



Yates County Planning Board Referral Form

Referral # 2019-02
County Use Only

Date Received 12-20-18

Revised 4/2017

Municipality and Referring Agency Town Board - Town of Italy

Project Address None Project Tax Map # N/A

Zoning District Entire Town

Applicant (Name & MAILING) Town Board - Town of Italy 6060 Italy Valley Rd.
Naples, NY 14512
Email _____

Property Owner (Name & MAILING) _____
Email _____

Reason for Referral (Prox. to Cty Rd., State Rd., Muni Boundary, etc.) GML 239-m- zoning code
amendment

Application Type

Project Description

- Area Variance
- Use Variance
- Special Use Permit
- Site Plan
- Subdivision
- Text Amendment
- Map Amendment
- Other

Zoning code will be amended to repeal
provisions related to scenic protection
overlay districts; establish zoning
districts; add definition of commercial
kennel

Supporting Documents Required (IF N/A, include explanation)

- Municipal Application
- Tax Map or Plat
- SEQR
- Site Plan *
- Variance Criteria **
- Subdivision Plat For Subdivision Referrals Only
- Other text amend.

proposed zoning map attached

*If Site Plan Review, Site Plan **MUST** be detailed and meet the municipal requirements.

All Variance referrals (Area/Use) **MUST include detailed justifications associated with reason/s for appeal.

Certification: *With the following signature I certify that this application provides a complete description of the proposed local action and is a complete application pursuant to NYS General Municipal Law Article 12b, Section 239-m, part c.*
ED BROCKMAN (ESR) - DEL, Referring Official



Provision of required information is the responsibility of the referring agency. Failure to provide such information may result in a significant delay in processing.

Submit To: Yates County Planning Department, dlong@yatescounty.org or 417 Liberty St. Suite 1093, Penn Yan, NY 14527

EDWARD J. BROCKMAN
ATTORNEY AND COUNSELOR AT LAW
159 South Main Street, PO Box 457
Naples, New York 14512
Phone (585) 374-6343

December 28, 2018

Yates County Planning Board
c/o Yates County Planning Department
417 Liberty Street
Penn Yan, New York 14527

**Re: Town of Italy – General Municipal Law §239-m Referral: Proposed Local Law
Amending the Zoning Chapter of the Code of the Town of Italy**

To Whom It May Concern:

Pursuant to motion by the Town Board and at the direction of the Town Clerk of the Town of Italy, we enclose herewith the proposed Local Law amending the Zoning Chapter of the Code of the Town of Italy, for review by the Yates County Planning Board. This referral is made pursuant to §239-m of the General Municipal Law of the State of New York.

Also enclosed is a §239-m Referral form. The Town Board determined this action to be a “Type I” and therefore an FEAF is enclosed.

In the event that you request further information or documentation please advise us accordingly.

Sincerely,



Edward J. Brockman

Enclosure
Margaret Dunn, Supervisor

Revised to 12/27/18

Local Law Filing NEW YORK STATE DEPARTMENT OF STATE 162 WASHINGTON AVENUE,
ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

TOWN OF ITALY

Proposed LOCAL LAW OF THE YEAR 2018 amending the Zoning Chapter of the Code of the Town of Italy for the purpose of the adoption of a modified zoning map for the Town of Italy, the adoption of a description of the “Hamlet District” and “Lakeshore Residential District” as well as deleting all references to the “Scenic Protection Overlay District (SO)”.

Be it enacted by the Town Board of the Town of Italy as follows:

Section 1: Short Title.

This Local Law shall hereafter be known as the “Italy Zoning Chapter Amendment No. 1 of 2019”.

Section 2: Legislative Intent.

The purpose of this Local Law is to continue to promote a clear and secure base for future economic development that would provide employment and a growing tax base. It also seeks to continue to preserve and protect the health, safety and general welfare of the Town’s residents and the quality of the rural environment in the Town of Italy.

Section 3: Legislative Authority.

This Local Law is enacted pursuant to the provisions of the Municipal Home Rule Law (MHRL) of the State of New York and Article 16 of the Town Law of the State of New York, with the procedural provisions of the MHRL controlling the adoption hereof.

Section 4: Provisions.

The following paragraphs and/or sub-sections of the indicated sections of Chapter 350, “Zoning”, of the Code of the Town of Italy are added, deleted or amended as indicated:

I. ARTICLE II, §350-3 “Definitions” is amended by deleting the term “Scenic Environmental Areas.” and the definition thereof.

II. The definition of “Kennel, Commercial” in Article II, §350-3. “Definitions” is amended in full to provide as follows:

“Kennel, commercial – Any place or facility where more than four dogs over the age of four months are kept for the purpose of breeding and selling such animals; or where the business of boarding dogs not owned by the owner or occupant of the property is conducted for compensation.”

III. Paragraph "A" Establishing of Districts." is amended by deleting the "Scenic Protection Overlay District (SO)".

IV. Paragraph "B" of §350-8. "Establishment of Districts" is amended by adding the following at the end of the existing language:

Except where zoning districts are more precisely described in this Chapter the zoning map shall be the prevailing determination of zoning district boundaries.

V. §350-9. "District Boundaries." is amended in full by deleting the existing provisions and replacing those provisions with the following:

§350-9. District Boundaries

- A. All tax map parcel numbers referenced in §350-9.1 are as identified on the 2016 Assessment roll and Tax map.
- B. A zoning map depicting the districts defined in §350-9.1 may be drawn for the purpose of picturing said districts. All determinations of district boundaries, however, shall be made in reference to the definitions in §350-9.1 and not by sole reliance on the zoning map.
- C. In the case of any single lot that includes portions located in more than one zoning district, the zoning district regulations of each zoning district, both with regard to use and with regard to area requirements, shall be applied to any development proposed within each respective portion of the lot. In the event, however, that the proposed development would be located in part in one zoning district and in part in another, such that the improvements overlap the zoning district boundary, the more restrictive regulations of the two (or more) zoning districts in which the improvements will be located shall govern the development of such improvements as a whole.

VI. The following is added to the Zoning Chapter as part of Article III. "Applicability.":

§350.9.1 District Descriptions:

A. Agricultural/Residential District (AR):

Alllands in the Town of Italy not designated as contained within the Hamlet District (HD), the Lakeshore/Residential District (LS) or the Conservation/Public Lands District (C).

B. Lakeshore Residential District (LS):

Commencing at the northern boundary line of a parcel of land identified as parcel No. 43.38-1-1; thence southerly encompassing all parcels bordering the eastern shore of Canandaigua Lake so far as the southern boundary line of a parcel of land identified as parcel No. 43.54-1-6

C. Hamlet District (HD):

COMMENCING at the point of intersection of the centerline of Italy Valley Road with a straight line extension to the south of the westerly boundary line of a parcel of land identified as No. 80.01-1-6.2;

thence northerly along the westerly boundary line of said parcel No. 80.01-1-6.2 so far as a point which is a distance of 250.00 feet from the centerline of Italy Valley Road as measured perpendicularly from said centerline of Italy Valley Road;

thence northeasterly on a line parallel to and always 250.00 feet distant from the centerline of Italy Valley Road as measured perpendicularly thereto, so far as the southwesterly boundary line of a parcel of land identified as No. 68.03-1-15;

thence southeasterly along the southwesterly boundary line of said premises identified as parcel No. 68.03-1-15 and a straight line extension thereof so far as the centerline of Italy Valley Road;

thence northeasterly along the centerline of Italy Valley Road so far as a point at the intersection thereof with a straight line extension to the northwest of the southwesterly boundary line of premises identified as parcel No. 80.02-1-12.1;

thence southeasterly along the straight line extension to the northwest of the southwesterly boundary line of said premises identified as No. 80.02-1-12.1 and the southwesterly boundary line of said premises so far as a point a distance of 250.00 feet from the centerline of Italy Valley Road as measured perpendicularly from said centerline of Italy Valley Road;

thence southwesterly on a line parallel to and always 250.00 feet from the centerline of Italy Valley Road so far as a point where such line would intersect a further line parallel to and always 250.00 feet easterly from the centerline of Martin Road measured perpendicularly thereto;

thence southerly along such line which is parallel to and always a distance of 250.00 feet easterly from the centerline of Martin Road measured perpendicularly thereto so far as a straight line extension to the east of a line which is parallel to and always 250.00 feet southerly from the centerline of Weatherby Road as measured perpendicularly thereto;

thence westerly along such line which is parallel to and always 250.00 feet southerly from the centerline of Weatherby Road as measured perpendicularly thereto, so far as the easterly boundary line of premises identified as No. 80.39-1-1.1;

thence southerly along the easterly boundary line of said premises identified as parcel No. 80.39-1.1 and a straight line extension thereof to the south so far as the centerline of the Italy Turnpike;

thence westerly along the centerline of the Italy Turnpike so far as the intersection of a straight line extension thereof to the west with the centerline of Italy Valley Road;

thence westerly along the centerline of Italy Valley Road so far as the point and place of beginning.

D. Conservation/Public Lands District (C)

All State, County, and other public and private lands designated for the purposes of natural preservation, wildlife and forest management, and public recreation, including but not limited to, High Tor Wildlife Management Area and Italy Hill State Forest.

VII. Paragraph "B" of §350-33. "Lot area and yard requirements," is amended by deleting therefrom the following last sentence:(see also Article VIII, Scenic Protection Overlay District.)"

VIII. Article VIII. "Scenic protection overlay district", including: §350-37. "Purpose"; §350-38. "Designated scenic areas and scenic viewsheds.";§350-39. "Maps";§350-40. "Delineation and interpretationof scenic area of view shed boundaries.";and §350-41. "Site plan review required."is deleted in its entirety.

IX. The preamble (introductory paragraph) to §350-44. "Uses allowed by special use permit", is amended to provide as follows:

The following uses [Subsections A through D] are permitted in the Agricultural/Residential (AR) District (as depicted on the Town of Italy Official Zoning Map) in the Town of Italy, subject to site plan review and the receipt of a special use permit in accordance with the applicable sections of this Chapter.

X. Paragraph "C" of §350-44. "Uses allowed by special use permit" is amended to provide as follows:

Non-dish-type private TV reception antennas and/or private communication antennas (short wave, etc) with a height greater than sixty (60) feet from grade.Antennas of less than sixty (60) feet in height do not require a special use permit.

XI. Subparagraph "(3)" of paragraph "A. Area restrictions". of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers" is amended to provide as follows:

(3)Maximum tower height shall be 330 feet.

XII. Subparagraph "(3)" of paragraph "C.Special use permit standards." of §350-46."Regulating of commercial communication, transmission, broadcast and cellular communication towers." is amended to provide as follows:

(3) The installation and use of such a facility is prohibited in the event that any adverse impact will be caused to the use, enjoyment and/or value of neighboring properties.

XIII. Subparagraph "(3)" of paragraph "D. Special use permit standards." of §350-47. "Regulating the installation of residential, agricultural and commercial wind turbines." is amended to provide as follows:

(3) The installation and use of such a facility is prohibited in the event that any adverse impact will be caused to the use, enjoyment and/or value of neighboring properties.

XIV. Paragraph "I. Scenic viewshed impact" of §350-47. "Regulating the installation of residential, agricultural and commercial wind turbines." is deleted in its entirety.

XV. Subparagraph "(1) Maximum tower height limit." of paragraph "K. Specifications." of §350-47. "Regulating the installation of residential, agricultural and commercial wind turbines" is amended to provide as follows:

(1) Maximum Tower Height Limit. Maximum height limit shall be no greater than: 140 feet for residential wind turbines; 140 feet for agricultural wind turbines; 140 feet for commercial wind turbines (measured to the tip of the rotor blade at its most vertical position).

XVI. Paragraph "D" of §350-53. "Special use permit standards." is deleted in its entirety.

XVII. §350-59. "Scenic and viewshed impact" is amended to provide as follows:

Final determination of permissible facility height and location on the lot shall be determined by the Planning Board/Zoning Board of Appeals as part of the special use permit and site plan review.

XVIII. Subparagraph (1) of paragraph "A. Criteria for granting special use permits" of §350-74. "Special Use Permits." is amended to provide as follows (subparagraphs (a)-(g) of subparagraph (1) are neither amended or deleted):

(1) Where authorized by this Chapter, the Planning Board/Zoning Board of Appeals shall hear and decide upon applications for special use permits. As required by New York State Town Law §274-b, a public hearing shall be held. In addition to applying standards that are set forth in Articles IX, X, XI, and XII hereof the Planning Board/Zoning Board of Appeals, in its deliberations with regard to the granting of any special use permit, shall make the following determinations: (sub-paragraphs (a)-(g) are neither amended or deleted)

XIX. Subparagraph (19) of paragraph "A" of §350-77. "Site plan information required." is amended to provide as follows:

(19) The location of all designated Town open space, land owned by the Town, County or State and/or other similar type lands within or adjacent to the property, as defined by this Chapter and/or set out on the Town of Italy Official Zoning Map.

XX. Subparagraph (1) of Paragraph "B." of §350-77. "Site plan information required." is amended to provide as follows:

(1) A separate area map showing existing roads and highways adjacent to the project site, and including buffer areas and any Town zoning district boundaries located within five hundred (500') feet of the site perimeter as shown on the Town of Italy Official Zoning Map.

XXI. Paragraph "I." of §350-78. "Review criteria." is amended by deleting "The following uses [Subsections A through D] are permitted in Agricultural/Residential (A/R) Districts (as set out on

the Town of Italy Official Zoning Map) in the Town of Italy, subject to site plan review and the receipt of a special use permit in accordance with pertinent sections of this Chapter.

XXII. Paragraph "J" of §350-78. "Review criteria." is amended to provide as follows:

J. The permanent impact that the proposed development may have on existing views by that development requiring any daytime white strobe or nighttime red flashing illumination/marker aviation warning lights.

XXIII. Paragraph "K" of §350-78. " Reviewcriteria." is amended to provide as follows:

K. The proposed use is compatible with the character of land uses in the surrounding area and will not adversely impact the existing or anticipated future character of the surrounding neighborhood including viewsheds.

XXIV. Paragraph "B" of §350-44. is deleted in its entirety.

XXV. Paragraph "A" of §350-45. is amended to provide as follows:

A. Any facility, other than those described in of §350-46 of this Chapter, which exceeds 140 feet in height and all down-wind design wind turbines are prohibited in the Town of Italy.

XXVI. Subparagraph (1) of paragraph "A. Area Restrictions" of §350-46. Regulating of Commercial Communication, transmission, broadcast and cellular communication towers" is amended provide as follows:

(1) Tower placement. Towers may be erected only in the AR District as defined on the Town of Italy Official Zoning Map or otherwise herein.

XXVII. (a) of subparagraph (2) of paragraph "D. Maintenance of existing facilities". of §350-46. Regulating of commercial communication, transmission, broadcast and cellular communication towers." is amended to provide as follows:

(a) Existing facilities may be repaired and maintained without restriction, including like-for-like upgrades, subject to approval by the CEO. However, any modifications to any such facility, whether or not incidental to repair or maintenance, which may result in a change in the surface, subsurface, or air space occupied by such facility, including any device used in connection with same, shall be subject to the provisions of this Chapter, including the requirement of a special use permit. In addition, any and all modifications, additions, deletions or changes to wind turbines that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such wind turbines or becomes necessary as result of natural forces, such as wind or ice.

XXVIII. (b) of subparagraph (3) of Paragraph "D. Maintenance of existing facilities" of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers". is deleted in its entirety.

XXIX. Subparagraph (1) of paragraph "E. Registration and reporting" of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers". is deleted in its entirety.

XXX. Subparagraph (2) of paragraph "E. Registration and reporting" of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers". is amended by being re-designated by deleting the subparagraph designation of (2).

XXXI. Subparagraph (2) of paragraph "I. Notice and safety considerations." of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers". is deleted in its entirety.

XXXII. Subparagraph (1) of paragraph "J. Certification." of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers". is deleted in its entirety.

XXXIII. Subparagraphs (2) and (3) of paragraph "J. Certifications." of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers" are deleted in their entirety.

XXXIV. Subparagraph (4) of paragraph "J. Certifications." of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers". is deleted in its entirety.

XXXV. Subparagraphs (4) - (6) of paragraph "K. Miscellaneous provisions." of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers" are deleted in their entirety.

XXXVI. Subparagraphs (7) - (8) of paragraph "K. Miscellaneous provisions." of §350-46. "Regulating of commercial communication, transmission, broadcast and cellular communication towers" are re-designated as subparagraphs (4) and (5) respectively.

XXXVII. Paragraph "N. Miscellaneous provisions." of §350-47. is amended to provide as follows:

Wind turbine repair and modification. (a) Existing facilities may be repaired and maintained without restriction, including like-for-like upgrades, subject to approval by the CEO. However, any modifications to any such facility, whether or not incidental to repair or maintenance, which may result in a change in the surface, subsurface, or air space occupied by such facility, including any device used in connection with same, shall be subject to the provisions of this Chapter, including the requirement of a special use permit. In addition, any and all modifications, additions, deletions or changes to wind turbines that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such wind turbines or becomes necessary as result of natural forces, such as wind or ice.

XXXVIII. Subparagraph "(4) of paragraph "A" of §350-77. "Site plan information required" is deleted in its entirety.

XXXIX. Subparagraphs (5) – (20) of paragraph “A” of §350-77. “Site plan information required” are redesignated as subparagraphs (4) through (19) respectively.

XXXX. Paragraph “A. of §350-90. Extractive industry standards.” is amended in full to provide as follows:

A. Extractive operations not governed by New York State Department of Environmental Conservation (NYSDEC) regulations shall meet all development and performance standards of this Chapter and all applicable local, state and federal regulations.

XXXXI. Paragraph “B. Extractive industry standards.” of §350-90. is amended in full to provide as follows:

B. Existing operations extracting fewer than 1000 tons or 750 cubic yards of material in any twelve (12) month period are exempt from the provisions hereof.

Section 5.: Severability Clause.

If any section, paragraph, subdivision or provision of this local law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid, and the rest of this Local Law shall remain valid and effective.

Section 6: Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board of the Town of Italy.