

Public Notice
Lee Planning Board
7 Mast Road
Lee, NH 03861
603-659-6783

The Town of Lee Planning Board will conduct a public hearing on Thursday, January 12, 2017 at 7:00 pm at the Public Safety Complex, 20 George Bennett Rd, Lee NH on proposed Zoning Regulations amendments and Building Regulation amendments.

In summary, the proposed zoning regulations are updating the existing sign ordinance and accessory dwelling unit regulations to be in compliance with recent legislation changes.

In summary, the proposed building regulation changes are amending definitions to be consistent with staff; clarifying what projects need permits; addressing expired permits; reducing the well to septic system setback for new home construction to consistent with the State of NH; all septic systems to be designed to the State of NH regulations; updating various codes and other minor changes.

A complete list of all changes are available in the Planning, Zoning and Building Inspectors office as well as at www.leenh.org.

You are invited to appear in person or by representation of agent of counsel and state reasons why these applications should or should not be approved. Application information is on file at the Office of Planning & Zoning located at the Lee Town Hall.

POSTED AT THE LEE TOWN HALL AND THE OFFICE OF PLANNING & ZONING,
ON TUESDAY, DECEMBER 27, 2016 AT 12:00 NOON.

ADVERTISED IN THE FOSTERS DAILY DEMOCRAT.

BUILDING REGULATIONS ORDINANCE

TOWN OF LEE, NEW HAMPSHIRE

MARCH 11, 2017~~08~~

ARTICLE I

AUTHORITY AND PURPOSE

Pursuant to the authority conferred by Chapter 156, re-codified chapter 674:51 New Hampshire state statutes, the Town of Lee, New Hampshire State Statutes, the Town of Lee Hereby adopts in official town meeting of March 13, 1956 and as revised in town meeting on March 14, 1991, March 1992, March 1993, March 1994, March 1995, March 1996, March 1999, March 14, 2001, March 8, 2005 and March 11, 2008 the following ordinance.

The purpose of this ordinance is to provide minimum building standards for any construction within the Town of Lee in order to promote the general welfare of the town; to protect the health and safety of its residents; to conserve the value of land; to control water and groundwater pollution; to conserve shore cover, and to protect wildlife habitat.

ARTICLE II

DEFINITIONS

Abutter- Shall mean any person whose property adjoins or is directly across the street or stream from the land under consideration.

Abandonment- The visible or otherwise apparent intention of an owner to discontinue the use of a building or premises or the removal of a characteristic equipment or furnishings used in the performance of any nonconforming use without its replacement by similar equipment or furnishings. Abandonment of over one year requires the replacement with a conforming use under local ordinance.

Accessory Dwelling Unit – Shall mean a separate dwelling unit which is contained within a single family residence on a conforming lot. Such unit shall have no more than two (2) bedrooms and shall be no larger than eight hundred square feet (800 sq. ft.) square feet. The primary unit shall be owner occupied.

Accessory Use or Structure- A use or structure subordinate to the primary or principal use or structure on the same lot and serving a purpose customarily incidental to the principal use or structure.

Aquifer A geological formation composed of rock or sand and gravel that contains significant amount of potentially predictable potable water as identified on the zoning map for the Town of Lee, New Hampshire, as the Aquifer Conservation District.

Alteration As applied to a building or structure shall mean a change or rearrangement in the structural parts of facilities other than repairs that would affect safety, size, wiring, ventilation, heating or plumbing.

Buffer Zone Denotes the area between the building site and the property lines as required by ordinance. This area must not be denuded or defaced and may not include any man-made structures, or paving including the storage of materials.

Building -Any structure used or intended for supporting or sheltering use or occupancy.

Building Height – The vertical distance measured from the lowest point of grade to the mean between the lowest eave and the ridge of the building not to include chimneys or antennas or other non habitable space.

Building Inspector – The officer for the Town of Lee charged with the authority of enforcing and administering these codes, may also be called a Code Enforcement Officer. ~~He may also be the Code Enforcement Officer.~~

Building Permit – Issued by the Building Inspector to the property owner following a review of all building plans according to the terms of this ordinance which allows on site construction to proceed.

Building Site – The area occupied by the structure (s) including yard and area required for setbacks, supporting facilities, access and lighting.

Code Enforcement Officer(s)— Officer to the Town of Lee charged with the enforcement of all local regulations [and persons charged with enforcing all of the state and local building regulations.](#)

Condominium – Real property or any interests therein lawfully submitted by the recordings of a condominium instrument pursuant to RSA 356-B.

Contractor – Person retained by the property owner with the responsibility of construction.

Conversions The making of a physical change to a structure, previously used only as a seasonal residence, or the land on which it is situated which would permit the structure thereon to be used for year round living.

Conversion/Condominiums – Pertains to a property which prior to the recordings of a condominium instrument pursuant to RSA 356-B, was inhabited as a duplex or a multifamily dwelling.

Coverage Shall mean the percentage of the land area covered by the building site.

Day Care Center – A facility providing less than twenty-four (24) hour child care for more than five children.

Duplex A structure housing two (2) dwelling units of approximately the same size; ownership may be one or more parties. Each of the units has separate entrance.

Dwelling Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons.

Dwelling Unit – One or more rooms, including cooking facilities and sanitary facilities in a dwelling structure designed as a unit for occupancy by not more than one family for living and sleeping purposes.

Dwelling Area Means those areas used for daily living measured by interior wall measurements and shall not include unheated garages, attics, enclosed porches, cellars or areas occupied by heating and ventilating equipment. Dwelling area shall be presumed to be 70% of gross area unless evidence is submitted otherwise.

Driveway -Any designated vehicular access from a lot to a public or private right of way.

Excavation -A land area which is used or has been used for the commercial taking of earth including all slopes.

Flood Plains (Flood Hazard Zone) shall mean the channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The regulatory floodway shall be as delineated [on the most current on-the](#) flood insurance rate maps and flood boundary maps of the Town of Lee, ~~dated 1986~~, as prepared [and adopted](#) by the Federal Emergency Management Agency, Federal Insurance Administration.

Frontage, Road: The contiguous length of the lot bordering on a public right of way.

Frontage, Water: The contiguous length of the lot bordering on the water. Water frontage may not be used to meet road frontage requirements.

Foundation -The basis upon which any structure is supported and shall include any systems acceptable under the terms of the Lee Zoning Ordinance, the BOCA building codes and this ordinance.

[Foundation Certification- All new homes are required to obtain a Foundation Certification prior to receiving a Certificate of Occupancy as well as any structure that required a variance for its construction.](#)

Health Officer - Shall mean the officer appointed by the State of New Hampshire under the authority of RSA 147 who is charged with the responsibility of enforcement of all local health and safety requirements.

~~**In-Law Unit** - Shall mean a separate dwelling unit which is contained within a single family residence on a conforming lot. Such unit shall have no more than twoone (21) bedrooms and shall be no larger than sevensix hundred and fifty (7650) square feet. The primary unit shall be owner occupied.~~

Land Use Regulations – Any and all zoning, subdivision, building codes or other environmental regulations promulgated either by the Town of Lee or by the State of New Hampshire.

Leaching Area the land on a building site which is used for waste water disposal and shall include all slopes and required area for buffering and setback from the property lines as set forth in state and local regulations.

Lot of Record -A distinct tract of land recorded in a legal deed and filed in the Registry of Strafford County, New Hampshire prior to April 9, 1966.

Manufactured Housing -(Manufactured Home) Any structure, transportable in one or more sections which in the traveling mode is eight body feet or more in width and forty (40) body feet in length or when erected on site, is three hundred twenty (320) square feet or more and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to required facilities.

Mobile Home Park – A tract of land on which there are sited or it is proposed to be sited more than one manufactured home but where it is intended that ownership of all lots is to be maintained by a single owner and where the lots are intended to be rented or leased to individuals who will place manufactured homes thereon.

Mobile Home Subdivision – A tract of land where it is proposed that a number of manufactured homes be located, each sited on an individual lot with the intention that the home be placed thereupon.

Multi-family Structure – Shall mean a residential structure containing more than two dwelling units.

Multi-family Development Complex – Shall mean two or more multifamily structures on the same site.

Non-conforming Use – The use of any structure or property which does not conform to the use regulations of the zone in which the use exists and which is permitted because it was in lawful existence as such prior to the adoption of related ordinances or was permitted by variance. The nonconforming status shall not apply to any expansion or change in this use.

Occupancy Permit – Shall mean the certificate issued by the Building Inspector which permits the use in accordance with the approved plans and specifications which is issued following an on site inspections and certifies compliance with state and local regulations.

Planning Board – Shall mean the Planning Board for the Town of Lee for which authority is set forth in RSA 673:1.

[Planning & Zoning Administrator- Officer of the Town of Lee charged with administrating and the enforcement of all local regulations.](#)

Pre-site Built Housing – (Modular Home) Shall mean any structure designed primarily for residential occupancy which is wholly or in substantial part, made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development property standards for local building codes for installation and assembly on the building site. This shall not include manufactured housing.

Private Road – Shall mean any road serving more than one single family house lot for which the right of way is not held by either the town or the state.

Right of Way – Includes all town, state and federal highways dedicated to the public use. Shall include the land on either side as covered by statutes or as deeded to determine the entire right of way.

Residing – Shall mean replacing or covering the pre-existing surface of a framed building with materials such as, but not limited to, wood products, vinyl, stucco, or aluminum.

Re-subdivision – Shall mean the combining of existing lots of record, and/or their subsequent division.

Seasonal – Refers to less than 183 calendar days.

Seasonal Dwelling – Any structure which is capable of being used as a dwelling but which, because of lack of heating, water, sewage, treatment facilities, electrical or cooking facilities or any factor relating to the land on which the structure is situated cannot be conveniently used continuously on every day of the calendar year.

Setback – Shall mean area required by state or local ordinances designated from the property lines to the closest building or parking area.

Scenic Road – Those roads so designated as such by vote of town meeting restricted by state statutes pertaining to the clearing and the widening and other changes related to such roads.

Shoreline Conservation District – ~~Shall~~ Shall -mean all land within one hundred feet (100 feet) of the shoreline of the Lamprey River, Little River, North River, Oyster River, Dube Brook, Chelsey Brook and Wheelwright Pond. Shore shall be defined as the average high water line of the above bodies of water.

Signs – Shall mean a structure, building was or other outdoor surface or any device used for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public or to display, identify and publicize the name and product or service of any person.

Structure – Shall mean anything which is constructed or man-made and shall include but not be limited to paving, leaching areas, wells and all buildings.

Street – A public right of way.

Subdivision – Shall mean the division of a lot, tract or parcel of land into two or more lots for the purpose of sale, lease, or rent, condominium development or building development thereon. Mobile Home Parks are also included herein.

Special Exception – The use of land or buildings that is permitted, under the terms of the Lee Zoning Ordinance by the Board of Adjustment following due public hearing upon satisfactory compliance with conditions set forth by statute and local land use regulation to permit the granting of such.

Test pit – Shall mean soil tests which are performed according to requirements set forth in this ordinance section in the presence of the Health Officer or designee and with reports to the appropriate town agency submitted by an approved soil scientist for the purpose of building development, specifically the location of sub surface waste water treatment.

Undevelopable Land – Shall mean land designated as (1) Wet Soils or (2) floodplains or (3) having slopes greater than 15%.

Wet Soils¹ – *Shall mean those soils classified as poorly or very poorly drained as defined by the Soil Drainage Class Interpretive Limits section of Site-Specific Soil Mapping Standards for New Hampshire and Vermont, Version 2.0 January, 1999, published by the Society of Soil Scientist of Northern New England (SSSNNE Special Publication #3), or the current version of this publication. Agricultural waste storage facilities, constructed and operated in accordance with NHDAMF (New Hampshire Department of Agriculture Markets and Food) best management practice guidelines, shall not be construed as a wet soil area for the purpose of this ordinance.*

Variance – A relaxation of the terms of the ordinance (Building Regulations or Zoning Ordinance) granted by the Board of Adjustment following due public hearing where it is demonstrated that statutory requirements pertaining to the granting of such variance have been satisfied.

¹ March 2005

Zoning Board of Adjustment – Board appointed by the Selectman for the purpose of hearing appeals and administering special provisions by ordinance dealing with variances, special exceptions and administrative decisions as set forth in RSA 674:33. Shall mean the Board of Adjustment for the Town of Lee.

ARTICLE III

APPLICATION

A. Application Requirements

No construction, renovation, alteration, reconstruction or additions to any building or structure shall be undertaken in the Town of Lee without first obtaining the proper permit from the Code Enforcement Officer. In addition to the above, permits shall also be required for:

- ~~1. Replacement of septic tanks or leach fields;~~
Installation and replacement of septic tanks or leach fields;
- ~~2. Inground~~Above & In-ground pools;
- 3. Wells;
- 4. Paving;
- 5. Stand-by Generators;
- 6. Solar Systems
- ~~5~~7. Tennis Courts or other major site improvements;
- ~~6-8~~Demolition.

No structure shall be put to any different use until a permit has been issued and any necessary approval(s) as applicable have been obtained from the Zoning Board of Adjustment or the Planning Board.

Permits must be obtained for the placement or replacement of mobile homes on site. Permits must be obtained for the relocation of any structure.

Exempted from permits are the following:

- 1.) Structures smaller than 32 sq. ft.
- ~~2~~4) Papering and painting of structures;
- ~~3~~2) Fencing, no greater than 6' in height;;

34) Landscaping;

45) Roof Covering: (as defined in the [most current state adopted code of the IRC-BOCA Nations Code-1990](#));

65) Residing;

7.) [In-kind replacement of windows](#)

B. Fees²

Fees for Building Permits shall be determined by the Governing Body as provided in RSA 674:51; sections III-(d).

C. Application Process

Application for building permit must be filed with the Building Inspector for the Town of Lee and shall be filed on the appropriate town forms.

It shall contain the following information: Names, and address and signature of the applicant and property owner, the date, the location of the property and a complete description including building plans of the proposed construction.

The following information must also be submitted with the application for building permit:

- 1) Tax Map Number;
- 2) Site Plan showing the location of all the existing and proposed buildings and improvements (well and septic system) including dimensions and the distance to abutting property lines;
- 3) Site plan showing the location of all adjacent wells and septic systems;
- 4) Approved septic system design;
- 5) Schedule of doors and windows;
- 6) Driveway approval from appropriate state or local officials

² March 2005

7) Appropriate fees.

D. Review Process

Applications shall receive action by the Building Inspector within ten business days of submission of a completed application.

Upon receipt of the application, the Building Inspector shall take such action as may be indicated in the way of investigation or public hearing to acquaint himself with the merits. He may refer the application to the Board of Adjustment if he finds that the proposed structure does not conform to the ordinances of the Town of Lee. The permit may be denied for just cause. In such case, the inspector shall submit to the applicant in writing a statement of the reasons for denial.

Expiration -A building permit shall become void unless construction is commenced within six (6) months of the date of application approval unless such time is extended by the Building Inspector. The construction shall be completed within one year from the date of issuance of the permit unless the time for completion has been renewed/formally extended. The Building Inspector may upon application, in writing grant one or more extensions of the permit period. Such extensions may not exceed a six (6) months a one year period each. Expired permits must be renewed for a Certificate of Occupancy to be issued.

Posting A building permit shall be visibly posted at the construction site.

ARTICLE IV

CODE ENFORCEMENT OFFICER Building Inspector

~~The Code Enforcement Officer of the Town of Lee may also be the Building Inspector. The officer shall be appointed annually by the Board of Selectmen, compensation to be determined annually by said board. He shall be the administrative officer of this ordinance. He~~ The Building Inspector shall receive applications and fees for the erection or alteration of structures; or of plumbing and electrical wiring as set forth in this ordinance.

The officer shall keep complete records of all permits issued and accept and deposit with the Town Treasurer all fees collected by s/he him under this ordinance.

The officer may issue permits for the remodeling and/or construction of any structure if the proposal complies with the law of the state of New Hampshire, of this ordinance and all other town ordinances and by-laws.

ARTICLE V

CODES³

The following codes are hereby adopted and made part of this ordinance:¹

1. The most current edition adopted by the State of New Hampshire, International Building Code (IBC)/20096 with New Hampshire Amendments. Edition, published by International Code Council, Inc., with BOCA; Building Officials & Code Administrators International, Inc., ICBO; International Conference of Building Officials and SBCCI; Southern Building Code Congress International, Inc.
2. The most current edition adopted by the State of New Hampshire, International Residential Code for One and Two Family Dwellings (IRC)/20096 with New Hampshire Amendments. Edition, published by International Code Council, Inc., with BOCA; Building Officials & Code Administrators International, Inc., ICBO; International Conference of Building Officials and SBCCI; Southern Building Code Congress International, Inc.
3. The most current edition adopted by the State of New Hampshire, International Plumbing Code (IPC)/20096 with New Hampshire Amendments. Edition, published by International Code Council, Inc., with BOCA; Building Officials & Code Administrators International, Inc., ICBO; International Conference of Building Officials and SBCCI; Southern Building Code Congress International, Inc.

³ Amended March 13, 2007

¹ Amended March 11, 2003

4. The most current edition adopted by the State of New Hampshire, 2009 NFPA 1 Fire Code as amended by Saf-C 6000 STATE FIRE CODE with specific subcodes:
 - Fuel Gas Code – ~~2009~~ NFPA 54/58 as amended by Saf-C 6000.
 - Oil Burning Equipment – ~~2006~~ NFPA 31 as amended by Saf-C 6000
 - Chimneys, Fireplaces, Vents and solid Burning Appliances – ~~2010~~ NFPA 211
 - Carbon Monoxide Detection – ~~2009~~ NFPA 720 as amended by Saf-C 6000 BOCA National Fire Prevention Code/2006 Edition, published by Building Officials & Code Administrators International, Inc.;
5. The most current edition adopted by the State of New Hampshire, NFPA 70 National Electrical code (NEC), 201405 with New Hampshire Amendments. Edition, published by National Fire Protection Association;
6. The most current edition adopted by the State of New Hampshire, NFPA 101, Life Safety Code, 20096 Edition, published by National Fire Protection Association;
7. The most current edition adopted by the State of New Hampshire, 2009-International Energy Conservation Code (IEC) with New Hampshire Amendments. New Hampshire Energy Code, as adopted by the Public Utility Commission 1986 and any and all amendments hereto;
8. The most current edition adopted by the State of New Hampshire, International Mechanical Code (IMC)/20096 Edition, published by International Code Council, Inc. with BOCA; Building Officials & Code Administrators International, Inc., ICBO; International Conference of Building Officials and SBCCI; Southern Building Code Congress International, Inc.
9. The most current edition adopted by the State of New Hampshire, NFPA 13, Installation of Sprinkler Systems, 201007-Edition, published by National Fire Protection Association;

Formatted: Font: Antique Olive, 12 pt

Formatted: Font: Antique Olive, 12 pt

10. [The most current edition adopted by the State of New Hampshire,](#) NFPA 13D, Installation of Sprinkler Systems in One & Two Family Dwellings & Mobile Homes, [201007 Edition,](#) published by National Fire Protection Association;
11. [The most current edition adopted by the State of New Hampshire,](#) NFPA 13R, Installation of Sprinkler Systems in Residential Occupancies Up To & Including Four Stories in Height, [201007 Edition,](#) published by National Fire Protection Association;
12. [The most current edition adopted by the State of New Hampshire,](#) NFPA 31, Standard for the Installation of Oil Burning Equipment, [2006 Edition,](#) published by National Fire Protection Association;
13. [The most current edition adopted by the State of New Hampshire,](#) NFPA 58, Standard for the Storage & Handling of Liquefied Petroleum Gases, [2004 Edition,](#) published by National Fire Protection Association;
14. [The most current edition adopted by the State of New Hampshire,](#) NFPA 72, National Fire Alarm Code, [2007 Edition,](#) published by the National Fire Protection Association.
15. [The most current edition adopted by the State of New Hampshire,](#) NFPA 211, Standard for Chimneys, Fireplaces, Vents & Solid Fuel-Burning Appliances, [201006 Edition,](#) published by National Fire Protection Association.
16. [The most current edition adopted by the State of New Hampshire,](#) NFPA 54/~~58~~, National Fuel Gas Code, [20096 Edition,](#) published by National Fire Protection Association.
17. [The most current edition adopted by the State of New Hampshire,](#) NFPA 30A, Automotive and Marine Service Station Code, [2003 Edition,](#) published by the National Fire Protection Association.
18. [The most current edition adopted by the State of New Hampshire,](#) [NFPA I,](#) Uniform Fire Code, [2006 Edition,](#) published by the National Fire Protection Association. Exception: NFPA 5000, as referenced in the

Uniform Fire Code shall not become part of the code. The International Building Code is the adopted state building code as well as locally adopted.

19. The most current edition adopted by the State of New Hampshire, NFPA 720, Standard for the installation of a carbon monoxide (CO) warning equipment in dwelling units, 20095 edition, published by the National Fire Protection Association. Detectors must include a digital readout indicating the Parts Per Million (PPM).

49.20. The most current edition adopted by the State of New Hampshire, Accessibility – 2009 IBC Chapters 11 and 34 with New Hampshire Amendments, 200 ANSI A117.1 and FHA/UF AS, -as applicable

Formatted: List Paragraph, Right: 0", No bullets or numbering, Don't suppress line numbers, Tab stops: Not at 0.9" + 1.4" + 1.9" + 2.4" + 2.9" + 3.4" + 3.9" + 4.4" + 4.9" + 5.4" + 5.9" + 6.4" + 6.9"

No Structure including manufactured housing shall be erected, located, altered, rebuilt, substantially repaired or remodeled unless in compliance with the above listed codes where applicable.

ARTICLE VI

INSPECTION PROCESS

During the construction process, the structure shall be available for unannounced inspections at any time during the normal working day to the Building Inspector. In addition, it shall be the responsibility of the applicant to inform the Building Inspector upon completion of the following construction phases and to allow opportunity for the required inspection prior to commencing work. The Building Inspector shall respond to the applicant and conduct the inspection within three (3) business days of the requested inspection. The contractor (or property owner) shall give the building inspector a twenty-four (24) hour notice for any required inspections. The building inspector shall keep accurate records of the inspection visits, noting any deficiencies. The applicant shall correct any deficiencies prior to proceeding with the construction.

For new home construction, the following inspections shall be required:

- 1) Plan review prior to construction;
- 2) Foundation Inspection;
- 3) Inspection following framing;
- 4) Open Wall inspection of electrical wiring and plumbing following installation;
- 5) Insulation;
- 6) Prior to occupancy.

Occupancy permit shall be issued following final inspection for any new dwelling unit to include additions and new homes and garages attached or unattached.

Inspections for accessory buildings shall include:

- 1) Plan review;
- 2) Foundation (if applicable);
- 3) Any above inspections as required;
- 4) Final Inspection.

Inspections for building additions shall conform to that for any new home as applicable.

In-ground pools shall be inspected following excavation and completion.

In major construction projects, at the discretion of the building inspector, a consulting engineer shall be employed by the town to oversee the building plans review & construction. Costs for such services shall be borne by the applicant.

ARTICLE VII

COMMERCIAL OR PUBLIC BUILDINGS

A. Commercial or Public Buildings

No building permit shall be granted for the construction, addition or expansion, of any commercial or public building unless such structure has been granted a site approval by the Lee Planning Board in accordance with the Site Plan Review Regulations for the Town of Lee. If such structure is located in the residential zone, it shall also require a special exception or variance from the Zoning Board of Adjustment.

B. Knox Box⁴

All commercial buildings constructed in the commercial zone after July 1, 2007 shall have a surface or recessed rapid entry system, i.e. Knox Box, with key(s) to access the building, fire alarm panel and other spaces as determined by the Fire Chief, Deputy Chief, or their Designee.

C. Fire Alarm System(s)⁵

All commercial buildings constructed or expanded in the commercial zone after July 1, 2007 shall have a fire alarm system installed under NFPA 72, National Fire Alarm Code, 2007 edition. The following shall also be required, in that, all commercial buildings, regardless of square footage constructed or expanded in the commercial zone shall provide a monitored fire alarm system that is either tied to the Lee Fire Department's Dispatching center or a monitoring center approved by the Fire Chief, Deputy Chief, or their Designee. All fire alarm systems panel boards cabinets and or devices shall be keyed with a "CAT 30" type key. The requirement for the alarm system may be waived by the Fire Chief, Deputy Chief, or their designee after review of the building or expansion of existing buildings.

ARTICLE VIII

ZONING REGULATIONS

⁴ Added March 13, 2007

⁵ Added March 13, 2007

All lots used for residential purposes must conform to the requirements set forth in the Lee Zoning Ordinance. All lots used for commercial purposes shall conform to the requirements set forth in Article VI & VI-a of the Lee Zoning Ordinance.

A. Wet Soils Zone No structure, with the exception of wells and well housing shall be constructed within seventy-five (75) feet of the Wet Soils Conservation Zone as delineated on the Zoning Maps for the Town of Lee. A septic system shall not be constructed within one hundred twenty-five (125) feet of a Wet Soils Zone.

B. Aquifer District Construction within the aquifer conservation district must comply with the regulations set forth in Article XIII of the Lee Zoning Ordinance. No more than ten per cent (10%) of a lot or tract within the aquifer conservation district shall be covered by pavement, roofing or materials impervious to water.

C. Shoreline Conservation District Building permits shall not be issued for construction within one hundred (100) feet of the shores of the Lamprey River, the Oyster River, the Little River, the North River, Dube Brook and Chesley Brook and Wheelwright Pond. Shoreline shall be defined as the average high water line.

D. Nonconforming Structures In the case where an existing structure predates zoning and is nonconforming, an addition or modification to the existing structure must conform to the restrictions which are in effect at the date of application for the building permit. Nonconforming construction will be permitted as a replacement for the existing use where the new construction does not constitute an additional or greater nonconformity with existing ordinances.

Where a nonconformity is to be expanded, or changed in use, a variance shall be sought as set forth in the Lee Zoning Ordinance.

E. Grandfathered rights are rights (or uses) which pre-exist local zoning regulations, April 9, 1966—~~T~~. This use shall be permitted to continue in its present state but may not be extended in area, changed to another

nonconforming use or reestablished after discontinuance for one year or more. (See Nonconforming structures above.)

F. Flood Hazard Areas shall comply with the Town of Lee Model Floodplain Ordinance as set forth in the Lee Zoning Ordinance Article XIX.

ARTICLE IX

MINIMUM BUILDING STANDARDS

A. Building Height – The maximum height of any building shall be thirty-five (35) feet which shall be measured from the lowest point of grade to the mean between the lowest eave and the ridge of the building. It shall not include any chimneys, antennas, cupolas or other non-habitable extensions of the building.

B. Minimum Living Area – Each dwelling unit shall have a minimum living area of five hundred (500) square feet.

C. Setbacks and Buffer Zones – No building and/or additions to any structures shall be permitted within the designated setback area or buffer zones as set forth in the Lee Zoning Ordinance Articles as applicable.

D. Manufactured Housing and Pre-site Built Housing:- Manufactured housing and pre-site built housing shall comply with all standards set forth herein. There shall be no relocation or placement of mobile homes on site without first obtaining a building permit. Manufactured Housing shall also comply with the HUD standards and the New Hampshire Energy Code.

E. Wells- Any drilled well shall be installed by a licensed driller. The application for such building permit shall contain the license number of the driller.

A new well, drilled or dug, shall not be placed closer than forty (40) feet to an undeveloped lot line or less than ~~Seventy Five (75) one hundred twenty-five (125)~~ feet from an existing or proposed septic system leach bed. Permit application for said well shall contain a site plan showing the distance to any abutting leach bed areas.

F. Seasonal Conversions – All standards contained herein shall apply to a residence which may be used only for seasonal residence. A seasonal residence shall not be converted to year round use unless all of the health and safety standards for the Town of Lee can be satisfied including the installation of an appropriate waste water disposal system.

G. Lighting – All exterior lighting shall illuminate downward so not to project any glare or distraction to passing traffic. Lighting shall be designed such that it provides illumination only upon the property to which it is intended.

H. Signs – Signs shall conform to all specifications set forth in the Lee Zoning Ordinance Article XVII. A sign shall not be erected or replaced without first obtaining a sign permit from the Building Inspector. The application for such permit shall include an accurate drawing of such sign including all dimensions. A site plan shall show the designated location of the sign on site including the distance from the property lines and right of way. The application shall also describe proposed construction materials for the sign and shall describe the illumination (and hours of illumination) which is intended.

I. Fuel Storage Tanks-Petroleum Storage Tanks– All proposed fuel storage tanks for the storage of petroleum or petroleum products shall comply with the New Hampshire Water Supply and Pollution Control Commission-New Hampshire Department of Environmental Services (DES) regulations, standards WS-414. These regulations shall apply to all tanks of any capacity whether or not DES ~~the WSPCC~~ invokes jurisdiction. In addition, these tanks shall comply with the standards set forth in the Lee Zoning Ordinance Article XIII and the Federal Resource Conservation Recovery Act.

J. Oil Burner Inspections prior to the issuance of Occupancy Permits.⁶
An Occupancy Permit shall not be issued until the Fire Chief, Deputy chief, or their Designee has issued an oil burning appliance permit for a new dwelling or commercial building where applicable. (State of New Hampshire Form DSFS-7, Revised 07-95, or subsequent editions).

⁶ Added March 13, 2007

K. Septic Systems – No building permit shall be issued unless the applicant has first obtained approval from [New Hampshire Department of Environmental Services Water supply and Pollution Control Division](#) for the State of New Hampshire for a waste water disposal system.

In the case of an existing system, no building addition or replacement or conversion from seasonal to year-round shall be approved in excess of the limits (as shown on the approved plans) of the in-ground disposal system. If no approved plans are on file, it will be the responsibility of the applicant to provide acceptable proof of existing system size and condition.

Permits must be obtained from the health officer or designee for any new system or for the replacement or enlargement of any existing system. New systems and replacement system (or improved or modified systems) shall be inspected in accordance with the schedule set forth below.

The following standards shall apply for any Subsurface Disposal System (septic system):

— All Subsurface Disposal Systems A (septic system) shall be designed for each building lot in accordance with the [State of New Hampshire Department of Environmental Services standards. ENV-WQ 1000, as updated. following regulations and the regulations of the New Hampshire Water Supply and Pollution Control Division.](#)

A septic system shall be located on the same lot as the principal use except where a common area is available for a community system.

— K. Oil Burner Inspections prior to the issuance of Occupancy Permits.⁶
— An Occupancy Permit shall not be issued until the Fire Chief, Deputy chief, or

⁶ Added March 13, 2007

~~their Designee has issued an oil burning appliance permit for a new dwelling or commercial building where applicable. (State of New Hampshire Form DSFS-7, Revised 07-95, or subsequent editions).~~

A. Application

An application for a Subsurface Disposal Systems (septic system) approval shall be filed with the Health Officer or designee of the Town of Lee. Effective January 2016, electronic submittal of designs is acceptable. When paper copies are preferred, said application shall be submitted in four copies. Electronic submittals and paper submittals require the complete with the following information:

- a. Date of application
- b. Installation location including tax map number
- c. Plan showing the details of the design
- d. Site Plan of the lot including all dimensions, location of the Wet Soils and existing structures
- e. Tank Size
- f. Name and address of the contractor
- g. Location of the test pit within the leaching area
- h. Soil testing data by town's soil scientist
- i. Applicants name and address

B. Site Evaluation

- 1) The site evaluation shall be done by a NH licensed soil scientist acceptable to the Planning Board.
- 2) The evaluation shall include soil color, texture, structure, consistency in each horizon, parent material, depth to seasonal high water table, depth to restrictive layers, depth to refusal (bedrock or clay), depth to free water, soil moisture (field condition), slope and soil profile.
- 3) Slope
 - a. A conventional systems shall not be placed on a land slope greater than fifteen (15) percent.
- 4) Test pits

- a. There shall be a minimum of two (2) holes per system dug at a distance of fifty (50) feet apart. One of the Two approved test pits shall be located within the designed leachfield area. More test pits may be required by the Health Officer for each proposed leachfield area as site conditions warrant.
- b. Test pits shall be dug in the presence of the health officer and shall be logged on appropriate worksheets by the soil scientist, to be promptly submitted to the Planning Board or the Health Officer. The soil scientist shall be selected by the applicant from an approved list (on file with the Planning Board.) The soil scientist shall be employed by the town, fees to be paid to the town by the applicant.
- c. Test pits shall be dug to a minimum depth of ten feet or until ledge is encountered. The minimum depth to bedrock for an acceptable test pit shall be five (5) feet.
- d. All test pits dug shall be recorded and information submitted to the appropriate town agency.
- e. Location of test pits shall take into consideration all setback requirements including those for lot lines, Wet Soils and shoreline districts and wells.
- f. Minimum depth to estimated seasonal high water table or restrictive layer (per soil manual for site evaluation in New Hampshire) shall be a least twenty-four (24) inches for a test pit to pass.
- g. On lots created through subdivision at least two (2) test pits shall pass in accordance with town regulations. On lots of record, both test pits shall meet minimum town requirements. However, in the case of substandard lots (grandfathered lots of record) or failed systems to be replaced, the health officer or designee shall take into consideration inherent land conditions and make appropriate allowances to permit the improvement of the conditions on the property and surrounding properties and to minimize potential pollution hazards without allowing State standards to be jeopardized.

C. Design Requirement

All Subsurface Disposal Systems (septic systems) shall be designed for each building lot in accordance with the State of New Hampshire Department of Environmental Services standards. ENV-WQ 1000. As updated.

1. Conventional Systems

- a. The bottom of the leaching bed must be four feet above seasonal high water table or restrictive layer.
- b. The bottom of the leaching bed must be eight (8) feet above bedrock or any impermeable substratum (any soil having a percolation rate of less than sixty (60) minutes per inch is considered impermeable).
- c. The receiving layer should extend around the leaching system at least seventy-five (75) feet laterally. There should be at least five thousand (5000) square feet of contiguous area suitable for a receiving layer. There shall be a minimum of one hundred twenty five feet (125) to poorly drained soils from the leaching area.

2. Raised or Mound Systems

- a. The bottom of the leaching bed must be four (4) feet above the seasonal high water table or restrictive layer.
- b. The bottom of the leaching bed must be eight (8) feet above bedrock or other impermeable substratum.
- c. The receiving layer should extend around the leaching system at least seventy-five (75) feet laterally. there should be at least five thousand (5000) square feet of contiguous area suitable for a receiving layer.
- d. The maximum allowed surface slope is fifteen percent (15%).
- e. The mound shall not be placed in depressions, at the bases of slopes, or on concave slopes unless suitable drainage is provided.
- f. A minimum of sixty (60) inches of natural soil is required above bedrock or impermeable soil layer.
- g. A minimum of twenty-four (24) inches of unsaturated natural soil is required between the original soil surface and seasonally saturated horizons.

D. Subsurface System Design

_____ 1. A conventional system shall be designed according to the design requirements of the New Hampshire Water Supply and Pollution Control Division.

_____ 2. Mound Systems

- a. The percolation rate for design of the size of the basal area (natural soil fill interface of the mound) shall be that of the original soil.
 - _____ b. The fill material shall be medium, clean sand (.5-1mm)
 - c. All trees and excess vegetation must be cut and removed (leave the stumps cut at ground level in place).
 - d. Topsoil shall be stripped from the leachfield area, removed and stockpiled for final grading.
 - e. The bottom of the leach bed shall be at least four (4) feet above seasonal high water table for a restrictive layer.
 - f. At least six (6) inches of aggregate shall be placed under the distribution pipes and at least two (2) inches shall be placed over them.
 - g. The cap over the mound and on the sides should be at least 1.5 feet of which at least six (6) inches should be good quality topsoil.
 - h. The finish grade over the mound must extend at least ten (10) feet beyond the perimeter of the bed before sloping to natural ground level.
 - _____ i. The maximum side slope allowable is 3:1.
 - _____ j. The distribution pipes must be laid level.
 - k. The minimum basal area required is dependent upon the percolation rate of the natural soil.
- 1.) On sloping site, the basal area shall be the entire area under the bed and down slope of the bed. ($A = \text{Bed Length} \times (\text{Bed Width} + \text{Down slope Width})$)
 - 2.) All conventional subsurface systems will be inspected and approved prior to the placement of gravel over the distribution pipes.
 - 3.) If the basal area available is not equal to or greater than the basal required, the down slope and width on the sloping site or the up and

~~down slope widths on a level site shall be increased until sufficient area is available.~~

ED. Inspections

1. All inspections shall be made by the Health Officer or a designated agent of the town. ~~The Health Officer or designee will perform a Bed Bottom/Basil Area Inspection and a final inspection prior to the covering of the system.~~
2. All conventional subsurface systems will be inspected and approved prior to the placement of gravel over the distribution pipes.
3. Mound systems shall be inspected:
 - a. At the time the ground surface is exposed,
 - b. While the sand fill is being placed;
 - c. At the time of completion of the installation of the distribution system;
 - d. After the work is completed.

FE. Septic Tank and Leach Field Size

~~Must be in accordance with the design requirements of the New Hampshire Department of Environmental Services (DES).~~

~~Absorption Rate Requirements for residential use shall meet minimum state requirements. Percolation rate over sixty (60) minutes is not suitable for leaching systems.~~

~~In every case, sufficient area should be provided for at least three (3) bedrooms.~~

~~The minimum septic tank size shall be 1000 gallons; for each additional bedroom after four (4), an additional two hundred fifty (250) gallons shall be added.~~

NOTE: Approval by the Health Officer or designee of the septic system shall not be construed as a guarantee that the system will function to

the full satisfaction of the applicant and that, in no way, shall the town be liable if the system fails or ~~the does~~ system does not ~~work~~ operate as designed.

~~G-F. Community and Commercial Systems~~ shall be constructed according to state standards. The town reserves the right of review and to do special studies or review by a consulting engineer. Costs for such will be borne by the developer. In ever case, nutrient loading analysis will be required according to town specifications; this shall be reviewed by the Planning Board under site review process and evaluated by a consulting hydrologist, cost to be borne by the developer.

~~Chamber Systems shall be permitted provided they meet state requirements. These shall be subject to review and inspection process by the town.~~

~~Acceptance of any other type of system shall be at the discretion of the Health Officer and shall meet all requirements of the New Hampshire Water Supply and Pollution Division.~~

ARTICLE X

CONSTRUCTION SAFETY CLAUSE

Any building site in the town of Lee shall be left in a safe at all times. The owner/contractors shall assume the responsibility for leaving the construction site so as no dangerous or hazardous conditions exist.

ARTICLE XI

OCCUPANCY PERMITS

Occupancy permits will be issued in writing following a final inspection by the Building Inspector to ensure compliance with all local and state regulations. An occupancy permit shall not be issued until after the road agent has inspected and approved the driveway. For a new dwelling on a proposed

town road, no occupancy permit shall be issued until after completion (and inspection) of the base course of paving.

In the inspection process, prior to the issuance of occupancy permits the building inspector shall also verify the placement of boundary monumentation according to the regulations set forth in the Lee Subdivision regulations. Boundary monumentation shall be set for all lots created by subdivision.

ARTICLE XII

ENFORCEMENT

It shall be the duty of the Board of Selectman, [Building Inspector](#) or the Code Enforcement Officer and they are hereby given power and authority, to enforce the provisions of this ordinance.

Upon well founded information that this ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking injunction in the Superior Court or by any other legal action.

ARTICLE XIII

BOARD OF ADJUSTMENT

The Board of Adjustment shall have authority to allow [slight](#) variances from the specific terms of this Ordinance where it can be shown that unnecessary hardship would result and where all other criteria for the granting of said variance can be satisfied.

ARTICLE XIV

AMENDMENT

This ordinance shall become effective immediately upon passage by majority vote at town meeting. The ordinance may be amended by a majority vote of

any legal town meeting following the provisions for the posting and public hearing as set forth in RSA 675:6.

ARTICLE XV

CONFLICTING PROVISIONS

Whenever the regulations made under the authority hereof, differ from those described by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

ARTICLE XVI

VALIDITY

If any section, clause, provision, portion or phrase of this Ordinance shall be held invalid or unconstitutional, by any court or competent authority, such holding shall not effect, impair, or invalidate any other section, clause, provision, portion, or phrase of this Ordinance.

20175

Town of Lee

Zoning Ordinance

Town of Lee Zoning Ordinance
2017⁵

TABLE OF CONTENTS

ARTICLE	CONTENTS	PAGE
I	Preamble	4
II	Definitions	4
III	General Provisions	14
IV	Zones	17
V	Residential Zone	17
VI	Commercial Zone	20
VI	Light Commercial Zone	22
VII	Condominium Development	23
VIII	Open Space Residential	27
IX	Manufactures Housing Subdivision	32
X	Manufactured Housing & Recreational Vehicles	34
XI	Multifamily Development	35
XII	Transfer of Development Rights	38
XIII	Aquifer Conservation District	38
XIV	Shoreland Conservation District	41
XV	Wet Soils Conservation Zone	42
XVI	Disposal & Storage of Waste	43
XVII	Signs	45 45 new page placed upon complt
XVIII	Sexually Oriented Business	50 Adopted March 1994

XIX	Floodplain Development	51	Adopted March 1995
XX	Wireless Communications Facilities	57	Adopted March 1997
XXI	Airports and Heliports, Private or Commercial	58	Adopted March 1998
XXI, A	Small Wind Energy Systems	58	Adopted March, 2011
XXII	Zoning Board of Adjustment	64	
XXIII	Nonconforming Uses	65	
XXIV	Enforcement	65	
XXV	Penalty	66	
XXVI	Amendments	66	
XXVII	Conflicting Provisions	66	
XXVIII	Savings Clause	66	

**ZONING ORDINANCE
FOR THE TOWN OF LEE, NEW HAMPSHIRE
MARCH 2017⁵**

**ARTICLE I
PREAMBLE**

In order that we preserve the rural character of the Town and for the general welfare of its inhabitants, the Town of Lee, in official Town Meeting, assembled on April 9, 1966 and amended on March 11, 1969; March 10, 1971; March 6, 1973; March 5, 1974; March 4, 1975; March 2, 1976; March 8, 1977; November 7, 1978; March 11, 1980; March 10, 1981; March 9, 1982; September 14, 1982; March 8, 1983; March 13, 1984; March 12, 1985; October 29, 1985; March 11, 1986; November 4, 1986; March 10, 1987; March 14, 1989; March 13, 1990; March 12, 1991; March 9, 1992; March 10, 1993; March 7, 1994, March 15, 1995, March 14, 1997, March 11, 1998; March 10, 1999 ;March 14, 2001;March 12, 2002; March 11, 2003, March 9,2004, March 8, 2005. March 14, 2006; March, 2009; March 2011; March 2012; March 2013; March 2014; ~~and~~ March 2015 and March 2017 hereby adopts the following ordinance, pursuant to authority conferred by Chapter 31, Section 60-89 and Chapter 36, New Hampshire Revised Statutes Annotated, recodified as Chapter 672-677 New Hampshire Revised Statutes Annotated in 1984.

**ARTICLE II
DEFINITIONS**

Abutter: Any person whose property adjoins or is directly across the street or stream from land under consideration by the Planning Board or Zoning Board of Adjustment.

Accessory Building: Any building attached or unattached to the main residential building in which a permitted use may exist.

Accessory Dwelling Unit: ¹Shall mean a separate dwelling unit which is contained within or attached to a single family residence on a conforming lot. Such unit shall have no more than two bedrooms and shall be no larger than eight hundred (800) sq. feet. The primary unit shall be owner occupied.

Accessory Use: A use which is clearly incidental to the principle use of the premises and which is conducted in the same residential structure or on the same residential lot.

Adult Bookstore or Adult Video Store: A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, to the display, sale or rental of the following:

A) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, or,

¹ March 2017

B) instruments, devices, or paraphernalia which are designed for use in connection with "sexual conduct" as defined in NH RSA 571-B:1, other than birth control devices.

An adult bookstore or adult video store does not include an establishment that sells such items as an incidental or accessory part of its principal stock and trade and does not devote more than 15% of the total floor area of the establishment to the sale of such items.

Adult Motion Picture Theater: An establishment with a capacity of five or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as forth in NH RSA 571-B:1, for observation by patrons. For the purposes of this ordinance, substantial portion of the total presentation time shall mean the presentation of films or shows described above for viewing on more than seven days within any 56 consecutive day period.

Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machine, projectors, or other image producing devices or maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of "harmful to minor" and/or "sexual conduct" as set forth in NH RSA-B:1.

Adult Drive-In Theater: An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion picture, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

Adult Cabaret: A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

Adult Motel: A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

Agriculture, Farm, Farming: ¹ The word "farm" means any land, buildings or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence of the owners(s) located on such land. Structures shall include all farm outbuildings used in the care of livestock, in the production and storage of fruit, vegetables, or nursery stock,

¹ Amended March 14, 2006

in the production of maple syrup, the production of annual or perennial plants, and any other structures used in the agricultural operations.

l) The words "agriculture" and "farming" shall mean all operations of the farm, but shall not be limited to:

- a.) The cultivation, conservation, and tillage of the soil,
- b.) The storage, use, and application of fertilizers, manures and other soil amendments,
- c.) The storage, use, and application of agricultural crop protection materials,
- d.) The raising and sale of livestock, including but not limited to; dairy cows and the production of milk and other dairy products, beef animals, swine, sheep, goats, domesticated strains of buffalo or bison, llamas, alpacas, emu, ostriches, yaks, elk, fallow deer, red deer, and reindeer,
- e.) The breeding, board, raising, training, riding instruction, and selling of equines,
- f.) The commercial raising, harvesting, and sale of fish or other aquaculture products,
- g.) The raising, breeding and sale of poultry or game birds,
- h.) The raising of bees and the production of honey,
- i.) The raising, breeding, and sale of domesticated strains of fur-bearing animals,
- j.) The production and sale of greenhouse crops,
- k.) The production, cultivation, growing, harvesting, and sale of any other agricultural, floriculture, forestry, or horticultural crops including, but not limited to, berries, herbs, maple syrup, fruit, vegetables, tree fruit and nuts, flowers, seeds, grasses, nursery stock, sod, trees and tree products, including Christmas trees, trees grown for short rotation fiber, or any other plant that can be legally grown and harvested for sale or subsistence,

l.) Any other practice or activity on the farm incident to, or in conjunction with such farming operations, including , but not restricted to:

- 1.) Preparation for market, delivery to storage, markets or other distribution points, of any products or materials from the farm,
- 2.)The transportation to the farm of supplies and materials,
- 3.)The transportation of farm workers,
- 4.)Forestry or lumbering operations,
- 5.)The irrigation of growing crops, from private, public and or other riparian water supplies where not prohibited by regulation,
- 6.)The marketing or selling at wholesale or retail, or in any other manner on-site and off-site, any products from the farm, and other related supplies or materials that do not exceed in average yearly dollar volume the value of the products from the farm,
- 7.)A roadside farm stand or farm market, as defined below, shall be considered part of an agriculture or farming operation and not considered commercial, provided that at least 50% of the average gross sales yearly dollar value is attributable to products produced on the farm or farming operation by the stand or market operator.

Farm Market

The purpose of the farm market is to provide opportunities for agricultural producers to retail their products directly to consumers and enhance income through value-added products, services and activities. Permitted activities include but are not limited to; the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; agricultural tourism, pick- your-own operations; community supported agriculture; farm vacations. If the Farm Market includes any permanent structures/buildings, they are subject to the current Zoning Regulations in the Town of Lee and subject to site review by the Town of Lee's Planning Board.

Roadside Farm Stand

The purpose of a temporary roadside farm stand is to allow farmers, who are actively farming, low cost entrance into direct marketing their farm products. It is characterized as a direct marketing operation is seasonal in nature and features on-farm produce as well as locally produced agricultural products, enhanced agricultural products and handmade crafts. Permitted activities include: but are not limited to; the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts, pick- your-own fruits, vegetable and nuts; community supported agriculture (CSA), agricultural tourism. The roadside farm stand is required to be registered with the Town of Lee. Any temporary buildings/structures are exempt from the definition of building/structures as defined in Article V, Residential Zone of the 2006 Town of Lee Zoning Ordinance as amended – (example if future changes are done to the Articles it may change the numbering) and Article XV, Wet soils Conservation Zone and they are exempt from the Setback provisions from Article V, Residential Zone and Article XV, Wet Soils Conservation Zone

Agricultural Tourism

The purpose of Agricultural Tourism is to attract people to farms, promote the sale of agricultural products using agriculture related tours, events and activities, as well as non-agricultural related activities. These tours, events, and other activities are to supplement farm income. Activities include, but are not limited to petting farms, farm animal attraction, school tours, outdoor trails, crop mazes, hayrides, pony rides, livestock and or equine events, group picnics, on-and- off site food catering services, craft shows, outdoor recreation, and educational activities. If a fee is charged, in order to be a permitted use, the farm must be actively producing agricultural products for sale. Farms where the seller is not actively producing agricultural products for sale will require a Special Exception.

Aquifer: A geological formation composed of rock or sand and gravel that contains significant amounts of potentially productible, potable water.

Bogs: Consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants which are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions.

Common Area: Any and all portions other than the individually owned lots. Common area must comprise at least twenty-five (25%) of the total land area and must be accessible to all residential lots.

Common Open Space: Common land area within the Cluster Residential Development which shall not be built upon and shall remain in its natural or undeveloped state.

Condominiums

Condominiums: Real property, and any interests therein lawfully submitted by the recordation of a condominium instrument pursuant to New Hampshire RSA 356-B. No condominium shall be deemed a condominium unless the undivided interests in the common area(s), including land, accessory roads and buildings, are vested in the unit owners.

Condominium Instruments: A collective term referring to the declaration, bylaws, site plans and floor plans recorded pursuant to the provisions of New Hampshire RSA 356-B. Any exhibit, schedule, or certification accompanying a condominium instrument, and recorded simultaneously therewith shall be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of New Hampshire RSA 356-B.

Condominium Unit: A dwelling unit together with the undivided interest in the common area pertaining to that unit.

Common Area(s): Any and all portions of the condominium other than the dwelling units.

Common Expense: All expenditures lawfully made or incurred by or on behalf of the unit owner's association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments.

Common Open Space: Common land area with the condominium development which shall not be built upon and shall remain in its natural state.

Communal Septic System and Communal Water Supply System: Non-municipal systems with two or more services, for which the responsibility for maintenance shall be considered common expense.

Conversion Condominium: A condominium containing structures which before the recording of the declaration were wholly or partially occupied by someone other than the declarant or those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers. No apartment building may be converted to a condominium development unless all requirements for initial condominium development as set forth in this article are met by the conversion condominium. Any modifications to the site upon condominium conversion shall require Site Plan Review by the Planning Board under the regulations set forth herein.

Conversion Space: A portion of a structure within the condominium which may be converted into one or more units and/or common space.

Convertible Land: A building site which is a designated portion of the common area within which additional units can be created, according to New Hampshire RSA 356-B, provided that such conversion will not result in there being less than eighty-five thousand (85,000) square feet per residential unit for the entire tract.

Expandable Condominium: A condominium to which additional land may be added in accordance with the provisions of New Hampshire RSA 356-B.

Unit Owner's Association: An association established for the maintenance of all common area and for the payment of all expenditures associated with common expenses.

Dwelling Unit: Shall mean any building or structure providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking, sanitation and to include all areas attached thereto.

Driveway: Any designated vehicular access from a single house lot to a public right-of-way or private road. (The Planning Board may allow a single driveway to service more than one house lot, but in no instance shall a driveway be substituted for a private road.)

Duplex: Shall mean a residential structure containing two (2) dwelling units of approximately the same size and of common ownership. Each of the units has a separate entrance, although driveway access and parking may be shared.

Earth: Sand, gravel, rock, soil, loam, topsoil, and clay.

Excavation: A land which is used, or has been used for the commercial taking of earth including all slopes.

Floodplain (Regulatory Floodway): Shall mean the channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The regulatory floodway shall be as delineated on the flood insurance rate maps and flood boundary maps of the Town of Lee, dated May 17, 2005 as prepared by the Federal Emergency Management Agency, Federal Insurance Administration.

Frontage-Road: Contiguous length of the lot bordering on and accessible from a public right-of-way.

Frontage-Water: Contiguous length of the lot bordering on the water. Road frontage may not be used to satisfy water frontage requirements and water frontage may not be used to satisfy road frontage requirements.

²**Impervious Coverage:** Any and all areas covered by buildings, structures, pavement or materials impervious to water.

~~In Law Unit: Shall mean a separate dwelling unit which is contained within or attached to a single family residence on a conforming lot. Such unit shall have no more than one (1) bedroom and shall be no larger than six hundred and fifty (650) square feet one thousand (1000) feet. The primary unit shall be owner occupied.~~

Formatted: Font: (Default) Times New Roman, 12 pt, Not Bold

Commented [JLP1]: Under the new law (RSA 674:22, VII) the Town can establish minimum and maximum sizes for ADUs, but they may not be restricted to less than 750 square feet.

Lot Line: A line dividing one lot from another.

Lot of Record: A distinct tract of land recorded in a legal deed and filed at the Registry of Strafford County, New Hampshire.

² Adopted March 1999.

Mandatory Home Owner's Association: A private, non-profit corporation, association, or other non-profit legal entity established by the applicant or developer for the purpose of managing and maintaining all common land, open space and natural areas. Membership in said association shall be mandatory for all property owners and made a required covenant in any deed issued or passed.

Manufactured Housing (Mobile Home): Any structure transportable in one or more sections which in the traveling mode is eight (8) body feet or more in width and forty (40) body feet or more in length or when erected on site, is three hundred and twenty (320) square feet or more and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to required utilities.

Manufactured Housing Park (Mobile Home Park): A tract of land on which there are sited or it is proposed to be sited more than one mobile home but where it is intended that ownership of all lots is to be maintained by a single owner and where the lots are intended to be rented or leased to individuals who will place homes thereon.

Manufactured Housing Subdivision: A tract of land on which there are sites or it is proposed to be sited more than one manufactured home but where it is intended that ownership of the lots is to be the individual homeowner with the exception of any designed common open space.

Marshes: Are treeless Wet Soils dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered with water year round, though seasonal fluctuations in water depth are expected. Marshes range from the wet meadows variety to deep marshes which can be covered by several feet of water.

Multifamily Development Complex: Shall mean one (1) or more multifamily structures on the same site.³

Multifamily Structure: Shall mean a residential structure containing three (3) or more units but no more than six (6) units.

Neighborhood: An area of land, local to the use concerned, generally lying within a radius of one thousand (1,000) feet of such use for the purposes of this ordinance, but including all areas farther away from such use whenever the use creates a condition which by reason of noise, vibration, lighting, smoke, dust or other emission or cause is a detriment, hazard, or is injurious to an area more extensive in size.

Nonconforming Use: The use of any building or land which does not conform to the use regulations of the zone in which such use exists.

Nude Model Studio: A place where a person appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals, with an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

²⁴**Open Space Residential Development:**

³ Amended March 2001

²⁴ Amended March 2004

Open Space Residential Development: A residential subdivision of a tract where, instead of dividing an entire tract into house lots of conventional size, the similar number of housing units may be clustered on lots of the same or reduced dimensions. The remaining land in the tract, which has not been built upon, is reserved for common area to be held in some form of undivided ownership or easement so as to prevent it from ever being subdivided.⁴

Presite Built Housing (Modular Homes): Shall mean any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes for installation or assembly and installation on the building site. This shall not include manufactured homes.

Private Road: Any road where the right-of-way for such road is not held by either a town or the State of New Hampshire.

Professional Office: A space or room in which there is no display of unrelated stock or wares in trade commodity sold, nor any commercial use conducted other than the professional offices of a doctor, dentist, lawyer, architect, engineer and related laboratories, insurance agent, Realtor, or other similar professional services.

Recreational Vehicles: Shall mean a vehicle (travel trailers and mobile homes) used for personal pleasure or travel and not for full-time occupancy. This shall not include off-highway vehicles.

Right-of-Way: Includes all town, state and federal highways, right-of-way dedicated to the public use, streets as defined under Lee Subdivision Regulations, and the land on either side of the same as covered by state statutes, to determine the width of the right-of-way.

Seasonal: Refers to less than one hundred and eighty-three (183) calendar days.

Setback: Shall mean the area required by state or local ordinance designated from the property lines to the closest building or parking area.

Sexual Encounter Center: A business or commercial enterprise that as one of its business purposes, offers for any form of consideration:

- A) physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more persons are in the state of nudity; or
- B) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or
- C) when the activities in sections A or B above are characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1; or
- D) massage parlor and escort services with an emphasis on sexual

⁴ Amended March 2001

conduct as set forth in RSA 571-B:1.

Sexually Oriented Businesses: adult bookstore, adult video store, adult motion picture theater, adult motion picture arcade, adult drive-in theater, adult cabaret, adult motel, adult theater, nude model studio, sexual encounter center, or any combination of the above.

SIGNS: ⁵

Sign: Shall mean a name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, structure, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street, is not considered a sign.

~~Shall mean any exterior structure or painting including a diagram, or lettering which identifies, gives direction or calls attention to any premises, person, product activity or business.~~

Agricultural Sign: A sign which identifies an agricultural property.

Commercial Sign: Shall mean a sign which is not part of or attached to any building but is located elsewhere.

Free Standing or Group Sign: Shall mean a sign which is not part of or attached to any building but is located elsewhere.

Developmental Sign: Shall mean a sign of permanent nature which identifies a subdivision of ten (10) lots or more.

Directional Sign: Shall mean a sign of a permanent nature which directs the traveling public to specific building, activities or location.

Grandfathered Sign: Shall mean any nonconforming sign in any zone legally in existence prior to ~~March 15, 1989.~~ Consider changing this to date changes are enacted, if enacted, at Town Meeting. March 2017.

Government Sign: Shall mean a sign that is constructed, placed or maintained by the federal, state or local government. or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

Pylon or Pole Sign: Shall mean a sign supported or suspended from a free standing column which is taller than eight (8) feet in height.

Residential Accessory Sign: Shall mean a sign which identifies an accessory use.

Roof Sign: Shall mean any sign erected upon or over the roof of a building exclusive of individual lettering which is not permitted under the terms of this ordinance.

Size of a Sign: Means the total exposed surface area in square feet visible from any one point. It shall mean the outside dimensions of the message bearing structure. Where a sign is composed of fabricated letters attached or painted onto a wall, the size shall be calculated as twice the average letter height times the length of the message.

⁵ March 2017 Sign Regulations updated

Special Exception Sign: Shall mean a sign which advertises a business which has been approved by a Special Exception from the Zoning Board of Adjustment.

Temporary Sign: Shall mean a banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the Code Enforcement Officer to be displayed for a limited period of time. ~~any banner, pennant, or advertising display constructed of light materials intended to be displayed for less than a one (1) month period.~~

Soil Series: Land types as described by the Soil Survey of Strafford County, New Hampshire, dated March 1973, including the "very poorly drained" and "poorly drained" soils and as may be changed or amended from time to time by the U.S. Department of Agriculture, National Resource Conservation Service.

Swamps: Are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community consists mostly of trees and woody shrubs.

Street: A public road, highway or thoroughfare which constitutes or is designed to constitute the main access to more than one lot and which has been legally dedicated and accepted for public use.

Structure: Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences and boundary walls, but shall include but not be limited to parking areas, driveways, roads, and leach fields.

Trailer Camp (Recreational Campground): A land area occupied or designed for occupancy by two (2) or more trailers or campers, in use for seasonal living purposes.

Undevelopable Land: Shall mean land designated as: floodplain, Wet Soils, and land with slopes greater than fifteen percent (15%).

Visual Vegetative Barrier: A natural or man-established planting of trees and/or shrubs.

Visual Topographic Barrier: A natural or man-established ridge or burm covered so as to prevent erosion.

Waste or Waste Matter: Any matter consisting of garbage, refuse, radioactive or nuclear material, sludge from a waste or water treatment plant, or air pollution control facility, other discarded or abandoned material, including solid liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, or any matter defined as "hazardous" or potentially harmful by the State Division of Public Health Services, or the U.S. Environmental Protection Agency.

Water Impoundment: shall mean any water that is dammed, diked, dug out, and/or raised above the natural water level to include but not limited to multipurpose ponds, wildlife ponds, and farm ponds.

¹ **Wet Soils:** Shall mean those soils classified as poorly or very poorly drained as defined by the Soil Drainage Class Interpretive Limits section of Site-Specific Soil Mapping Standards for New Hampshire

¹ March 2005

and Vermont, Version 2.0 January, 1999, published by the Society of Soil Scientist of Northern New England (SSSNE Special Publication #3), or the current version of this publication. Agricultural waste storage facilities, constructed and operated in accordance with NHDAMF (New Hampshire Department of Agriculture Markets and Food) best management practice guidelines, shall not be construed as a wet soil area for the purpose of this ordinance.

Wireless Communication Facility: Any towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions.

Woodworking or Cabinetry: Any business which manufactures wood products and/or cabinetry. The floor space not to exceed one thousand square feet, and employment not to exceed two employees and/or agents.

Zoning Board of Adjustment: Shall consist of five (5) members who shall be appointed by the Board of Selectmen as required under New Hampshire RSA 673:3 and shall be the power to hear and decide appeals if it is alleged there is error in any order made by an administrative official in the enforcement of any ordinance; and authorize upon appeal in specific cases such Variance or Special Exception from the terms of the ordinance. (See Article XXI herein.)

ARTICLE III GENERAL PROVISIONS

- A. **BUILDING REGULATIONS:** The building regulations ordinance as adopted by the Town of Lee, March 13, 1956 and all subsequent amendments, shall apply to all zones.
- B. **SUBDIVISION REGULATIONS:** The regulations permitting the subdivision of land as adopted by the Town of Lee, March 14, 1962 and all subsequent amendments shall apply to all zones.
- C. **SITE REVIEW REGULATIONS:** ⁶All permitted uses and uses allowed by Special Exception and or Variance may be subject to Site Plan Review in accordance with the Site Review Regulations as adopted by the Town of Lee, January 7, 1977 and all subsequent amendments to the Site Review Regulations.

Lee Planning board approval of a site plan is a prerequisite to the issuance of a building permit.

Site Plan Review Regulations apply to the Commercial Excavation of Earth. Site Approval including an excavation permit shall be required from the Lee Planning Board in accordance with Article XII herein. When such excavation site is located within the Residential Zone, a variance must be obtained from the Zoning Board of Adjustment in accordance with the provisions of Article XIX of the Lee Zoning Ordinance.

- D. **TEMPORARY SHELTER:** No owner or occupant of land shall permit fire or other ruins to be left, but within one (1) year shall remove or refill the same to ground level or shall repair, rebuild or replace the structure.

⁶ March 2015

Temporary shelter may be placed in the vicinity of a single or two family residential structure which has been rendered uninhabitable by a catastrophic event for up to ninety (90) days from the date of the event. Utility and sanitary arrangements are subject to the Health Officer/Building Inspector approval. The Selectmen shall be empowered to grant additional time as deemed necessary for reconstruction.

E. AGRICULTURE: Normal agricultural practices shall be permitted in all zones according to the following standards: (Agriculture, Farm, Farming):¹

The word "farm" means any land, buildings or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence of the owners(s) located on such land. Structures shall include all farm outbuildings used in the care of livestock, in the production and storage of fruit, vegetables, or nursery stock, in the production of maple syrup, the production of annual or perennial plants, and any other structures used in the agricultural operations.

- 1.)The words "agriculture" and "farming" shall mean all operations of the farm, but shall not be limited to:
 - a.)The cultivation, conservation, and tillage of the soil,
 - b.)The storage, use, and application of fertilizers, manures and other soil amendments,
 - c.)The storage, use, and application of agricultural crop protection materials,
 - d.)The raising and sale of livestock, including but not limited to; dairy cows and the production of milk and other dairy products, beef animals, swine, sheep, goats, domesticated strains of buffalo or bison, llamas, alpacas, emu, ostriches, yaks, elk, fallow deer, red deer, and reindeer,
 - e.)The breeding, board, raising, training, riding instruction, and selling of equines,
 - f.)The commercial raising, harvesting, and sale of fish or other aquaculture products,
 - g.)The raising, breeding and sale of poultry or game birds,
 - h.)The raising of bees and the production of honey,
 - i.)The raising, breeding, and sale of domesticated strains of fur-bearing animals,
 - j.)The production and sale of greenhouse crops,
 - k.)The production, cultivation, growing, harvesting, and sale of any other agricultural, floriculture, forestry, or horticultural crops including, but not limited to, berries, herbs, maple syrup, fruit, vegetables, tree fruit and nuts, flowers, seeds, grasses, nursery stock, sod, trees and tree products, including Christmas trees, trees grown for short rotation fiber, or any other plant that can be legally grown and harvested for sale or subsistence,
 - l.) Any other practice or activity on the farm incident to, or in conjunction with such farming operations, including, but not restricted to:
 - 1.) Preparation for market, delivery to storage, markets or other distribution points, of any products or materials from the farm,
 - 2.) The transportation to the farm of supplies and materials,
 - 3.) The transportation of farm workers,
 - 4.) Forestry or lumbering operations,
 - 5.)The irrigation of growing crops, from private, public and or other riparian water supplies where not prohibited by regulation,

¹ Amended March 14, 2006

6.)The marketing or selling at wholesale or retail, or in any other manner on-site and off-site, any products from the farm, and other related supplies or materials that do not exceed in average yearly dollar volume the value of the products from the farm,

7.)A roadside farm stand or farm market, as defined below, shall be considered part of an agriculture or farming operation and not considered commercial, provided that at least 50% of the average gross sales yearly dollar value is attributable to products produced on the farm or farming operation by the stand or market operator.

2. Temporary structures for season farm stands must be removed upon conclusion of the season activity. The roadside farm stand is required to be registered with the Town of Lee.

Farm Market

The purpose of the farm market is to provide opportunities for agricultural producers to retail their products directly to consumers and enhance income through value-added products, services and activities. Permitted activities include but are not limited to; the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; agricultural tourism, pick- your-own operations; community supported agriculture; farm vacations. If the Farm Market includes any permanent structures/buildings, they are subject to the current Zoning Regulations in the Town of Lee and subject to site review by the Town of Lee's Planning Board.

Roadside Farm Stand

The purpose of a temporary roadside farm stand is to allow farmers, who are actively farming, low cost entrance into direct marketing their farm products. It is characterized as a direct marketing operation is seasonal in nature and features on-farm produce as well as locally produced agricultural products, enhanced agricultural products and handmade crafts. Permitted activities include: but are not limited to; the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts, pick- your-own fruits, vegetable and nuts; community supported agriculture (CSA), agricultural tourism. The roadside farm stand is required to be registered with the Town of Lee. Any temporary uildings/structures are exempt from the definition of building/structures as defined in Article V, Residential Zone of the 2006 Town of Lee Zoning Ordinance as amended – (example if future changes are done to the Articles it may change the numbering) and Article XV, Wet soils Conservation Zone and they are exempt from the Setback provisions from Article V, Residential Zone and Article XV, Wet Soils Conservation Zone

Agricultural Tourism

The purpose of Agricultural Tourism is to attract people to farms, promote the sale of agricultural products using agriculture related tours, events and activities, as well as non-agricultural related activities. These tours, events, and other activities are to supplement farm income. Activities include, but are not limited to petting farms, farm animal attraction, school tours, outdoor trails, crop mazes, hayrides, pony rides, livestock and or equine events, group picnics, on-and- off site food catering services, craft shows, outdoor recreation, and educational activities. If a fee is charged, in order to be a permitted use, the farm must be actively producing agricultural products for sale. Farms where the seller is not actively producing agricultural products for sale will require a Special Exception.

F. SANITARY PROTECTION: All dwellings and commercial properties shall provide both waste water disposal systems and sufficient water supply which shall be constructed and installed in accordance with the standards of the Lee Building Regulations, the New Hampshire Department of Health, and Welfare and the New Hampshire Water Supply and Pollution Control Division.

G. FLOODPLAIN: Within the Regulatory Floodway, any development or encroachment (including fill) which would result in any increase in flood levels during the base flood discharge is prohibited. Development shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

ARTICLE IV ZONES

For the purpose of this ordinance, the Town of Lee is divided into four (4) zones: the Residential Zone (Zone A), the Commercial Zone (Zone C) the Light Commercial Zone (Zone LC) and the Wet Soils Conservation Zone and Aquifer Conservation District, as shown on the Official Map dated March 11, 1969 and amended March 2, 1976; March 8, 1977; September 14, 1982; March 12, 1985; March 12, 1986; March 14, 1989 and June 1, 2012 and filed with the Town Clerk. Said Official Map is a part of this ordinance and is incorporated herein by reference.

Residential Zone (Zone A): Shall comprise of whole town with the exception of Zone C and Zone LC.

Commercial Zone (Zone C): Shall comprise that area north and south of Route 4 as outlined below, and as shown on the Official Zoning Map. Starting at the Junction of Routes 4 and 125, running East for one thousand (1,000) feet along Route 4, and then North parallel to Route 125 to the Lee-Barrington Town Line. Thence running South along the Lee/Barrington Town Line to five hundred (500) feet South of the Route 4 right-of-way. Thence running East parallel to Route 4 to a point one thousand (1,000) feet East of the Lee Traffic Circle. Also running South of the junction of Route 4 and Route 125 five hundred (500) feet East and West of the Route 125 right-of-way to the junction of Route 125 and Steppingstone Road.

Light Commercial Zone (Zone LC): Shall comprise the land known as Lee Tax Map #25-03-000, a single parcel of 91.35 (+/-) acres.

Wet Soils Conservation Zone: As defined in Article XV herein.

Aquifer Conservation District: Shall be superimposed over all other zones and is defined in Article XIII herein.

ARTICLE V RESIDENTIAL ZONE (ZONE A)

A. PERMITTED USES

In Zone A, the following uses are permitted:

- 1) Residential;
- 2) Agricultural in accordance with the Terms of Articles II and III herein.
- 3) Municipal buildings and structures;
- 4) Churches on a site approved by the Planning Board;
- 5) Accessory uses and Special Exception uses as permitted herein.
- 6) Accessory Dwelling Units.
- 7) Recreational Playing Fields, Outdoor: Non-Commercial outdoor playing fields for games like soccer, field hockey, baseball and other similar outdoor sports as approved by the Lee Planning Board. Not structures allowed except for necessities like small sheds for maintenance and restrooms. No lighting or voice amplification equipment. No bleachers more than four (4) feet in height off the ground. No paved parking lots or areas. Site Review by the Planning Board is required to deal with issues such as noise, parking, and traffic.

Commercial excavation shall not be permitted in the residential zone.

One (1) residential structure shall be permitted on each lot unless such lot has received site approval for multi-family or condominium use according to the terms of Article XI and VII of this ordinance.

⁷Duplexes shall be permitted in Zone A on lots greater than five (5) acres with a minimum of 4.0 acres or (174,240 square feet) of contiguous developable land area or as approved by cluster residential subdivision. Duplexes shall not be subject to Lee Site Plan Regulations.

B. LOT REQUIREMENTS

⁸**(1) Lot Size:** All lots used for residential purposes shall contain a minimum of eighty-five thousand (85,000) square feet of contiguous land which is suitable for development. (See Definition of Undevelopable Land - Article II.)

(2) Frontage: Such lot shall have a minimum of two hundred and fifty (250) feet of frontage on a public right-of-way. Frontage and acreage requirements may be waived at the discretion of the Planning Board to permit cluster residential development in accordance with Article VIII herein.

(3) Setbacks⁹: On each lot (except as provided under the terms of articles pertaining to cluster, condominium and manufactured housing subdivisions) the required setback for any building shall be:

⁷ Amended March 2001

⁸ Amended March 1999

⁹ Amended March 2015

Front - Fifty (50) feet from the public and private right-of-way;

Back and Side - Twenty five (25) feet from the lot lines. When such line is along a right of way, side and/or back setback shall be thirty five (35) feet.

(3-a) When the use is permitted by Special Exception in the Residential Zone, the required setback for any new buildings shall be¹⁰:

Front - Fifty (50) feet from the public and private right-of-way.

Back and Side - Thirty-Five (35) feet from the lot line.

Parking areas shall also adhere to the above setback requirements for special exceptions.¹¹

(4) Lot of Record: A building housing a permitted use may be constructed on a lot of record at the time of this ordinance (March 5, 1974) if a waste water disposal system and a water supply system is constructed according to the applicable article of the Lee Building Regulations and provided that all of the setback requirements of this ordinance can be satisfied.

(5) Seasonal Residence: Seasonal residences may not be converted for year-round use without a conforming waste water disposal system (See Lee Building Regulations). Seasonal residences may not be converted for year-round use unless such residence has a clear safe access for emergency vehicles, as determined by the appropriate local officials, which is maintained year-round. There shall be no expansion in area or volume of the property unless all other requirements of the Lee Building Regulations and Lee Zoning Ordinance can be satisfied.

C. ACCESSORY USES

A resident may use his domicile for such customary uses as consultant, engineer, architect, lawyer, real estate or other recognized professions or such home occupations as hairdressing, dressmaking, upholstering or other noise, smoke, dust and odor free occupations, provided that there is no indication of such occupation visible on the exterior of the building or of the lot, except for a permitted sign, and that no such use requires any more additional parking space than would be required for a normal residency and would cause no diminution in value of surrounding properties. Any use requiring expanded parking facilities, a sign over four (4) square feet in area, outside storage of materials or employees or agents other than the owner or tenant and his spouse or children shall not be permitted except where a Special Exception has first been obtained from the Zoning Board of Adjustment. (See Article XXI herein). A permit from the Building Inspector and approval from the Planning Board must be obtained unless waived.

Where the criteria set forth for Accessory Use cannot be satisfied, the following uses may be permitted by Special Exception from the Zoning Board of Adjustment. Any use not deemed Accessory or permitted by Special Exception shall be prohibited.

D. SPECIAL EXCEPTION

The purpose of this section is to allow, on a selective basis, certain types of low-impact enterprises to be located in the residential zone. The intent is not to allow such enterprises in the midst of compact residential subdivisions or neighborhoods, but rather in areas which are otherwise suitable to such uses. Such enterprises should be low-impact in terms of noise, lighting, hours of operations, traffic, etc., so as to inflict as little disturbance as possible on the quality of life of nearby residences.

Special Exception shall be required for any use requiring expanded parking facilities, a sign over eight ~~four (4) (8)~~ square feet in area, outside storage of materials, or agents or employees other than the

Commented [JLP2]: This is inconsistent with the sign ordinance which authorizes a sign in residential zone via special exception up to 8 square feet.

¹⁰ Amended March 2015

¹¹ Amended March 2001

owner and his spouse and children. A Special Exception shall be obtained from the Zoning Board of Adjustment according to the criteria set forth in this ordinance herein and New Hampshire RSA Chapter 673; Local Land Use Boards. Site Approval must be obtained from the Planning Board unless waived. If a building is to be erected, a Building Permit must also be obtained from the Building Inspector.

The following are the uses which may be permitted by Special Exception:

- Antique Shops
- Barbershops and Beauty Salons
- Day Care Centers and Nursery Schools
- Nurseries ²
- Professional Offices ¹²
- Real Estate Offices
- Craft Shops, Woodworking or Cabinetry
- Nursing Homes, Retirement Homes,
- Kennels
- Public Utility Boxes and Equipment
- Bed & Breakfast – Site Review required by Planning Board ¹

A Special Exception shall go with the land and shall be limited only to the use and conditions as set in the granting.

A Special Exception will also be required for a Wet Soils Conservation Zone crossing under the terms of Article XV herein.

Special Exceptions may only be granted where satisfactory provisions and arrangement can be made for the following:

1. Ingress and egress to the property and proposed structures or uses with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and in case of fire or catastrophe;
2. Off-street parking and loading areas where considered necessary by the board;
3. Control of noise, glare, odor or other potentially adverse effects of the proposed use on nearby property and screening or buffering to alleviate such effects;
4. Refuse and service areas;
5. Control of drainage and erosion;
6. Lighting must be installed with due regard to glare, traffic safety and compatibility and harmony with adjoining property and the character of the area.

In addition, any use under Special Exception must conform to the following criteria:

² Amended March 14, 2006

¹² Amended March 10, 2009

¹ Amended March 11, 2003

1. A landscaped buffer zone must be maintained between the Special Exception and any residential lot line. The requirement of the buffer will be determined by the Planning Board during the Site Review process¹³.
2. Signs must conform to requirements of Article XVII of this ordinance.
3. Only one (1) residential structure and/or one (1) business, shall be permitted for that use on each lot.

**ARTICLE VI
COMMERCIAL ZONE (ZONE C)**

¹⁴A. PERMITTED USES

1. No residential use shall be allowed in the commercial zone.
2. Any industrial or commercial use on a site approved by the Planning Board.
3. Commercial excavation in accordance with the Excavation Permit issued by the Planning Board. (See Lee Site Plan Regulations, Article XII, Earth Removal Operations)

B. APPLICABILITY

1. When a parcel of land is split by zones, it shall be considered to be wholly in that zone which comprises seventy-five percent (75%) or more of the total acreage of the parcel under consideration.
2. The following standards and regulations shall apply to commercial use within Zone C.
3. A commercial use which is grandfathered (in existence prior to the adoption of this ordinance) shall be exempt from these standards and regulations except that:
 - a. Any expansion or modification in dimension or use shall conform;
 - b. Any change in approved use shall require Site Plan Review by the Planning Board.

C. LAND REQUIREMENTS

1. Lot Area: The minimum lot size for commercial use shall be eighty-five thousand (85,000) square feet (Seventy-five percent (75%) of such area must be developable land area) except that a lot of record at the time of this ordinance may be used for one (1) commercial use if all the other requirements of this ordinance may be satisfied.

Where more than one commercial use or structure is proposed, lot size shall be eighty-five thousand (85,000) square feet for the first use and twenty-five thousand (25,000) square feet of developable land area for each additional use.

¹³ Amended March 2015

¹⁴ Amended March 1999.

2. Density: Total impervious coverage of the lot shall not exceed twenty-five percent (25%) of the total lot area. In the Aquifer Conservation District, see Article XIII Section D-5.

3. Setback: Each commercial use shall be set a minimum of one hundred and twenty-five (125) feet from the highway right-of-way. Setback shall apply to all structures including parking areas, leach beds and product display areas. A natural vegetative buffer zone shall be maintained in the setback area with the exception of that area required for safe access and egress.

Side and rear setbacks shall be fifty (50) feet from the adjacent property line. When such lot abuts a residential lot, the setback shall be one hundred (100) feet.

4. Frontage: Any lot in Zone C shall have two hundred and fifty (250) feet of frontage on a public right-of-way.

D. ACCESS: Each property owner shall be permitted one (1) access per one thousand (1,000) feet of frontage. Access must be reviewed and approved by the Road Agent and the State Highway Department (if applicable).

E. AQUIFER ORDINANCE: The provisions of Article XIII of this ordinance shall override any provisions set forth herein.

F. SITE PLAN REVIEW REGULATIONS: Site Plan Review Regulations for the Town of Lee shall apply to all commercial and multifamily uses in this zone. This shall include any commercial buildings constructed in any zone, any expansion or modification of any existing Site Plan (or any commercial structure or site) or any change in any use.

G. BUILDING REGULATIONS: The Building Regulations for the Town of Lee shall apply to any construction within any zone.

Article VI-a, Light Commercial Zone (Zone LC)

A. The following uses shall be permitted:

1. Business offices providing the following services;
 - a. Financial
 - b. Insurance
 - c. Real Estate
 - d. Engineering/Architecture/Computer design of all types
 - e. Publishing and data processing
 - f. Legal
 - g. Social services
 - h. Health services
 - i. Educational services
 - j. Research and development
 - k. Medical, such as doctors, dentist, optometrist, occupational therapy, physical therapy, or other specialized medical office uses, service laboratories and offices accessory to these.

2. Light Industry/Commercial Uses:

- a. Processing, assembling, mixing, packaging, finishing, decorating, or repair products conducted in spaces and/or building(s) but excluding basic industrial processing such as casting and forging.
- b. Warehousing.
- c. Counter sales/mercantile; an occupancy used for the display and sale of merchandise in support of the processing (a. above) or warehousing (b. above).
- d. The growing, production and wholesale of agricultural crops in a building or other enclosed structure.
- e. The commercial raising, harvesting, and wholesale of fish or other aquacultural products in a building or other enclosed structure.
- f. The raising of bees and the production of honey.

B. Special Provisions

1. No residential uses shall be allowed in Zone LC.
2. No commercial excavation of gravel/rock or other natural material shall be allowed in Zone LC.
3. The land comprising Zone LC shall not be subdivided except to the extent that the entire site is developed as and held in the condominium form of ownership.
4. No use shall be allowed in Zone LC that emits a regulated toxic air pollutant, as defined in NH RSA 125-I:4, into the ambient air except air emissions resulting from the combustion of virgin petroleum products, natural gas, propane, and biodiesel as defined in NH Env-A 1402.02(a)(4), by mobile and stationary sources.
5. There shall be no storage outside of the primary building.

C. Setbacks/Buffers

1. A minimum 125 foot perimeter buffer of the site shall be left in its natural state, undisturbed with the exception of (i) walking trails approved by the Lee Planning Board and (ii) site access. If a septic location requires an encroachment into the perimeter buffer it shall be permitted with approval by the Lee Planning Board.
2. No building or parking area shall be within 25 feet of the perimeter buffer.
3. Only utility service may be permitted within the perimeter buffer with Planning Board approval.
4. A setback of 25 feet shall be maintained along and from the easement line of the pond on site for all building/structures. Walking trails may be permitted along with resting/picnic area(s) within the easement and perimeter buffer if permitted by the easement and approved by the Planning Board.
5. Buildings on site shall be a minimum of 50 feet apart. Access around each building shall be permitted if required for fire protection. Parking and access shall be permitted within the 50 foot separation area.

- D. Aquifer Ordinance: The provisions of Article XIII A and E, (or applicable article for aquifers) of this ordinance shall override any provisions set forth herein. The impervious coverage requirements, specified in Article XIII shall not apply to Zone LC.
- E. Wet Soils Ordinance: The provisions of Article XV, (or applicable article for wet soils) of this ordinance shall override any provisions set forth herein.
- F. Site Plan Review Regulations: Site Plan review regulations for the Town of Lee shall apply to all activities located in Zone LC.

G. Building Regulations: The Building Regulations for the Town of Lee shall apply to any construction within Zone LC.

H. Signage:

1. Entrance Sign. There shall be a single entrance sign permitted for purposes of identifying the site. The entrance sign shall have one name only such as "Noble Farm Business Park", "Lee Business Park" or such other name that has been approved by the Planning Board. The location of the entrance sign shall be approved by the Planning Board as part of site plan review taking into account site access and overall site development. It shall be constructed of natural materials such as wood, masonry, or granite. The aggregate square feet of the entrance sign shall not exceed 32 square feet. The top of such sign shall not be greater than 6 feet in height, measured from the crown of the road. The sign shall be illuminated by down lighting.
2. Internal Signs. One commercial sign shall be permitted for each business use. The sign shall not exceed 16 square feet, shall be free-standing, and shall be in close proximity to the entrance of the business use. The sign shall be made of natural materials. The top of the sign shall not be greater than 4 feet in height, measured from the crown of the internal access road. The sign shall be illuminated by down lighting.
3. No other signage shall be permitted in Zone LC except signage related to traffic and safety.
4. All signage for Zone LC shall be subject to approval by the Planning Board.

ARTICLE VII CONDOMINIUM DEVELOPMENT

A. PURPOSE

The purpose of this article is to provide a flexible policy for quality condominium development consistent with the rural character, health, safety, and welfare of the Town of Lee and which will: result in a more economical subdivision layout; encourage a variety of residential dwellings; encourage ingenuity and originality in total subdivision and individual site design; preserve open space to serve recreational, scenic, conservation and other purposes related thereto within the densities established for the gross tract. All development shall be done in accordance with New Hampshire RSA 356.

B. PROCEDURE

¹⁵**Site Plan Review:** Proposals for a condominium development in the residential zone shall be submitted to the Planning Board. The Planning Board shall review such plan in accordance with the Planning Board's duties under Lee Site Plan Regulations. The Planning Board shall approve, approve with modification, or deny the proposal as provided by the state statute. Any development not part of the approved plan shall constitute a violation of this ordinance. Any land identified as convertible land, for future construction, shall show future development plans. In the case of expendable condominium(s) a separate application for the proposal shall be made upon expansion. The proposal shall contain the following:

1. Site Plans shall show all proposed building, lighting, parking areas, signs and landscaping at a scale sufficient to permit the study of elements of the plan.

¹⁵ Amended March 1999.

2. Utilities, Roads and Drainage plans shall be submitted.
3. Elevations and Floor Plans of all proposed buildings.
4. Location of adjacent structures and other outstanding features within two hundred (200) feet of the property line.
5. Other additional information deemed necessary by the Planning Board.

C. STANDARDS AND REGULATIONS

¹⁶The following standards shall be met for condominium development. Article V of this ordinance shall not apply to condominium development.

1. Minimum Land Area: for a condominium development, shall be twenty (20) contiguous acres in one (1) parcel. No more than twenty five percent (25%) of the minimum lot area shall be comprised of undevelopable land. (If such is the case, permitted density shall be reduced accordingly.)

2. Maximum Dwelling Units: There shall be no more than six (6) dwelling units per residential structure.

3. Distance Between Structures: shall be a minimum of fifty (50) feet.

4. Density: The required land area per condominium unit shall be not less than three (3) acres being 130,680 square feet.¹⁷ This density shall be maintained and applied to any convertible land or conversion space to be developed in the future. There shall be no minimum lot size for unit construction, provided soil and slope conditions are acceptable.

5. Frontage: There shall be a minimum of two hundred and fifty (250) feet of frontage on a public right-of-way.

6. Buffer: There shall be a minimum buffer zone of one hundred (100) feet provided between any structure and the perimeter of the tract. The intent of the buffer zone is to provide visual vegetative screening from adjacent lots.

7. Common Land Area: Unless identified as convertible land, all areas designated as common land shall be permanently maintained as such and shall be guaranteed as such by a covenant describing the established common land area. Conservation Easements shall be encouraged on all dedicated open space land.

8. Open Space: Shall comprise a minimum of twenty-five percent (25%) of the total land area of the parcel and shall be contained in a contiguous section. The Planning Board shall retain the authority to waive this requirement on an individual parcel basis taking into consideration adjacent land use and specific conservation considerations.

¹⁶ Amended March 1999.

¹⁷ Amended March 2001

9. Development Schedule: A timetable for completion of the condominium development shall be established and provisions made to indemnify the occupants of the development and the Town, should the condominium development not be completed. The Town may require the necessary performance bond(s) to ensure compliance.

10. Roads and Parking: Internal streets within the development shall conform to design and construction specifications of the Lee Subdivision Regulations. Such roads shall provide access to each unit. When the development contains ten (10) or more units, the main road shall be dedicated to the public. Accessory roads and ways within the development shall be private roads and shall be the responsibility of the Home Owner's Association. Area used for right-of-way shall be deducted from the permitted density.

Whenever possible (taking into consideration conservation and space limitations of the individual parcel) such streets shall be of a loop design with only one entrance onto an existing public road.

A minimum of two (2) off-street parking spaces shall be provided for each dwelling.

11. Building Height: No building shall exceed thirty-five (35) feet in height.

12. Setback: A condominium structure shall be setback a minimum of thirty-five (35) feet from the interior roadway.

13. Water and Waste Water Disposal: Water and Waste water disposal shall be provided by a community system or individual water or waste disposal system(s), upon approval by the Lee Planning Board. Systems shall be constructed and maintained in accordance with the standards of the Lee Building Regulations and the New Hampshire Water Supply and Pollution Control Division.

Nutrient loading analyses, according to Town guidelines, shall be submitted to the Planning Board to demonstrate that groundwater supplies shall be adequately protected.

If water is provided by a community supply it shall be constructed in accordance with the standards of the New Hampshire Water Supply and Pollution Control Division and the Lee Building Regulations.

14. Utilities: Any or all utilities, facilities, services, etc. shall be subject to inspection by the appropriate Town Officials or their designees. Any costs incurred shall be borne by the condominium developer.

15. Local Regulations: All subdivision and building regulations for the Town of Lee, where applicable, shall apply unless otherwise stated in this article.

D. DESIGN REQUIREMENTS

In addition to the requirements of the Lee Subdivision Regulations and the Lee Site Plan Regulations, condominium developments shall comply with the following design requirements.

1. Architectural Style: Within the development, architectural styles which are compatible with the natural amenities and topography of the site will be encouraged.

2. Minimize Alteration of Site Features: Individual buildings, streets, and parking areas shall be designed and situated to minimize alteration to natural site features to be preserved, to relate to

surrounding properties, to improve the view from the view of buildings, to lessen the area devoted to motor vehicle access, to achieve the best possible relationship between development and the land, to avoid adverse effects of noise, shadows and traffic on the residents of the development, and to insure no diminution in value of surrounding properties shall occur.

3. Open Space: Open Space areas shall include irreplaceable natural features located in the tract, such as but not limited to, stream beds, significant stands of trees, individual trees of significant size, rock outcroppings, and marshes. These should be distributed throughout the development as part of a design which will serve to unify the development visually and functionally and to buffer the development from surrounding land uses. No common open space shall be denuded, defaced, nor otherwise disturbed without prior written approval of the Planning Board.

Open space is intended for passive recreational uses and wildlife habitat and shall be easily accessible to all units within the development.

4. Drainage: Natural surface drainage channels shall be either incorporated into the overall site design or shall be preserved as part of the required open space.

E. MAINTENANCE OF COMMON AREA

In the condominium project, the maintenance of common area(s) and payment of common expense(s) shall be done in accordance with the provisions of New Hampshire RSA 356-B.

1. In the case where a condominium development consists of ten (10) units or less, all deed restrictions, organizational provisions for a Unit Owner's Association, and any other management concerns for common areas shall be approved by the Planning Board with the advice of the Town Attorney. Any costs incurred shall be borne by the condominium developer.

2. In the case where the condominium development consists of more than ten (10) units, final approval for all deed and financial arrangements of the Condominium Development shall be done in accordance with New Hampshire RSA 356-B through the State of New Hampshire Attorney General's office. Any costs incurred shall be borne by the condominium developer.

3. In addition to No's (1) and (2) above, review by the Town Attorney will be required to assure the validity of common ownership for tax purposes. Any cost incurred shall be borne by the condominium developer.

F. HEALTH AND SAFETY CLAUSE

In the event that the Unit Owner's Association fails to maintain the common area(s) relative to the health and safety of the condominium inhabitants or abutting property owners, the Board of Selectmen shall serve written notice upon such association setting forth the deficiencies in the maintenance of common areas relative to health and safety. Such notice shall include a demand that said deficiencies be cured forthwith, and that a statement of intent to comply and a date of compliance be filed with the Board of Selectmen within fourteen (14) days of said notice.

If such maintenance shall not have been performed or said statement of intent not filed by the stated time, the Town in order to preserve the taxable values of the properties within the condominium development and to prevent any common area(s) from becoming a detriment to public health and safety, may enter upon such common area(s) and maintain it for not more than one (1) year. Said entry shall not vest any right in the general public to the use and the enjoyment of the common area(s).

Before the expiration of that period, the Town shall upon its initiative or upon the request of the Unit Owners Association therefore responsible for the maintenance of the common area(s), call a public hearing to be held by the Board of Selectmen. Notice of such hearing shall be given to such Unit Owners Association and to the unit residents of the condominium.

At the hearing, such Unit Owners Association or unit owners of the condominium development shall show cause why such maintenance by the Town shall not, at the election of the Town, continue for a succeeding year or other designated period. If the Board of Selectmen shall determine that such Unit Owners Association is not ready and able to maintain said common area(s) in a safe and health condition, the Town may, in its discretion, continue to maintain said common area(s) during the succeeding year and subject to a similar hearing and determination, during each succeeding year thereafter.

The cost of such maintenance by the Town shall be assessed against the properties within the condominium development in direct relation to the proportionate interest in the common area(s) and shall become a tax time on said properties. At the time of entering on said common areas, for the purposes of maintenance, notice of such lien shall be filed in the Office of the Registry of Deeds. The decision of the Board of Selectmen in any such case shall constitute a final Administrative Decision.

ARTICLE VIII OPEN SPACE RESIDENTIAL DEVELOPMENT

A. PURPOSE²³

The purpose of this article is to provide permanently preserved open space residential development consistent with the rural character of the Town of Lee. This will encourage and permit a "neighborhood" subdivision layout, and a variety of residential dwellings.

1. To create residential development in which the buildings and accessory uses are located more closely together with reduced lot sizes, into separate groups or neighborhoods, separated by a significant amount of common open space (Minimum of 30,000 sq ft. with no less than 100 ft of frontage.)
2. To permanently preserve open space to serve recreational, scenic, conservation and other related purposes within the densities established for the gross tract due to health and safety. Example: In a 40 acre tract, the maximum number of dwelling units that could be obtained, meeting all of the requirements of the ordinance would be twenty. (20)

B. STANDARDS AND REGULATIONS

Common Land area within the Cluster Residential Development tract will be established and maintained in accordance with the following requirements:

1. Mandatory Home Owners Association: The applicant or developer shall provide for and establish a "Mandatory Home Owners Association" as a legal entity under the laws of the State of New Hampshire or the ownership, care, and maintenance of all such land and improvements. Its articles shall be approved in writing by the Planning Board after review by the Town Attorney prior to development. The cost of such legal review shall be borne by the applicant or the developer. Any changes in such articles of association or incorporation shall require the prior written approval of the Planning Board.

²³ Amended March 2004

Such association shall be created by a covenant. Such association shall be composed of all persons having ownership within the development and shall be responsible for the perpetuation, maintenance, uses and functions of all common lands and facilities.

All common lands and improvements shall be described and identified as to location, site, use and control in the covenant. Such covenant shall set forth the method of assessment for the maintenance of such land. the covenant shall be written so as to run with the land and become part of the deed to each lot or dwelling unit within the development.

Such covenant and association shall continue in effect so as to control the availability of facilities and land thereby provided; to maintain the land and facilities for their intended function; and to protect the development from additional and unplanned densities. Such association shall not be dissolve, nor shall such association dispose of any common area by sale or otherwise except to an organization conceived and organized to own and maintain such areas without the prior written consent of the Board of Selectmen.

In the event that the association, or any successor organized or any owners of the dwelling units located within the development with ownership in said open space, fails to maintain the open space in reasonable order and condition in accordance with the final plan, the Board of Selectmen shall serve written notice upon such association or dwelling unit owner(s) setting forth the deficiencies in the maintenance, order and condition of the open space. Such notice shall include a demand that said deficiencies be cured forthwith and that a statement of intent to comply and a date of compliance shall be filed with the Board of Selectmen within fourteen (14) days of said notice. If such maintenance shall not have been performed or said statement of intent shall not have been filed by the stated time, the Town, in order to preserve nuisance, may enter upon the common area(s) and maintain such for a period of not more than one (1) year. Said entry and maintenance shall not vest any right in the general public to the use and enjoyment of the common area.

Before the expiration date of that period, the Town shall, upon its initiative or upon the request of the association thereto responsible for the maintenance of the common area, call a public hearing to be held by the Board of Selectmen. Notice of such hearing shall be given to such association and the residents of the development. At that hearing, such association or the residents of the development shall show cause why such maintenance by the Town shall not, at the election of the Town, continue or a succeeding year or other designated period. If the Board of Selectmen shall determine that such association is not ready and able to maintain said common area in a reasonable condition, the Town may, in its discretion, continue to maintain said common area during the next succeeding year and subject to a similar hearing and determination, during each succeeding year thereafter. The decision of the Board of Selectmen in any such case constitute a final Administrative Decision.

The cost of such maintenance by the Town shall be assessed against the properties within the development in direct relation to their proportionate interest in the common area, and shall become a tax lien on said properties. At the time of entering on said common area, for the purposes of maintenance, notice of such lien shall be filed in the Office of the Strafford County Registry of Deeds.

2. Permitted Uses: Cluster Residential Development shall be restricted to single family detached dwellings and to two-family detached residential structures under one ownership.

- 2-a: ¹⁸Cluster Developable Net Developable Areas Standards:** The area of the entire tract to be subdivided less:
- a.) 10 percent for subdivision road right-of-way and utilities.
 - b.) Rivers, streams, floodplains and water-bodies measured to the high water mark.
 - c.) Hydric soils classified as "very poorly drained" and "poorly drained."
 - d.) Slopes greater than fifteen percent (15%).

¹⁸ Adopted March 2001

3. ¹⁹Acre Requirement and Density:

3-a: The tract of land on which a Cluster Development is located shall have a total area of at least twenty (20) acres.

3-b: Permitted Density for single family dwellings; The number of units shall be determined by dividing the number of net developable acres by the conventional lot size of that district (85,000). For two family units each dwelling unit is considered one unit.

4. Minimum Lot Size: In a cluster residential development, individual lot size may be reduced from the general lot size in Article V to specific minimum lot sizes for cluster development, such minimum lot sizes being governed by the type(s) of dwelling unit proposed as follows:

Single Family Detached Dwellings: ²⁰Minimum lot size for a single-family unit shall be 30,000 square feet of contiguous developable land per unit.

Two Family Residential: ²¹A two-unit dwelling shall have a minimum lot size of 60,000 square feet of contiguous developable land.

5. Frontage: There shall be a minimum of two hundred and fifty (250) feet of frontage on a public right-of-way.

6. Buffer Zone: A buffer zone having a minimum depth of one hundred (100) feet shall be provided between any structure and the perimeter of the tract. The intent of the buffer zone shall be to provide visual vegetative screening from adjacent lots. Said buffer zone shall be comprised of vegetation, either natural or planted.

No dwellings, structures or service roads shall be permitted within the designated buffer zone.

7. Lot Dimensions: Internal building lots in addition to acreage requirements shall comply with the following:

Frontage: Shall be one hundred (100) feet for a single family residential lot; or one hundred fifty (150) feet from a duplex.

Setbacks: Building setbacks shall be thirty five (35) feet front and twenty-five (25) feet from rear and side property lines.

Depth: The depth of each lot shall not be less than one hundred (100) feet.

8. Roads and Parking: All internal roads within a cluster residential development shall conform to design and construction standards as set forth in the Lee Subdivision Regulations. Wherever possible, taking into consideration conservation and space limitation of the individual parcel, such street shall be of a loop design with only one entrance onto an existing public road. Such road shall provide access to each unit and shall be dedicated to the public.

In addition, any land dedicated to the right-of-way shall be deducted from the permitted density.

A minimum of two (2) off street parking spaces shall be provided for each dwelling unit.

¹⁹ Adopted March 2001

²⁰ Amended March 2001

²¹ Amended March 2001

9. Water and Waste Water Disposal: Water and waste water disposal shall be provided by a community system or individual water or waste disposal system(s), upon approval by the Lee Planning Board. Systems shall be constructed and maintained in accordance with the standards of the Lee Building Regulations and the New Hampshire Water Supply and Pollution Control Division.

Nutrient loading analyses, according to Town Standards, must be submitted for review which provide evidence that the groundwater will be adequately protected. At the discretion of the Planning Board, individual on-site systems may be permitted only on lots larger than forty thousand (40,000) square feet, as soil types permit.

C. DESIGN REQUIREMENTS

In addition to the requirements of the Lee Subdivision Regulations and the Lee Site Plan Regulations, Cluster Residential Developments shall comply with the following design requirements:

1. Natural Features: The developer is expected to understand and design according the natural features of the land and to architectural styles which are compatible with the site. Originality in lot layout will be encouraged to achieve the best possible relationship between the development and the land. (See Diagram)

2. Graphic Representation: A graphic representation of the site should be prepared identifying Wet Soils, slopes greater than fifteen percent (15%) and other natural features.

3. Cluster: Individual lots shall not be designed as a conventional strip development but shall be "clustered" to create a neighborhood effect.

4. Architectural Styles: Within the development, uniform architectural styles which are compatible with the natural amenities and topography of the site will be encouraged.

5. Minimize Alteration of Site Features: Individual lots, buildings, streets, and parking areas shall be designed and situated to: minimize alteration of the site features to be preserved; to lessen the area devoted to motor vehicle access; to avoid adverse effects of noise, shadows, and traffic; and to retain aesthetic qualities.

6. Open Space Areas: Open space areas shall include irreplaceable natural features located in the tract such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, rock outcroppings, and marshes. These should be distributed throughout the development as part of a design which will serve to unify the development visually and functionally and to buffer the

development from surrounding land uses. No common open space shall be denuded, defaced, or otherwise disturbed without prior written approval of the Planning Board.

Open space intended for recreational or public use shall be easily accessible to pedestrians. Such open space areas shall be linked to residential areas by walkways which shall meet the needs of the elderly and the handicapped.

7. Drainage: Natural surface drainage channels shall be either incorporated into the overall site design or shall be preserved as part of the required open space.

8. The entire development shall be designed so **No Diminution** in value of surrounding properties shall occur.

D. PROCEDURE

The following provisions shall apply to all Cluster Residential Developments:

1. Subdivision Regulations: All pertinent provisions of the Lee Subdivision Regulations shall be compiled with, including but not limited to: street design and construction specifications; the posting of bonds to cover required improvements; and the plat preparation and submission requirements.

2. Site Plan Review: The Lee Site Plan Regulations shall apply to the use, design, siting and development of all proposals, and all common land.

3. Ownership of Common Land Areas: Common land areas, and improvements thereon, shall be held, managed and maintained by the developer until owned and controlled by the "Mandatory Home Owner's Association" as defined herein.

4. Fees: The applicant shall be responsible for all costs incurred by the Town of Lee, its Planning Board, and its officials and representatives in the review of any plans. The Planning Board may require that the applicant post with the Town, at the time of application for cluster residential development plan review, sufficient funds from which anticipated review costs can be paid.

5. Special Studies: The Planning Board may require special studies and/or additional information that it deems necessary to carry out the purposes of the cluster residential development provision. Such studies shall be contracted by the Town; cost shall be borne by the developer of the land under consideration.

6. Public Hearings: No cluster residential development shall be approved or disapproved without first affording the applicant and property abutters public hearing(s) as provided for in the Lee Subdivision Regulations.

The Planning Board shall approve, approve with modifications or disapprove the plans as provided by New Hampshire RSA 676:4.

ARTICLE IX MANUFACTURED HOME SUBDIVISION

A. PURPOSE

The purpose of this article is to provide a flexible policy for quality development of alternative housing types consistent with the rural character, health, safety and welfare of the Town of Lee and which will result in a more economical subdivision layout; encourage a variety of residential dwellings; encourage

ingenuity and originality in total subdivision and individual site design; preserve open space to serve recreation, scenic conservation and other related purposes within the densities established for the gross tract.

B. PROCEDURE

221. Site Plan Review: Proposals for a mobile home subdivision in the residential zone shall be submitted to the Planning Board. The Planning Board shall review such plan in accordance with the he Planning Board's duties under Lee Site Plan Regulations and Lee Subdivision Regulations. The Planning Board shall approve, approve with modifications, or deny the proposal as provided by New Hampshire RSA 676:4. Any development or part of any development not part of this approved plan shall constitute a violation of this ordinance.

Any proposal which is submitted for approval must conform to all subdivision regulations and site plan review regulations for the Town of Lee.

2. Fees: The applicant shall be responsible for all costs incurred by the Town of Lee, its Planning Board, and its officials and representatives in the review of the plans. The Planning Board may require that the applicant post with the Town, at the time of application, sufficient funds from which anticipated review costs can be paid.

3. Special Studies: The Planning Board may require special studies and/or additional information deemed necessary to carry out the purposes of these provisions. The firm or individuals shall be contracted by the Town to carry out the purposes of these provisions. The firm or individuals shall be paid by the applicant.

4. Public Hearing: No subdivision for manufactured housing shall be approved or disapproved without first affording the applicant and the abutters public hearing(s) as provided for in the Lee Subdivision Regulations.

C. STANDARDS AND REGULATIONS

1. Land Area: The minimum land area shall be twenty (20) contiguous acres in one parcel. No more than twenty-five percent (25%) of the parcel shall be undevelopable land area including Wet Soils, floodplains and steep slopes greater than fifteen percent (15%). Should undevelopable land comprise more than twenty-five percent (25%) of the parcel under consideration, the density of development shall be reduced in order to satisfy this requirement. For example, in a parcel which consists of fifty percent (50%) Wet Soils, the number of dwelling units permitted is calculated by the amount of developable land plus the amount of acreage of undevelopable land up to twenty-five percent (25%) of the total. This figure is then divided by eighty-five thousand (85,000).

2. Frontage: There shall be a minimum road frontage of two hundred fifty (250) feet on a public right of way.

3. Number of Lots: Each manufactured home subdivision must be approvable for a minimum of eight (8) lots.

4. Lot Area:

²² Amended March 1999.

- a. The overall density of these developments shall not exceed one (1) dwelling unit for each eight-five thousand (85,000) square feet of developable land area.
- b. Individual lot sizes may be reduced to thirty thousand (30,000) square feet providing it meets state requirements for lot size by soil grouping.
- c. The minimum frontage requirement for each lot is one hundred (100) feet.
- d. The minimum depth for each lot shall be one hundred (100) feet.

5. Setbacks: Building setbacks shall be thirty-five (35) feet from an interior roadway; twenty (20) feet from side and back lots and one hundred (100) feet from the perimeter of the tract.

6. Common Land Area: Conservation Easements shall be encouraged on all dedicated open space land. Open space is intended for passive recreational uses and wildlife habitat and shall be easily accessible to all units within the development.

Unless identified as convertible land, all areas designated as common land shall be permanently maintained as such and shall be guaranteed as such by a covenant describing the established common land area.

7. Roads: All roads within a manufactured housing development shall conform to design and construction standards as set forth in the Lee Subdivision Regulations. Wherever possible (taking into consideration conservation space limitations of the individual parcel) such street shall be of a loop design with only (1) one entrance onto an existing public road.

When development contains ten (10) or more units, the main road shall be public and shall provide access to each unit. Accessory roads and ways within the development shall be private roads and shall be the responsibility of the Mandatory Home Owners Association or the Unit Owners Association. In addition, any land dedicated as a right-of-way, public or private shall be deducted from the permitted density.

8. Utilities: Any utilities, facilities, services, etc. shall be subject to inspection by the appropriate Town Officials or their designees. Any costs for such inspections shall be borne by the developer.

9. Fire Protection: Fire Protection shall be provided as set forth in the Lee Subdivision Regulations.

10. Site Plan: A manufactured housing subdivision shall be identified as such on the approved final plans. Seventy-five (75%) percent of such lots shall be initially transferred for placement of manufactured or presite built housing.

D. DESIGN REQUIREMENTS

In addition to the above, a manufactured housing subdivision should be designed according to the standards set forth in Article VIII, Section C herein pertaining to Cluster Residential Development.

E. HOMEOWNER'S ASSOCIATION

If the development includes common area, the applicant or developer shall provide for and establish a "Mandatory Home Owner's Association" as a legal entity under the laws of the State of New Hampshire for the ownership, care and maintenance of any common land and improvements. The

cost of such legal review shall be borne by the applicant or the developer. Any changes in such articles or association or incorporation shall require the written approval of the Planning Board. Such articles shall comply with the standards and regulations which are set forth in Article VIII, Section B herein pertaining to Cluster Residential Development.

**ARTICLE X
MANUFACTURED HOUSING AND RECREATIONAL VEHICLES**

²³A. PRESITE BUILT HOUSING (Modular Homes): as defined in Article II shall be permitted in the residential zone.

B. MANUFACTURED HOUSING: It shall be unlawful for any person to park a manufactured home on any property, except in locations and in accordance with this ordinance as follows:

1. In an approved manufactured housing park or subdivision;
2. In an approved manufactured housing sales lot;
3. Upon approval of Variance by the Zoning Board of Adjustment. The Zoning Board of Adjustment may approve a mobile home or a recreational vehicle to be located on the site of a new home under construction for a limited period of time.
4. Under the conditions of temporary shelter as outlined in Article III herein.

C. RECREATIONAL VEHICLES (Travel Trailers): It shall be unlawful for any person to park a camping trailer, pickup coach, travel trailer, and/or motor home on any property except in locations and in accordance with the following:

1. In an approved recreational camping park;
2. In an approved recreational vehicle sales lot;
3. The resident landowner may store a recreational vehicle owned by himself on his premises provided that said storage is in the rear or side yard, not within the front yard, not any closer than twenty-five (25) feet from any property line. A vehicle so parked shall not be used as living quarters and shall not be connected to any utilities except for periods of less than two (2) weeks when a visitor may utilize such a vehicle owned by a visitor for sleeping purposes only.

D. MANUFACTURED HOUSING PARKS

²⁴1. No manufactured housing park or recreational campground or any addition thereto shall be permitted in the residential zone except as may be authorized by the Planning Board as provided in the Lee Subdivision Regulations, Section X. Such campgrounds or parks shall also meet all requirements established for such by the New Hampshire Department of Health and Welfare and the Town Health Regulations.

2. For the purposes of this subsection, a recreational campground shall be defined as a plot of land on which two (2) or more recreational vehicles, campers or manufactured homes are located and

²³ Amended March 1999.

²⁴ Amended March 1999.

occupied for dwelling or living purposes (regardless of whether or not a charge is being made for the accommodations) and which are available for seasonal use.

**ARTICLE XI
MULTIFAMILY DEVELOPMENT**

A. PURPOSE

The purpose of this article is to provide a flexible policy for quality multifamily development consistent with the rural character, health, safety, and welfare of the Town of Lee.

B. REGULATIONS

1. Land Area: The minimum land area for a multifamily development complex shall be twenty (20) acres. No more than twenty-five percent (25%) of the minimum lot area for development may be comprised of undevelopable land, or density shall be reduced accordingly.

2. Frontage: The minimum frontage requirements shall be two hundred and fifty feet (250) on a public right-of-way.

²⁵3. Density:

In Zone A: The minimum land area for a multifamily structure (not including an "in-law" unit) shall not be less than three ²⁶(3) acres being 130,680 square feet of land for each dwelling unit. Each residential structure shall not contain more than six (6) dwelling units. There shall be a minimum of fifty (50) feet between residential structures, including attached garages.

4. Setback: Setback requirements shall conform to that required in that zone with the exception that in a multifamily development complex, front setback requirements shall be the same as that required for a commercial use in all zones.

5. Buffer Zone: For a development complex, there shall be a minimum buffer zone of one hundred (100) feet provided between any structure and the perimeter of the tract. For any multifamily structure, the buffer between the nearest residential lot line and any structure shall be equivalent to at least twenty (20) feet multiplied by the number of dwelling units.

The intent of the buffer zone shall be to provide visual vegetative screening from adjacent lots.

6. Roads: All streets and parking areas within a multifamily development complex shall conform to the road specifications of the Lee Subdivision Regulation.

Wherever possible (taking into consideration space limitations and conservation of the individual parcel), such streets shall be of a loop design and have only one exit/entrance onto any existing right-of-way. Accessory roads or ways within the complex will be private and shall be maintained by the property owner. In addition, any land dedicated as a right-of-way, public or private shall be deducted from permitted density.

²⁵ Amended March 1999

²⁶ Amended March 2001

7. Driveways and Parking: Multifamily structures shall be permitted only one (1) driveway access off any existing roadway. A minimum of two (2) off-street spaces shall be provided for each dwelling unit.

8. Water and Waste Water Disposal: Water and waste water disposal shall be provided by a community system or individual water or waste disposal system(s), upon approval by the Lee Planning Board. Systems shall be constructed and maintained in accordance with the standards of the Lee Building Regulations and the New Hampshire Water Supply and Pollution Control Division.

Nutrient Loading analyses, prepared in accordance with Town guidelines, shall be submitted to the Planning Board to demonstrate that groundwater supplies shall be adequately protected.

If water is provided by a community supply it shall be constructed in accordance with the standards of the Lee Building Regulations and the New Hampshire Water Supply and Pollution Control Division.

9. Utilities: Any utilities, facilities, services, etc. shall be subject to inspection by the appropriate Town Officials or their designees. Any costs incurred shall be borne by the Developer.

10. Fire Protection: Fire protection shall be provided as recommended by the Lee Fire Chief. Plans for such shall be submitted in conformance with the Lee Subdivision Regulations.

C. PROCEDURES

Proposals for multifamily development or multifamily structures in any zone shall be submitted to the Planning Board. The Board shall review such plans for compliance with Lee Site Plan Regulations. The Planning Board shall approve, approve with modifications, or deny the proposal as provided by statute. Any subsequent development not part of the approved plan shall constitute a violation of this ordinance.

In addition to such information required by Lee Site Plan Regulations, the following shall be required:

1. Site Plan: Shall show all proposed buildings, lighting in parking areas, signs and landscaping at a sufficient scale to permit the study of the elements of the plan;

2. Elevations: Typical elevations drawings and floor plans for all proposed buildings or other structures. No building shall exceed thirty-five (35) feet in height or two and one half (2 1/2) stories. (See Lee Building Regulations)

3. Roads and Drainage: Plans shall be submitted showing road profiles and cross sections (as applicable for any Town roads), drainage plans to demonstrate there will be no drainage off site, and plans of all utilities.

4. Fire Protection: A plan showing the proposed fire pond or other fire protection system shall be submitted and will be subject to approval by the Lee Fire Chief.

5. Fees and Costs: In addition to the usual application fees for Site Plan Review, the applicant shall be responsible for all costs incurred by the Town of Lee in review of site plans.

6. Special Studies: The Planning Board may require special studies and/or additional information deemed necessary to carry out the purposes of the multifamily provisions. Such studies shall be contracted by the Town of Lee. Expenses shall be borne by the developer of the land under consideration.

7. Public Hearing: No multifamily development complex shall be approved or disapproved without first affording the applicant and abutters two (2) public hearings thereon as provided for in the Lee Subdivision Regulations.

8. Timetable: A timetable for completion of site improvements for any multifamily development complex shall be established. The Town may require the necessary performance bond(s) to ensure compliance.

9. Regulations: Lee Subdivision Regulations, Lee Site Plan Regulations, and Lee Building Regulations, shall apply where applicable.

D. DESIGN REQUIREMENTS

In addition to the requirements of the Lee Subdivision Regulations and Lee Site Plan Regulations, multifamily development complexes shall comply with the following design requirements:

1. No Diminution: The entire development shall be designed so no diminution in value of surrounding properties will occur.

2. Architectural Styles: Within the development, uniform architectural styles which are compatible with the natural amenities and topography of the site shall be encouraged.

3. Originality: Originality in the lot layout and architectural style will be incurred to achieve the best possible relationship between development and the Town.

4. Minimize Alteration to Site Features: Individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the site features to be preserved, to lessen the area devoted to motor vehicle access, to avoid adverse affects of noise, shadows and traffic, and to retain aesthetic qualities.

5. Open Space: Open space areas shall include irreplaceable natural features located in the tract such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, rock outcroppings, and marshes. These should be distributed throughout the development as part of a design which will serve to unify the development from surrounding land uses. No common open space shall be denuded, defaced, or otherwise distributed without prior written approval from the Planning Board.

6. Drainage: Natural surface drainage channels shall be either incorporated into the overall site design or shall be preserved as part of the required open space.

ARTICLE XII TRANSFER OF DEVELOPMENT RIGHTS

A. PURPOSE

The purpose of this article is to encourage the preservation of farmland, open space, forest, watershed and other significant natural resources as well as retain the rural character of the Town for generations to come.

B. PROCESS

The development rights of a parcel of land to be preserved can be transferred to a contiguous parcel of land which is to be developed. The density of the land to be developed may increase, taking into consideration the net developable area of the parcels under consideration, in exchange for a Conservation Easement or similar permanent restriction of the land to be preserved.

C. CONDITIONS

The transfer of development rights from the land to be preserved is on the condition that at the time of submission of an application under this ordinance said land is under private ownership and the development rights have not been previously transferred.

With the exception of density, the land to be developed under this article must meet all other criteria of the Lee ordinances and all other applicable agencies.

The density of the developed parcel may not be greater than that which would be permitted considering the total developable land area of the parcels.

The Planning Board shall have the right to determine a case on individual merits taking into consideration the specific natural characteristics and resource value of the land to be preserved or developed.

ARTICLE XIII AQUIFER CONSERVATION DISTRICT

A. PURPOSE AND INTENT

The purpose of this article is to protect the public health, safety and general welfare by providing for the protection and preservation of existing and potential groundwater resources, known as aquifers, in the Town of Lee, New Hampshire.

Incidents of contamination and shortage, occurring locally as well as nationwide, have brought forth concerns regarding the necessity of planning for the protection of groundwater resources. Once considered an unlimited and unspoiled resource, the water supplied by aquifers in many New Hampshire towns has been made useless due to contamination. Some towns have been forced into expensive projects in order to meet the public's need for water.

It is therefore the intent of this article to protect our known aquifers by preventing adverse land use practices and by limiting the kinds of development which are inconsistent with the preservation of potable groundwater supply. This district will be managed in the interest of providing water of acceptable quality and adequate quantity for the use by present and future generations of Lee residents (and possibly of neighboring towns with whom we share aquifers and the desire to use them wisely).

B. DISTRICT BOUNDARIES

1. Aquifer Conservation District is identified as those areas depicted on the Lee Zoning Map which are designated as having the potential to yield groundwater. This designation is based on the U.S. Geological Survey Map entitled "Availability of Groundwater in the Piscataqua and other Coastal River Basins of Southern New Hampshire," (Water Resources Investigation 77-70, 1977) and on the U.S. Soil Conservation Service map entitled "Soil Survey of Strafford County," March 1973.

2. Aquifer District Incorrectly Delineated: Where it is alleged that an area has been incorrectly delineated as an aquifer, or that an area not so designated meets the criteria for aquifer designation, the Planning Board shall determine whether the regulations contained herein apply.

The Planning Board shall make their judgment under this section only upon the determination of a qualified hydrogeologist(s) on the basis of additional on-site investigation or other suitable research that the information contained on the Aquifer Map is incorrect. The evidence shall be acceptable only when presented in written form by said hydrogeologist to the Planning Board. Any necessary test well(s) or other investigation shall be conducted at the expense of the landowner or the developer.

C. RELATIONSHIP TO OTHER ZONES OR DISTRICTS

Where the Aquifer Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

D. PERMITTED USES

1. Low Density, Residential Development is permitted in the Aquifer Conservation district provided it meets the standards of Zone A as defined in Article V herein. Multifamily dwelling units must meet the standards of Zone A.

²⁷Total impervious coverage of all or that portion of the lot or tract within the Aquifer Conservation District shall not exceed ten percent (10%).

2. Accessory Uses are permitted in Zone A, as defined in Article V herein, provided that they also meet the requirements listed in this article under industrial/commercial uses.

3. Farming, Gardening, Nursery, Forestry and Grazing are permitted provided that fertilizers, manure, pesticides, herbicides, and similar substances are used in accordance with applicable state and federal laws, including but not limited to New Hampshire RSA Chapters 149-D, 149-M and 222.

Commercial use and temporary storage of inorganic fertilizers, herbicides, and pesticides are also subject to performance standards as outlined by the New Hampshire Department of Agriculture. Outdoor unenclosed storage of these materials is not permitted.

4. Recreational Activities which pose no threat of contamination or pollution of groundwater and those which do not destroy the vegetative cover are permitted.

²⁸**5. Industrial/Commercial Uses** are permitted in Zone C provided that they do not store or dispose of hazardous or toxic materials on site and that they do not discharge process waters on site. Total impervious coverage of all or that portion of the lot or tract within the Aquifer Conservation District shall not exceed ten percent (10%). ²⁹Total impervious coverage may be increased where

²⁷ Amended March 1999.

²⁸ Amended March 1999.

²⁹ Amended March 2001.

applicant can scientifically develop mitigation measures that insure equal or greater permeability of the entire site after development with no diminution in water quality as approved by the Lee Planning Board.

E. PROHIBITED USES

1. Subsurface Storage of Petroleum or refined petroleum or refined petroleum products is prohibited in the Aquifer Conservation District. Existing underground tanks over eleven hundred (1,100) gallons are subject to New Hampshire Water Supply and Pollution Control Commission] regulations.

Existing underground tanks under eleven hundred (1,100) gallons shall be inventoried within six (6) months of the adoption of this ordinance. All existing underground tanks shall be registered with the Board of Selectmen. Registration of the tanks must be renewed every five (5) years. Testing for leaking of existing underground tanks shall begun within (6) months of the adoption of this ordinance; the oldest tanks shall be tested first. The cost of the testing shall be shared jointly by the landowner and by the Town. Any tanks that fail a test must be pumped out and replaced with an above ground tank. Testing shall be done at five (5) years intervals under guidelines established by the Board of Selectmen.

2. Outdoor Storage of Road Salts or de-icing chemicals is prohibited.

3. Dumping of Snow Containing Road Salts, or other de-icing chemicals brought from outside the district is prohibited.

4. Septage Disposal sites or waste lagoons are prohibited.

5. Solid Waste Disposal areas (landfill or dump) are prohibited; stump dumps may be permitted on a site approved by the Planning Board and by Special Exception from the Board of Adjustment.

6. Storage (Above or Below Ground), Discharge or Disposal of Hazardous or Toxic Materials is prohibited except as permitted for agricultural use.

7. Automotive Service and repair shops, and junk and salvage yards are prohibited.

8. Earth Removal where the excavation would substantially damage a known aquifer and/or the recharge area of an aquifer is prohibited.

F. CONFLICTING PROVISIONS

Whenever the regulations made under the authority hereof differ from those described by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

ARTICLE XIV SHORELAND CONSERVATION DISTRICT

A. PURPOSE

1. The intent of this district is to protect the water quality, visual character and the wildlife habitat of the Shoreland areas.

2. When applications regarding this article are made to the Lee Zoning Board of Adjustment, all applications shall also be referred to the Lee Conservation Commission and the Health Officer for review and comment prior to the Zoning Board hearing.³⁰

B. SHORELAND DISTRICT

The Shoreland Conservation District shall be all land located within one hundred (100) feet of the shores of the Lamprey River, Little River, North River, Oyster River, Dube Brook, Chesley Brook and Wheelwright Pond. For the purposes of this ordinance, shore shall be defined as the average high water line of the aforementioned bodies of water.

C. RESTRICTIONS

Within this district the following restrictions shall apply (except where otherwise permitted or required by state or federal regulations):

- a. There shall be no roads, driveways or parking areas;
- b. There shall be no permanent or temporary dwellings or other structures established with the exception of structures necessary for the housing of pumps. Existing structures may be replaced remodeled, but may not be expanded within the Shoreland Zone. Expansion shall mean; up, down or out from the existing footprint and structure, including attachments there-to such as, but not limited to, decks, open porches, enclosed porches, etc.
- c. There shall be no waste water disposal systems;
- d. There shall be no excavation or filling unless approved by the Planning Board. Review by the Conservation Commission will be requested.
- e. Cutting/removing vegetation within the Shoreland Conservation District except where permitted under the provisions of this section shall be prohibited. No more than fifty percent (50%) of the basal area of trees shall be cut or otherwise felled, leaving a well distributed cover of healthy, growing trees or other vegetation within the Shoreline Conservation District, and according to RSA 483-B:9, Agriculture and Forestry, conducted according to Best Management Practices, as recommended by the Division of Forest and Lands and Department of Agriculture Markets and Food, are exempt under this RSA.

Unbroken vegetative cover for wildlife travel lanes is an important consideration for the Shoreland Conservation District. Basal area shall mean the cross-sectional area of the stem of the plants at a height of four and one half (4.5) feet above the ground, usually expressed in square feet per unit of land area. Persons who wish to exceed the fifty percent (50%) limitation for some permitted use (such as water access) must secure prior written approval from the Conservation Commission. Requests must be accompanied by detailed landscaping plans. Evaluation of a request to exceed the fifty percent (50%) limit will be based on the premise that each two hundred (200) linear feet of shoreline in the Conservation District comprises a separate evaluation unit.

D. PERMITTED USES

Within the Shoreland Conservation District, the following uses are permitted:

1. Wells;

³⁰ Amended March 10, 2009

2. Unpaved footpaths;
3. Dry hydrant if necessary.

E. MINIMUM LOT SIZE

All land in the Shoreland Conservation District may be considered part of the minimum lot size as required under Articles V and VI herein. Any nonconforming structure may be continued, if that structure was lawfully existing before the passage of this ordinance. This nonconforming structure may be restored, if destroyed by fire or other natural causes, but if discontinued for more than twelve (12) months, subsequent use shall comply with the provisions of this ordinance.

ARTICLE XV WET SOILS CONSERVATION ZONE

A. PURPOSE AND INTENT

The purpose of this article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which has been found to be subjected to high water tables for extended periods of time.

It is intended that this article shall:

1. Prevent the development of structures and land uses on or near Wet Soils which will contribute to pollution of surface and ground water by sewage or toxic substances;
2. Prevent the destruction of, or significant changes to, natural Wet Soils which provide flood protection;
3. Protect unique and unusual natural areas;
4. Protect wildlife habitats and maintain ecological balances;
5. Protect potential water supplies and existing aquifers (water bearing strata) and aquifer recharge areas;
6. Prevent expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of Wet Soils;
7. Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in or near Wet Soils.
8. When applications regarding this article are made to the Lee Zoning Board of Adjustment, all applications shall also be referred to the Lee Conservation Commission and the Health Officer for review and comment prior to the Zoning Board hearing.³¹

ZONE BOUNDARIES

1. Wet Soils Conservation Zone

³¹ Amended March 10, 2009

Wet Soils: Shall mean those soils classified as poorly or very poorly drained as defined by the Soil Drainage Class Interpretive Limits section of Site-Specific Soil Mapping Standards for New Hampshire and Vermont, Version 2.0 January, 1999, published by the Society of Soil Scientist of Northern New England (SSSNE Special Publication #3), or the current version of this publication. The Wet Soils Conservation Zone also includes those areas such as swamps, marshes, and bogs that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation for life in saturated soil conditions.

2. Establishment of a Zone

The limits of the Wet Soils Conservation Zone are hereby determined by the areas subjected to high water tables for extended periods of time and includes, but are not necessarily limited to all such areas delineated as Wet Soils on the current Town of Lee Wet Soils Map, which is on file in the Office of Planning and Zoning.

3. Wet Soils Incorrectly Delineated

Where it is alleged that an area has been incorrectly delineated as wet soils, or that an area not so designated meets the criteria for Wet Soils designation, the Planning Board shall determine whether the regulations contained herein have application.

The Planning Board shall make their judgment under this section only upon the determination by a certified soil scientist(s) on the basis of additional on-site investigation or other suitable research that the information contained on the Wet Soils Map is incorrect. This evidence shall be presented in written form by said scientist(s) to the Code Enforcement Officer. Any necessary soil testing procedures shall be conducted at the expense of the landowner or developer.

C. RELATION TO OTHER ZONES

Where the Wet Soils Conservation Zone is superimposed over another zoning district, the more restrictive regulations shall apply.

D. PERMITTED USES

Permitted uses are those which will not require the erection or construction of any structures or buildings, will not alter the natural surface configuration by the addition of fill or by dredging and uses that otherwise are permitted by the zoning ordinance. Such uses may include the following:

- 1. Forestry Tree Farming** - using the best management practices in order to protect streams from damage and to prevent sedimentation;
- 2. Agriculture**, including the cultivation, harvesting of crops and animal husbandry according to New Hampshire Department of Agriculture Markets and Food Best Management Practices.
- 3. Wildlife Refuges;**
- 4. Parks and Recreation** - uses consistent with the purpose and intent of this ordinance;
- 5. Conservation Areas** - and nature trails;

6. Open Space - as permitted or required by the subdivision regulations or the zoning ordinance;

E. SPECIAL EXCEPTIONS

Special Exceptions may be granted by the Zoning Board of Adjustment, after due public notice and public hearing, for undertaking the following uses in the Wet Soils Conservation Zone, or within seventy-five (75) feet of any wetland area. Special Exceptions shall be required for the following uses:

1. Streets, roads and other access ways and utility right-of-way easements, including power lines and pipe lines, if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the Wet Soils.
2. Water Impoundment, shall mean any water that is dammed, diked, dug out, and/or raised above the natural water level to include but not limited to multipurpose ponds, wildlife ponds, and farm ponds.
3. Fire Ponds - as reviewed by the Lee Conservation Commission, the Lee Planning Board, and the Lee Fire Chief.
4. The undertaking of a use not otherwise permitted in the Wet Soils Conservation Zone, if it can be shown that such proposed use is not in conflict with any and all of the purposes and intentions listed in Section A of this Article.

F. SPECIAL PROVISIONS

1. No septic tank or leach field may be constructed or enlarged closer than one hundred twenty-five (125) feet to any wetland.
2. No structure with the exception of wells and well housing shall be constructed within seventy-five (75) feet of the Wet Soils zone.
3. All land included in the Wet Soils Conservation Zone shall be appraised for tax purposes at its full and true value in money, based on its market value as undevelopable land required to remain in open space.

For the purpose of this section, a structure shall not include the uses allowed by Special Exception listed in Section E, 1 of this Article.

**ARTICLE XVI
DISPOSAL AND STORAGE OF WASTE MATERIAL**

A. Depositing, storage, burial or disposal of waste matter is prohibited in all zones within the Town of Lee except as follows:

1. Disposal pursuant to the operation of any municipal or regional waste facility duly authorized by the Town of Lee.
2. Household waste originating on, or for use on, the property on which it is deposited or stored;

3. Agricultural waste originating on, or for use on, the property on which it is deposited or stored.

4. At any private disposal site approved by the Planning Board upon finding, after public hearing, that it does not constitute a nuisance or be injurious to the public health and the environment or be detrimental to adjacent properties, and providing it shall comply with all applicable rules and regulations promulgated by the State Bureau of Solid Waste Management, the State Division of Public Health Services, and the U.S. Environment Protection Agency.

B. Unless otherwise specified, the words and terms used in this article shall be defined by reference to the same words or terms in appropriate state statutes or regulations.

ARTICLE XVII SIGNS³²

I. PURPOSE AND INTENT

- A. ~~This article is adopted for the regulation of signs within the Town of Lee and is based on the compelling governmental interests of protecting promotion traffic safety, serving the requirements of emergency response, protecting property rights or the rights of persons on property, supporting the local business community and enhancing the rural and residential character of the Town. Specifically, this article regulates the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the Town, the creation of a convenient, attractive and harmonious community, and protection against destruction of or encroachment on historic convenience to citizens. This article must be interpreted in a manner consistent with the First Amendment to the U.S. Constitution guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding must shall not affect the validity of other provisions of this article which can be given effect without the invalid provision. The purpose and intent of this article is to provide regulations for the erection, installation and maintenance of signs in a manner consistent with the rural and residential character of the Town of Lee in a manner which protects the environmental integrity of the Town in the interest of public safety.~~
- B. ~~This article does not regulate every form and instance of visual communication that may be displayed anywhere within the Town. Rather, it is they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.~~
- A. ~~This article is not intended to and does not apply to signs erected, maintained or otherwise posted, owned or leased by the State of New Hampshire, the federal government or the Town. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead, helps illuminate the type of sign that falls within the immunities of the government from any regulations.~~

Formatted: Font: (Default) Arial

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.4" + Indent at: 0.65"

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

II. GENERAL PROVISIONS

A. Prohibited Signs

Signs are prohibited in all zoning districts unless:

³² March 2017

- 1. Constructed pursuant to a valid building permit when required by this Article and authorized under this Article; or
- 2. Specifically exempted under this Article

B. Signs Authorized Without a Permit Signs

The following signs are authorized under Section A(2) of this Article and do not require a sign permit:

1. Grandfathered signs: ~~as that~~ This term is defined in Article II of the Zoning Ordinance. Grandfathered signs shall be replaced within one (1) year of its discontinuance with a sign which does not exceed in size that which it replaces. A sign larger or less conforming in any other aspect shall require a variance from the Zoning Board of Adjustment. A nonconforming sign shall be allowed to continue in a nonconforming status until its use has been discontinued for period of one year. At that time, it shall be removed promptly by the property owner. When replacing several signs, the total square footage of the new sign(s) shall not exceed the aggregate square footage of the sign(s) to be replaced. The number of replacement signs shall not exceed that of the grandfathered status and shall not be less conforming in any way.

Formatted: Font: Bold

2. Government Signs: Although this article does not apply to signs erected, maintained or posted by the state, federal or

Formatted: Indent: Left: 0"

Town government, government signs are allowed in every zoning district which form the expression of the government when erected and maintained in accordance with applicable law.

3. Property Numbering Signs: Each property owner must mark their property as defined in the Town of Lee E911 Ordinance using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street.

Unless otherwise required under this Zoning Ordinance or other law, the identification must be curbside and may be on the principal building on the property. The size and location of the identifying numerals and letters must be proportional to the size of the building and the distance from the street to the building and in no case larger than [INSERT SIZE LIMIT HERE]. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or other suitable device such that it is visible from the street.

4. Safety signs: Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property.

Formatted: Font: Bold

~~5. The signs described in Section B(1)(i) – (v) are an important component of measures necessary to protect the public safety and serve the compelling government interest of protecting traffic safety, serving the requirements of emergency response and protecting property rights or the rights of persons on property.~~

Formatted: Indent: Left: 0"

5.6. Temporary Signs

Formatted: Font: Bold

- i. A property owner may place one sign with a sign face no larger than [INSERT SIZE] six (6) six square feet on the property at any time. When a property has frontage on more than one road, both areas of road frontage are allowed a temporary sign that confirms to this ordinance.
- ii. One temporary sign per [INSERT ACERAGE, PERHAPS .25] acre lot of land may be

Formatted: Indent: Left: 0.5"

located on the owner's property for a period of [INSERT DAYS, perhaps (30)] days prior to an election involving candidates for federal, state or local office or an issue on the ballot of an election.

Where the size of the property is smaller than [INSERT, (.25 per above perhaps)] acres these signs may be posted on the property for each principal building lawfully existing on

~~the property. Consistent with RSA 664:17, such signs shall not be affixed to any public property including highway rights-of-way or private property without the owner's consent. Further, any such sign shall be removed no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is the winner of the primary or an issue which will be on the ballot at the official election.~~

~~iii. All Political Advertisement shall be done in compliance with NH RSA 664.17.~~

~~iii IV. One temporary sign may be located on a property when:~~

~~a. The owner consents and that property is being offered for sale or lease through a licensed real estate agent;~~

~~b. If not offered for sale by through a licensed real estate agent, when the sign is owned by the property owner and that. The property is being offered for sale or lease by the owner;~~

~~c. For a period of [INSERT] 30 (30) days following the transfer of title, the date on which a contract of sale has been executed by a person purchasing the property. The property is being offered for lease;~~

~~iv. One temporary sign may be located on the owner's property on a day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in a residential zoning district on more than [INSERT DAYS per year and consider making days be consecutive] and may not use this type of sign in any commercial district for more than [INSERT DAYS per year and consider making days be consecutive];~~

~~v. The permitted size of temporary signs will be government by Section II(F) below.~~

~~vi. For purposes of this Section, the lessor of a property is considered the property owner as to the property the lessor holds a right to use exclusive of others (or the sole right to occupy). If there are multiple lessors of a property then each lessor must have the same rights and duties as the property owner as to the property the lessor leases and has the sole right to occupy and the size of the property must be deemed to be the property that the lessor has the sole right to occupy under the lease.~~

~~7. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs must be removed no more than [INSERT DAYS] days after their purpose has been accomplished.~~

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Indent: Left: 0"

Formatted: Font: Not Bold

AC. Permit Application Process Application Process

~~1. A sign permit is required prior to the display and erection of any sign except as provided in Section B of this Article and Section ??????—.~~

~~2. Any sign, except legal signs grandfathered at the date of this ordinance, shall require a permit. Application for any sign permit shall be submitted in writing on appropriate forms to the Code Enforcement Officer for the Town of Lee. Such application shall contain the following information:~~

- ~~1. i. Names, addresses and telephone number of the applicant;~~
- ~~2. ii. Location and position of sign or structure;~~
- ~~3. iii. Plans or drawings with dimensional specifications'~~
- ~~4. iv. Written consent of the property owners;~~
- ~~5. v. Such other information which the Town may require.~~

~~3. The Code Enforcement Officer or his/her designee will promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within [INSERT DAYS] five (5) business days. Any sign~~

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.6" + Tab after: 0.85" + Indent at: 0.85"

~~application that complies with all provisions of this Article, the Zoning Ordinance, the building code, and all other applicable laws, regulations and ordinance will be approved.~~

~~4. If the Code Enforcement Officer or his/her designee denies the permit application, he/she will provide a list of the reasons for the rejection in writing. An application must be rejected for non-compliance with the terms of this Article, the zoning ordinance, building code, or other applicable laws or regulations.~~

~~5. Permit Fee: Will be assessed as set forth in the Building Regulations. [INSERT, does Town have fee schedule?] See example: [A nonrefundable fee as set forth in the uncodified fee schedule adopted by the Town must accompany all sign permit applications.]~~

~~6. Appeals: If the Code Enforcement Officer denies an application for a sign permit, the applicant may appeal said administrative decision to the Zoning Board of Adjustment pursuant to Article XXII of the Zoning Ordinance.~~

~~D. Inspection. The owner of any sign shall periodically inspect each sign belonging to him and it shall be the duty of said owner to keep his sign(s) in good repair and in good appearance at all times. Each sign shall have the owners name and contact information on them.~~

B. Exemptions

The following signs shall be exempt from the provisions of this ordinance and shall not require application:

- ~~1. Personal signs - This shall be a sign identifying a residence and shall be no larger than two (2) square feet. Examples: "John Smith", "Windy Hill" or "Patty's Impulse".~~
- ~~2. Mailboxes of standard government approved size.~~
- ~~3. Signs which are not visible from any adjacent roadway or from any property line.~~
- ~~4. Signs relating to open land such as: posting "No Hunting", "Tree Farm", "No Trespassing."~~
- ~~5. Signs warning hazards - "Underground Cables," "Road Hazards," "Men at Work."~~
- ~~6. Governmental and other tax exempt properties, ie: Jeremiah Smith Grange; Lee Congregational Church and Mast Way School are exempt from this ordinance.~~

C. Inspection

~~The owner of any sign shall periodically inspect each sign belonging to him and it shall be the duty of said owner to keep his sign(s) in good repair and in good appearance at all times. Each sign shall have the owners name and contact information on them.~~

DE. Placement

- ~~1. All signs shall be prohibited within the public right-of-way except as provided herein except traffic control devices and directional signs deemed essential, by state or local highway or law officials, to the public welfare.~~
- ~~2. No signs shall be so designed or so placed as to endanger or otherwise create hazardous conditions to motor vehicles.~~
- ~~3. Signs shall not be placed or illuminated in such a manner that creates a hazard to street or highway driving by glare or otherwise.~~
- ~~4. All signs shall conform to RSA 236:75.~~

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: Not Bold

Formatted: Strikethrough

Formatted: Strikethrough

- 5. No signs of any kind shall be placed in the "Triangle" located at the intersection of George Bennett Rd, Lee Hill Road and North River Road in the Town of Lee.
- 6. No signs of any kind shall be placed on any Town owned property.

F. Permitted Size

All non-commercial signs permitted under this Article, temporary or permanent in nature, will conform to the size criteria of this ordinance. ~~Section. Where the posted speed limit is 40 mph or less, signs shall not exceed six (6) square feet in area; in areas where the posted speed limit is between 40 and 50 mph, signs shall not exceed 8 square feet in area, in areas where the posted speed limit is between 50 and 60 mph, temporary signs shall not exceed eight (8) square feet in area, and in areas where the posted speed limit is above 60 mph, the sign shall not exceed ten (10) square feet in area.~~

Formatted: Indent: Left: 0.4"

F. Directional Signs

- 1. Directional signs relating to businesses within the Town of Lee are permitted within all zoning districts provided that said sign shall not exceed ~~two (2) square feet in area.~~ ~~two (2) square feet in area.~~
- 2. Directional signs shall not be placed within 10 feet of the public right-of-way.
- 3. In addition to requiring a permit pursuant to Section II(C) of this Article, directional signs for any one enterprise shall not exceed one (1) in any two mile length of road.

Formatted: Indent: Left: 0"
 Commented [JLP3]: Previously as drafted, directional signs appeared only to apply to business/commercial signs. This language presumes that is the case. Because as drafted it pertains to commercial signage, the different treatment is more acceptable under *Recd.* To the extent that the Town wants to specifically account for non-commercial directional signs, an additional section may be necessary. An analysis should be undertaken to determine what the grounds are for treating non-commercial directional signs different from other non-commercial signs.

EF. Advertising Posters

Nothing in this ordinance shall be construed as restricting the placement of signs, placards, posters or advertising displays on the interior of display windows provided such signs do not violate any other portion of this ~~article~~ Zoning Ordinance.

G. Prohibition of Off-Premises Signs. Signs within the Town of Lee shall refer only to use conducted upon the lot on which they are located, except for approved directional signs and temporary signs. ~~Development signs shall be placed somewhere on the original subdivided parcel of land.~~

H. Prohibition of Flashing and Animated Signs. Flashing, ~~or~~ animated signs or digital message board signs shall not be permitted in the Town of Lee.

I. This Article does not apply to signs not exposed to view from a street or public right of way, public place or other property such as those not visible to a person from a public right of way, public place or adjacent property.

Formatted: Font: Bold
 Formatted: Font: 11 pt
 Formatted: Font: 11 pt
 Formatted: Font: Bold
 Formatted: Indent: Left: 0"
 Formatted: Font: (Default) Arial, 11 pt
 Formatted: Font: (Default) Arial, 11 pt
 Formatted: Font: (Default) Arial, 11 pt
 Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.4" + Indent at: 0.65"
 Formatted: Font: 11 pt
 Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.4" + Tab after: 0.65" + Indent at: 0.65"
 Formatted: Font: (Default) Arial
 Formatted: Font: (Default) Arial
 Formatted: List Paragraph, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.9" + Tab after: 1.15" + Indent at: 1.15"
 Formatted: Font: (Default) Arial

III. SPECIFIC SIGN REGULATIONS BY DISTRICT

A. COMMERCIAL DISTRICTS

- 1. Scope: This Section applies to commercial signs within the Commercial (Zone C) and Light Commercial (Zone LC) zoning districts.
- 2. Dimensional Limitations: When a commercial sign is authorized on a property, the sign:
 - a. Shall not exceed thirty-two (32) square feet in size;

- b. Shall not have more than two (2) sides;
- c. Shall not exceed eight (8) feet in height measured from the crown of the road;
- d. Shall be set back a minimum of twenty (20) feet from the edge of the traveled way; a lesser setback shall be permitted by Special Exception from the Zoning Board of Adjustment;

- 3. A pole sign shall be permitted only by Special Exception where applicable.
- 4. A roof sign shall be permitted in Zone C and Zone LC under the same specifications of other commercial signs with the exception that a roof sign shall not extend more than five (5) feet over the ridge of the building).
- 5. No more than two (2) signs shall be permitted on any property. The aggregate square footage of both signs shall not exceed the permitted thirty-two (32) square feet total area. Sites which contain more than one business use shall only be permitted two (2) signs but shall be permitted to increase the square footage of the sign(s) to accommodate identification for each business use by allowing six (6) square feet per business enterprise - not to exceed a total square footage for any property of more than forty-eight (48) square feet for each of two sides for any one lot. In addition, building signs affixed onto the sidewalls or roof shall be permitted for each business use not to exceed eight (8) square feet each.
- 6. Site directional signs shall be subject to site plan regulations.

Formatted: List Paragraph, Indent: Left: 1.15"
 Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.4" + Tab after: 0.65" + Indent at: 0.65"

B. RESIDENTIAL ZONE

1. Scope: This section applies to signs within the Residential Zone (Zone A). In addition to those signs permitted within Zone A under Section II(B) of this Article, signs shall be permitted in Zone A for any commercial business authorized by Special Exception or by Variance through the issuance of a Special Exception and for home occupations in accordance with the criteria below.

Formatted: Font: 11 pt
 Formatted: Indent: Left: 0.4"
 Formatted: Font: Bold

2. Commercial Signs for Commercial Uses in Zone A: To obtain a special exception for a sign for a commercial use in Zone A permitted by Special Exception or by Variance, an applicant shall satisfy each of the following criteria:

Formatted: Font: Bold

- a. Illumination shall be only by exterior white light and shall be only on during normal business hours not to exceed 67:00 a.m. to 68:00 p.m. ~~six (6) days per week; daily~~
- b. Such sign shall be placed at least twenty (20) feet from the edge of the traveled way.
- c. Such sign shall not exceed eight (8) square feet on each of two (2) sides.;
- d. Such sign shall be constructed of natural materials (such as wood, masonry, granite)
- e. The top of such sign shall not be greater than eight (8) feet in height measured from the crown of the road.
- f. Only one (1) such sign shall be permitted per lot.

Formatted: Indent: Left: 0.4"
 Formatted: Font: Bold
 Formatted: Font: 11 pt, Bold
 Formatted: Font: 11 pt
 Formatted: Font: 11 pt

3. Signs for Home Occupations Accessory Use: Signs shall be permitted in any zone for a permitted home

occupation under the following conditions:

- a. ~~There shall only be one (1) permitted sign for a home occupation per lot.~~
- ba. Such a sign shall not be illuminated.
- bc. ~~Such a sign shall be set back at least one half the yard depth to building or 15 feet; or attached to the building. Such sign shall be placed at least twenty (20) feet from the edge of the traveled way.~~
- cd. Such a sign shall not exceed four (4) square feet in area on each of two (2) sides.
- de. Such a sign shall be constructed of natural materials.
- ef. Such a sign shall be free standing and shall not exceed eight (8) feet in height measured from the crown of the road.

Formatted: Font: 11 pt

f. Only one (1) such sign shall be permitted per lot.

Formatted: Font: (Default) Arial, 11 pt

III. PERMITTED SIGNS

A. Signs within the Town of Lee shall refer only to use conducted upon the lot on which they are located, except for approved directional signs and temporary signs. Development signs shall be placed somewhere on the original subdivided parcel of land.
All Signs shall conform to RSA 236:75

Formatted: Font: (Default) Arial

Formatted: List Paragraph, Numbered + Level: 1 +
Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left +
Aligned at: 0.4" + Indent at: 0.65"

Formatted: Font: (Default) Arial

B. The following types of signs SHALL NOT BE PERMITTED:

1. Directional or advertising signs for business outside the Town of Lee.
2. Signs which advertise a business which is no longer in operation or an event which has transpired;
3. Flashing or animated signs.
4. The Town of Lee prohibits any and all signs to be placed in the "Triangle" located at the intersection of George Bennett Rd, Lee Hill Road and North River Road.

C. The following types of signs shall be permitted as follows:

1. Grandfathered Signs: Any nonconforming sign in any zone legally in existence prior to the adoption of this ordinance may be replaced within one (1) year of its discontinuance with a sign which does not exceed in size that which it replaces. A sign larger or less conforming in any other aspect shall require a variance from the Zoning Board of Adjustment.

Any nonconforming sign shall be allowed to continue in a nonconforming status until its use has been discontinued for a period of one year. At that time, it shall be removed promptly by the owner.

When replacing several signs, the total square footage of the new sign(s) shall not exceed the aggregate square footage of the sign(s) to be replaced. The number of replacement signs shall not exceed that of the grandfathered status and shall not be less conforming in any way.

2. Directional Signs: Directional signs relating to business within the Town of Lee may be permitted provided that said signs for any one enterprise do not exceed one (1) in any two mile length of road and shall not exceed two (2) square feet in area. Exception to this may be directional signs which are approved or supplied by the State of New Hampshire. Site directional signs may be only permitted for business operating within the Town of Lee and only along Route 4 and 125.

Directional signs shall require written approval from the property owner to be submitted and maintained with the permit. Directional signs shall be prohibited within the public right-of-way except as traffic control devices and those deemed essential to the public welfare.

No sign shall be placed to endanger, or otherwise create hazardous conditions to motor vehicles.

No sign shall be placed within ten feet of the public right-of-way.

3. Temporary Signs: Temporary signs such as those used by real estate agents, contractors, or other artisans advertising work in progress, or signs promoting political candidates or special events and may be permitted in any zone provided:

- a. It is unlighted;
- b. It does not exceed six (6) square feet in area; ~~In areas where the posted speed limit is 40 mph or less, the sign shall not exceed six (6) square feet in area; in areas where the posted speed limit is 50 mph or less, the sign shall not exceed eight (8) square feet in area and if the posted speed limit is 60 mph, the sign shall not exceed ten (10) square feet.~~
- c. It shall be removed upon completion of work, transaction or election (a temporary sign may not be in place for over six months without a permit);
- d. A sign advertising sale or lease or development of property shall be located on the parcel to which it pertains;
- e. There shall be permitted only one non-political temporary sign per lot;
- f. It shall be set back at least twenty (20) feet from the edge of the traveled way.
- g. ~~Property that has frontage on more than one road may have more than one sign as long as they are not visible from one another. This should be added to all sections.~~

Formatted: Font: Not Bold

Is there a way we can fine someone for yard sale signs that remain up? Add a provision to the ordinance for this?

4. Commercial Signs: Commercial signs shall be permitted in the commercial zone according to the following criteria:

- a. Illumination shall be only of soft white lights;
- b. It shall not exceed thirty-two (32) square feet in size;
- c. It shall not have more than two (2) sides;
- d. It shall not exceed eight (8) feet in height measured from the crown of the road;
- e. It shall be set back a minimum of twenty (20) feet from the edge of the traveled way; a lesser setback shall be permitted by Special Exception from the Zoning Board of Adjustment;
- f. A pole sign shall be permitted only by Special Exception where applicable;
- g. A roof sign shall be permitted in the Commercial Zone under the same specifications as all other commercial signs; (exception: a roof sign shall not extend more than five (5) feet over the ridge of the building);
- h. No more than two (2) signs shall be permitted on any property. The aggregate square footage of both signs shall not exceed the permitted thirty-two (32) square feet total area. Sites which contain more than one business use shall only be permitted two (2) signs but shall be permitted to increase the square footage of the sign(s) to accommodate identification for each business use by allowing six (6) square feet per business enterprise – not to exceed a total square footage for any property of more than forty-eight (48) square feet for each of two sides for any one lot. In addition, building signs affixed onto the sidewalls or roof shall be permitted for each business use not to exceed eight (8) square feet each.

5. Special Exception Signs: Shall be permitted in the Residential Zone for any business authorized by Special Exception or by Variance or Grandfathered in that zone. The following criteria shall apply:

- _____ a. Illumination shall be only by exterior white light and shall be only during normal business _____ hours not to exceed 7:00 a.m. to 6:00 p.m. six (6) days per week.
- _____ b. Such sign shall be placed at least twenty (20) feet from the edge of the traveled way.
- _____ c. Such sign shall not exceed eight (8) square feet on each of two (2) sides;
- _____ d. Such sign shall be constructed of natural materials (such as wood, masonry, granite);
- _____ e. The top of such sign shall not be greater than eight (8) feet in height measured from the crown _____ of the road.

f. Only one (1) such sign shall be permitted per lot.

6. Residential Accessory Signs: shall be permitted in any zone for a permitted home occupation under the following conditions:

- a. There shall be only one (1) permitted sign on each lot;
- b. Such sign shall not be illuminated;
- c. Such sign shall be set back at least one half the yard depth to building or 15 feet; or attached to the building;
- d. Such sign shall not exceed four (4) square feet in area;
- e. Such sign shall be constructed of natural materials;
- f. Such sign shall be free standing and shall not exceed eight (8) feet in height measured from the crown of the road.

C. AGRICULTURAL USES

Formatted: Indent: Left: 0"

1. Scope: Agricultural uses are permitted in all Zoning Districts in the Town of Lee pursuant to Article III(E). This Section pertains to signs which identify agricultural operations (Agricultural Signs) and signs which advertise farm products and/or services (Agricultural Product Signs) (collectively, "Farm Signs"). The scope of this ordinance is to regulate only those signs which are designed to be legible from the public traveled way. Farm Signs shall meet criteria outlined below.

7. Farm Signs: This ordinance pertains to signs which identify agricultural operations (Agricultural Signs) and signs which advertise farm products and/or services (Agricultural Product Signs). The scope of this ordinance is to regulate only those signs which are designed to be legible from the public traveled way. Farm Signs shall meet all relevant existing Town of Lee, NH Ordinances, and other existing applicable performance standards, including setbacks, illumination restrictions or standards, and others. Farm signs shall also conform to the criteria for such signs as listed in Section 7 a-d.

2.a. General Provisions³³: The following general provisions shall apply to all Farm Signs Agricultural Signs:

Formatted: Font: Bold

a.1. The top of the sign shall not be greater than eight (8) feet in height above the crown of the road directly in front of said sign location.

Formatted: Indent: Left: 0.75"

2b. The sign may be illuminated from the top area of the sign shining downward on the sign and only during open business hours and only by exterior light directly illuminating the sign from a light source(s) mounted on the sign or on a pole for housing said light within five (5) feet of said sign and no higher than two(2) feet above the sign structure without directing the light source as to create a potential hazard to traffic, pedestrians and others using the public traveled way to minimize "Light Trespass".

c.3. Directional and Informational signs for pedestrian and vehicular traffic into and throughout the property shall be permitted. Signs of this type which are designed to be clearly legible from any adjacent public traveled way or from any property line not in the same ownership as the parent parcel shall not display any farm names, logos, designs or diagrams advertising products for sale. These types of signs may be illuminated only during times necessary for the safety of patrons.

Formatted: Indent: Left: 0.5", First line: 0.25"

d.4. In cases where the product stand or activity is subordinate to the main farm property by being located on a separate parcel, whether under the same ownership or not, an Agricultural Product Sign as described in Section 7c below shall be permitted provided it is removed at the end of such activity. In this circumstance, signs may not be illuminated.

³³ March 2015

e.5- A sign permit shall be required from the Office of Code Enforcement for permanent farm agricultural signs as defined below.

Formatted: Indent: Left: 0.5"

3. Agricultural Signs: An Agricultural Sign is defined for the purposes of this ordinance as a permanent free-standing or attached sign on the premises of a farm, farm stand or other agricultural operation which primarily identifies an agricultural property. Agricultural Signs are restricted to a size no larger than twelve (12) square feet per side, limited to two sides, and only one Agricultural Sign per farm, farm stand, or other agricultural operation is allowed. Farm, Road Side Farm Stand, Farm Market, and related terms are defined in the Lee, NH Zoning Ordinance.

b. Agricultural Sign (or Farmstead Sign): An Agricultural Sign is defined for the purposes of this ordinance as a permanent free-standing or attached sign on the premises of a farm, farm stand or other agricultural operation which primarily identifies an agricultural property. Agricultural Signs are restricted to a size no larger than twelve (12) square feet per side, limited to two sides, and only one Agricultural Sign per farm, farm stand, or other agricultural operation is allowed. Farm, Road Side Farm Stand, Farm Market, and related terms are defined in the Lee, NH Zoning Ordinance.

4. Agricultural Product Sign: An Agricultural Product Sign is defined for the purposes of this ordinance as a free standing or attached sign on the premises of a farm, and which is associated with a seasonal roadside farm stand, farm market, or other agricultural operation as defined in the Town of Lee, NH Zoning Ordinance. The content of Agricultural Product Signs may change per available goods, services or activities, and such signs shall not have an aggregate size larger than eight (8) square feet per side, limited to two (2) sides. A combination of one (1) A-frame type sign and (1) one placard type sign display is allowed so long as the total aggregate area of both types of sign displays does not exceed (16) sixteen square feet total area.

a.i. Placard Type Signs: Goods, services, or activities may be displayed on Placard Type Signs not to exceed an aggregate total area (size) of eight (8) square feet per side, limited to two (2) sides.

b.ii. A-Frame Type Signs: Goods, services, or activities may be displayed on A-Frame Type Signs not to exceed an aggregate total area (size) of eight (8) square feet per side, limited to two (2) sides.

5.d. Exceptions: This ordinance excludes signs including but not limited to third party recognition or designation such as : American Tree Farm System, Conservation Easement property identification , Certified Organic Farm, Farm of Distinction, Heritage Farms and Barns Historic Structures, and others to be determined by the Code Enforcement Officer on a case by case basis.³⁴

Formatted: Font: Bold

86. Development Signs: Signs of a permanent nature which identify a subdivision of ten (10) lots or more. These shall conform to the same criteria as agricultural signs above. Only one such sign shall be permitted per subdivided tract.

ARTICLE XVIII

³⁴ Amended March 10, 2009

SEXUALLY ORIENTED BUSINESSES

SECTION 1 - The Purpose & Intent of this article is:

- A** - to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses;
- B** - to protect public health, safety and general welfare; and
- C** - to prevent adverse impact which may occur and is brought about by the concentration of sexually oriented businesses.

It is not the intent of this article to restrict or deny access by adults to sexually oriented materials protected by the first Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market, nor is it the intent of this article to condone or legitimize the distribution of obscene material.

SECTION 2 - Zoning District: Sexually oriented businesses shall only be permitted in the Commercial Zone. All proposed development must comply with both the provisions of this article and zoning requirements of the Commercial Zone, and any other applicable Ordinances, and State Laws to include in that limitation: RSA 571-B-1.

SECTION 3 - 1,000' Buffers: Sexually oriented businesses shall not be permitted in: a church, a school, a daycare center, a residence or within 1,000 feet of:

- A** - a church,
- B** - a school,
- C** - a daycare center,
- D** - a residence,
- E** - another sexually oriented business, or
- F** - a sexually oriented business for which a building permit application has been made.

SECTION 4 - 300' Buffers: Sexually oriented businesses shall not be permitted within 300 feet of buildings or facilities used for commercial purposes.

SECTION 5 - The Measure of Distance between any sexually oriented business and other named point of reference shall be measured in a straight line.

SECTION 6 - Free-Standing Structures: Sexually oriented businesses shall only be permitted in single use, free-standing structures. In no instance shall sexually oriented business share premises, facilities or buildings with businesses which are not sexually oriented.

SECTION 7 - Site Plan Review by the Planning Board, will be required.

SECTION 8 - Limiting Clause: Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Lee ordinance or statute of the State of New Hampshire relative to public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

SECTION 9 - Severability: If any section, subsection, sentence, clause, phrase or any portion of this article is for any reason held to be invalid or unconstitutional by the decision of any court of competent

jurisdiction, such decision shall not effect the validity of the remaining portion of this ordinance. The legislative body of the Town of Lee hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

ARTICLE XIX
Town of Lee, New Hampshire Model Floodplain Development Ordinance
Meets the Minimum Requirements of Section 60.3(b)
of the National Flood Insurance Program Regulations

This Ordinance adopted pursuant to the authority of RSA 674:16, shall be know as the Town of Lee Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Lee Zoning Ordinance and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provisions of this ordinance differs or appears to conflict with any provisions of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Food Insurance Study for the County of Strafford, NH" dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Maps dated May 17, 2005 or as amended, which are declared to be part of this ordinance and are hereby incorporated by reference

Item I Definitions of Terms: The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of Lee.

"Area of Special Flood Hazard"- is the land in the floodplain within the Town of Lee subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as Zone A.

"Base Flood"- means the flood having a one-percent possibility of being equaled or exceeded in any given year.

"Basement"- means any area of a building having its floor sub-grade on all sides.

"Building" - see "structure".

"Development"- means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

"FEMA"- means the Federal Emergency Management Agency.

"Flood" or "Flooding"- means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" (FIRM)- means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Lee.

"Floodplain" or "Flood-prone area"- means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Flood proofing"- means any combination of structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

"Floodway" - see "Regulatory Floodway".

"Functionally dependent use"- means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repairs facilities but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade"- means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure"- means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(b) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district.

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1) By an approved state program as determined by the Secretary of the Interior, or

2) Directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor"- means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home"- means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.

"Mean Sea Level"- means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

"100-Year Flood"- see "base flood".

"Recreational Vehicle"- is defined as:

- A. built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. designed to be self-propelled or permanently towable by a light duty truck; and
- D. designed primarily **not** for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Regulatory Floodway"- means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

"Special Flood Hazard Area"- means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, A0, A1-30, AE, A99, AH, V0, VI-30, VE, V, M, or E. (See- "Area of Special Flood Hazard").

"Structure"- means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Start of Construction"- includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

"Substantial Damage"- means damage or any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement"- means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Water Surface Elevation"- means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

Item II

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Item IV

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the building inspector:

- (i) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- (ii) if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- (iii) any certification of flood proofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

Item V

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Item VI

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wet Soils Board of New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wet Soils Board.
2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

Item VII

1. In unnumbered A zones the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

2. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in zone A that:

a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;

b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:

(i) be floodproofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;

c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

(THE ABOVE MANUFACTURED HOME REQUIREMENT EXCEEDS THE MINIMUM NFIP REQUIREMENTS - THE COMMUNITY MAY CHOOSE A LESS RESTRICTIVE REQUIREMENT THAT ALLOWS MANUFACTURED HOMES LOCATED IN EXISTING, UNIMPROVED, UNDAMAGED PORTIONS OF NH PARKS TO BE ELEVATED ONLY 3 FEET ABOVE GRADE, SEE SEPTEMBER 29, 1989 FEDERAL REGISTER FOR REGULATION CHANGE.)

d. All recreational vehicles placed on sites within Zones A1-30, AH, and AE shall either:

(i) be on the site for fewer than 180 consecutive days;

(ii) be fully licensed and ready for highway use; or

(iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.

e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

Item VIII, Variances and Appeals:

1. Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - (a) that the variance will no result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - (b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - (c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

**ARTICLE XX
PERSONAL WIRELESS COMMUNICATIONS FACILITIES ORDINANCE**

³⁵**Note:** This ordinance has been completely re-worded for clarification and to better define a personal wireless communication facility.

The purpose of this ordinance is to regulate the construction and siting of personal wireless communication facilities, according to the provisions of the Federal Telecommunications Act of 1996, to ensure that such facilities have the least adverse impact on residential neighborhoods, scenic vistas, historic sites, and the general safety and appearance of the community.

Personal wireless communication facilities are permitted in the Commercial Zone provided the following conditions are met:

1. Site plan review by the Planning Board.
2. Shall not be constructed within 100 feet of Wet Soils (measured from the Wet Soils boundaries to the outermost footprint of said facility).
3. Shall be located on a commercial site and the design of the facility should have the least adverse impact on scenic vistas, residential neighborhoods, historic sites, and the general safety and appearance of the community.
4. The maximum height of antenna mount(s), including antennas and other appurtenances from ground level shall be 70 feet.
5. Setbacks for antenna mount(s), including antennas and other appurtenances shall be twice the total height from abutting property lines, or antenna mount(s), including antennas and other appurtenances height plus 10 feet, but not less than 125 feet from street or road rights-of-way.
6. Personal wireless facilities shall be placed on an existing antenna mount if it is physically and legally possible.
7. Personal wireless service facilities shall not be artificially lighted, nor shall they contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind except for safety lighting.
8. Antenna mount(s) or antenna mounting structures shall be a "mono pole type" only, and shall maintain a galvanized steel finisher, or be painted a neutral color, so as to reduce visual obtrusiveness.
9. At a wireless communication facility site, the design of any buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.
10. **Bonding:** Recognizing the extremely hazardous situation presented by abandoned and unmonitored personal wireless communication facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of any personal wireless communication facility in the event that the facility is abandoned and the facility owner is incapable or

unwilling to remove the facility in accordance with paragraph 11. Bonding shall be reviewed annually by the Planning Board to assure adequate security in the event the Town removes a personal wireless communication facility in accordance with paragraph 11. Failure of facility owner to provide adequate security shall result in the loss of the right to maintain the facility and the Town shall have the right to remove the tower using any available security and, otherwise, such removal shall be at the owner's sole cost and expense. Removal of any wireless communication facility shall bring the site as close as possible to its original status prior to construction of the facility and plantings and landscaping shall be approved by the Planning Board.

11. Removal of Abandoned Antennas and Appurtenances: Any personal wireless communication facility that is not operated twenty-four (24) hours a day unless there is unmitigated circumstances, (i.e. blackout; power failure, etc.) for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said antenna mount(s), including antennas and other appurtenances provides proof of quarterly inspections. The owner shall remove the abandoned facility within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the antenna mount(s), including antennas and other appurtenances.. If the abandoned antenna mount(s), including antennas and other appurtenances is not removed within 90 days the Town may execute the security and have the facility removed. If there are two or more users of a single facility, this provision shall not become effective until all users cease using the facility.

ARTICLE XXI AIRPORTS AND HELIPORTS, PRIVATE OR COMMERCIAL

A. DEFINITIONS OF GENERAL TERMS:

Airport, Commercial: A facility used for landings and takeoffs by commercial and private fixed wing or rotary wing aircraft. Such a facility typically includes aircraft parking and service facilities.

Airport, Private: A tract of land used for landings and takeoffs by fixed winged or rotary wing aircraft belonging to the owner or lessor of the land or to a third party using the tract of land with the permission of the owner or lessor of the land.

A. Airports and Heliports: Private and commercial airports and heliports shall be prohibited in all Zoning districts or Zones within the Town of Lee.

Article XXI:A Small Wind Energy Systems

Purpose:

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

Definitions:

Meteorological tower (met tower). Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

Modification. Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

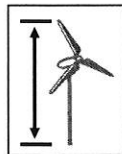
Net metering. The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

Power grid. The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

Shadow flicker. The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

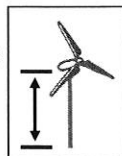
Small wind energy system. A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

System height. The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



Tower. The monopole, guyed monopole or lattice structure that supports a wind generator.

Tower height. The height above grade of the fixed portion of the tower, excluding the wind generator.



Wind generator. The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

A. Procedure for Review:

1. Building Permit: Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
2. Application: Applications submitted to the building inspector shall contain a site plan with the following information:
 - i) Property lines and physical dimensions of the applicant's property.
 - ii) Location, dimensions, and types of existing major structures on the property.
 - iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
 - iv) Tower foundation blueprints or drawings.
 - v) Tower blueprints or drawings.
 - vi) Setback requirements as outlined in this ordinance.
 - vii) The right-of-way of any public road that is contiguous with the property.
 - viii) Any overhead utility lines.
 - ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
 - x) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
 - xi) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.

- xii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
 - xiii) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
 - xiv) List of abutters to the applicant's property.
3. Abutter and Regional Notification: In accordance with RSA 674:66, the building inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

B. Standards:

1. The building inspector shall evaluate the application for compliance with the following standards;
- a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
 - ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- b. Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.

- c. Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- d. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- e. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- f. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- g. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- h. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
 - i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
 - ii) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
 - iii) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to

establish the required markings and/or lights for the small wind energy system.

- i) **Approved Wind Generators:** The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- j) **Utility Connection:** If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
- k) **Access:** The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- l) **Clearing:** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

C. **Abandonment:**

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:
 - a. Removal of the wind generator and tower and related above-grade structures.
 - b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that

the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

4. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

D. Violation:

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

E. Penalties:

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

**ARTICLE XXII
ZONING BOARD OF ADJUSTMENT**

Pursuant to New Hampshire RSA 673:6 Local Land Use Boards, the Zoning Board of Adjustment shall consist of five (5) members and five (5) alternates appointed by the Board of Selectmen to serve for three (3) year terms. The Zoning Board of Adjustment shall have the following powers:

- 1. Hear and Decide Appeal:** If it is alleged there is error in any order, requirement, decision, or determination made by an administrative official of the Town of Lee in the enforcement thereof or any ordinance adopted pursuant thereto:
- 2. Authorize Upon Appeal Such Variance:** from the terms of the zoning ordinance if all the following criteria can be satisfied:
 - a. That in granting the variance, no diminution in value of surrounding property will be suffered;
 - b. That the granting of the variance will be of benefit to the public interest;
 - c. That denial of the permit would result in unnecessary hardship to the owner seeking it;
 - d. That in granting the variance, substantial justice would be done;
 - e. That the use must not be contrary to the spirit and intent of the ordinance.

3. Authorize Upon Appeal Such Special Exception: as may be permitted under the terms of this ordinance if the following criteria can be satisfied:

- a. That the use will not be detrimental to the character or enjoyment of the neighborhood or to future development by reasons of undue variation from the kind and nature of the other uses in the vicinity, or by reasons of obvious and adverse violation of the character or appearance of the neighborhood or cause diminution in the value of surrounding properties;
- b. That the use will not be injurious, noxious or offensive and thus detrimental to the neighborhood;
- c. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk of life and property unsanitary or unhealthful emissions or waste disposal or similar adverse causes or conditions.

Special Exceptions which are granted for non-residential or multifamily residential use shall be subject to the granting of Site Approval by the Planning Board.

Each application to the Zoning Board of Adjustment must be accompanied by an application and fees sufficient to cover actual costs in connection with the required public hearing, as well as costs for any special studies or expenses which may be incurred by the Town for these hearings.

The Zoning Board of Adjustment shall conduct public hearings in accordance with New Hampshire RSA: 676 and the bylaws of the Board of Adjustment for the Town of Lee.

**ARTICLE XXIII
Nonconforming Uses and Buildings/Structures**

Any lawful nonconforming use may continue in its present use except that any nonconforming use may not be:

- 1. Changed to another nonconforming use;
- 2. Re-established after discontinuance for one (1) year except to a use conforming to the district in which it is located ;
- 3. Extended throughout other parts of the building or structure if it is located only in a portion of the building or structure.

A lawful nonconforming building or structure that is damaged or destroyed may be restored or reconstructed , provided that such restoration or reconstruction shall not enlarge the overall floor space or height of the building or cause the building or structure to become more nonconforming.

**ARTICLE XXIV
ENFORCEMENT**

The Select Board or the code Enforcement Officer are hereby given the power and authority, to enforce the provisions of this ordinance³⁶.

³⁶ March 2015

**ARTICLE XXV
PENALTY**

Any violation of this ordinance may be made punishable as set forth in New Hampshire Revised Statutes Annotated 676:17 and as amended.

**ARTICLE XXVI
AMENDMENTS**

This ordinance may be amended by a vote of any legal Town Meeting in accordance with Chapter 31, Section 63a, New Hampshire Revised Statutes Annotated. All such amendments shall be recorded with the Strafford County Register of Deeds.

**ARTICLE XXVII
CONFLICTING PROVISIONS**

Whenever the regulations made under the authority hereof differ from those described by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the higher standard shall govern.

**ARTICLE XXVIII
SAVING CLAUSE**

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

¹ March 2014