: Upon appeal from a decision by an administrative official, it will decide any question involving the interpretation of any provision of this law, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.
2. **Variances:** The Zoning Board of Appeals may vary the strict application of any of the requirements of this law as outlined below:
  - a. **Area Variance** - The ZBA shall have the power, upon an appeal from a decision or determination of the enforcement officer, to grant area variances as defined herein.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In doing so, the ZBA shall also consider and weigh the five tests:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- 2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance;
- 3) Whether the requested area variance is substantial;
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the zoning board of appeals, but shall not necessarily preclude the granting of the area variance.

The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- b. **Use Variance** - The ZBA shall have the power, upon an appeal from a decision or determination of the enforcement officer, to grant use variances as defined herein. The ZBA, on appeal from a decision or determination of the enforcement officer shall have the power to grant use variances, as defined herein.

No such use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused an unnecessary hardship. In order to prove such unnecessary hardship the

applicant shall demonstrate to the zba that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- 1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- 2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- 3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- 4) that the alleged hardship has not been self-created.

The ZBA, in the granted of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

c. No variance shall be granted unless it:

- (1) Observes the spirit of this law and would not damage the character of the district in which it is requested; and
- (2) Observes the intent of the general plan.

d. **Imposition of conditions.** The ZBA shall, in the granting of both area variances and use variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

B. **Procedure:** The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the Town. Every appeal of application shall refer to the specific provisions of the law being appealed, shall exactly set forth the interpretation that is claimed, the details of the appeal that is applied for, and the grounds on which it is claimed that the appeal should be granted, as the case may be. A public hearing shall be held for all variance actions or interpretive appeals in conformance with the requirements of Town Law. A decision of the Zoning Board of Appeals must contain findings of fact upon which its decision is based. The reasons for the action may be set forth in minutes of the Zoning Board of Appeals meeting at which the action was taken. A tally of each member's vote shall be recorded. All meetings and hearings of the Board shall be public as provided by the Public Officer's Law.

C. **County Referrals:** Prior to taking action on any matter which would cause any change in the regulations or use of land or building or real property as specified in Section 239-m of the General Municipal Law, the Board shall make referrals to the County Planning Board in accordance with section 239-m of the General Municipal Law.

If within thirty (30) days after receipt of a full statement of such referred matter, the County Planning Board disapproves the proposal or recommends modification thereof, the Zoning

Board of Appeals shall not act contrary to such disapproval or recommendations except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. The Chairperson shall read the report, if available, of the review. If the County Planning Board fails to report •within such period of thirty (30) days, or such longer period as may have been agreed upon by it and the County Planning Board, the Board may act without such report. The Zoning Board of Appeals shall notify the County Planning Board of its final action within seven (7) days of such final action.

- D. **Alternate Members:** "The Town Board of the Town of Lyme may appoint (2) alternate members to the Zoning Board of Appeals in accordance with Section 267(11) of the Town Law. Such member shall be appointed by resolution of the Town Board. Alternate members shall be allowed to participate in any absence of regular members or in the event of a conflict of interest. The Chairperson of the Zoning Board of appeals may designate alternate members to substitute for a member under those circumstances.

When so designated, the alternate member shall possess all the powers and responsibilities of the member for whom they are substituting. Such designation shall be entered into the minutes of the Zoning Board of Appeals meeting at which the substitution is made. Any alternate appointed shall be subject to all training and education, attendance and conflict of interest requirements as regular member and shall also have to meet all other criteria for eligibility. (Adopted by Resolution 2007 — 76)

#### **Section 925: Fees**

All applicants for any permit, approval or variance under this Local Law are required to pay a fee to cover the administrative expenses of the Town. Failure to pay such fee shall be deemed a violation of the Local Law.

All applications for any approval, permit, or variance shall be accompanied by a cash deposit, certified check or surety bond payable to the Town of Lyme in an amount determined by:

- A. Supervisor for all applications requiring the Town Board's approval or other action;
- B. Chairman of the Planning Board, for all applications requiring the Planning Board's approval;
- C. Chairman of the Zoning Board of Appeals for all applications requiring such Board's approval or decision.
- D. Zoning Officer for matters requiring his approval or action. Such amount shall include his anticipated actual charges to the Town for reviewing the application.

The Supervisor, Chairman of the Planning Board, Chairman of the Zoning Board of Appeals, and Zoning Officer, as the case may be, should obtain estimated expenses from the Town Engineer, Town Attorney, and Town Clerk and Town Zoning Enforcement Officer prior to setting the amount of the cash deposit, certified check or surety bond required of each applicant.

The Supervisor, Chairman of the Planning Board, Chairman of the Zoning Board of Appeals or Zoning

Officer, as the case may be, may require additional security for the Town's administrative expense, in accordance with the provisions of this section, in the event that the Town's potential liability for such expense exceeds the initial amount deposited.

Upon completion of the latter of:

- A. Final approval, or rejection of, any application or approval, or
- B. Final approval of any and all completed improvements and submission of all final bills to the Town for its administrative expenses incurred as a result of the applicants proposed plan, all unused funds or proceeds from a surety bond shall be refunded to the applicant.

### **Section 930: Violations and Penalties**

- A. Failure to obtain a zoning permit or special permit prior to initiating a project which requires such a permit by the zoning law constitutes a violation. [Amended by LL #3 of 2017]
- B. Failure to obey an order from the CEO constitutes a violation and if a property owner fails to comply with a properly issued order of such an official, a separate violation exists. [Amended by LL #3 of 2017]
- C. Whenever a Town Official or aggrieved resident complains of a zoning violation or the Zoning Enforcement Officer notices a violation, the Zoning Enforcement Officer shall conduct an inspection. If an apparent violation exists, as determined by the Zoning Enforcement Officer, the Zoning Enforcement Officer shall issue a Stop Work Order and Notice to Correct Violation, which shall inform the landowner of the nature of the violation and require that the landowner comply with this law within fourteen (14) days.

Failure to comply shall be deemed a separate violation. The filing of a timely appeal to the zoning board of appeals stays enforcement of the order from the Zoning Enforcement Officer and stays prosecution in the justice court.

- D. If the violation continues, it is an offense punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

The Town may appear in Court and prosecute all violations by an Attorney retained by the Town, with the consent of the District Attorney.

- E. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel

compliance with or restrain by injunction the violation of this Law.

**Section 935: Amendments**

- A. The Town Board may from time to time amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing. If applicable. General Municipal Law Section 239-m must be complied with prior to taking any action on a proposed amendment. The Town Board, by resolution, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as required by Town Law.

**Section 940: Interpretation and Severability**

- A. Interpretation: Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare: Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.
- B. Severability: Should any section or provision of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**Section 945: Effective Date**

The provisions of this law shall take effect upon filing with the Secretary of State and upon complying with NYS Town Law Section 264.