

2018 BUILDING REGULATIONS  
TOWN OF LEE, NEW HAMPSHIRE

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# BUILDING REGULATIONS ORDINANCE

## TOWN OF LEE, NEW HAMPSHIRE

MARCH 11, 2018

### **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, March 11, 2008, March 2017 and March 2018 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. One of the unit must 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.

**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 flood insurance rate maps and flood boundary maps of the Town of Lee, , 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.

**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 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 wall 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 Soils**<sup>1</sup> – *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.

**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

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<sup>1</sup> March 2005

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. Installation and replacement of septic tanks or leach fields;
2. Above & in-ground pools;
3. Wells;
4. Paving;
5. Stand-by Generators;
6. Solar Systems
7. Tennis Courts or other major site improvements;
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.) Papering and painting of structures;
- 3.) Fencing, no greater than 6' in height;
- 4.) Landscaping;
- 5.) Roof Covering: (as defined in the most current state adopted code of the IRC);
- 6.) Residing;
- 7.) In-kind replacement of windows

#### B. Fees<sup>2</sup>

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

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<sup>2</sup> March 2005

### 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
- 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, grant one or more extensions of the permit period. Such extensions may not exceed 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**

##### **Building Inspector**

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 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**

##### **CODES<sup>3</sup>**

The following codes are hereby adopted and made part of this ordinance:<sup>1</sup>

1. The most current edition adopted by the State of New Hampshire, International Building Code (IBC) with New Hampshire Amendments.

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<sup>3</sup> Amended March 13, 2007

<sup>1</sup> Amended March 11, 2003

2. The most current edition adopted by the State of New Hampshire, International Residential Code for One and Two Family Dwellings (IRC)9 with New Hampshire Amendments.
3. The most current edition adopted by the State of New Hampshire, International Plumbing Code (IPC) with New Hampshire Amendments.
4. The most current edition adopted by the State of New Hampshire, NFPA 1 Fire Code as amended by Saf-C 6000 STATE FIRE CODE with specific sub codes:
  - Fuel Gas Code –NFPA 54/58 as amended by Saf-C 6000.
  - Oil Burning Equipment –NFPA 31 as amended by Saf-C 6000
  - Chimneys, Fireplaces, Vents and solid Burning Appliances –NFPA 211
  - Carbon Monoxide Detection –NFPA 720 as amended by Saf-C 6000
5. The most current edition adopted by the State of New Hampshire, NFPA 70 National Electrical code (NEC), with New Hampshire Amendments. Published by National Fire Protection Association.
6. The most current edition adopted by the State of New Hampshire, NFPA 101, Life Safety Code, Edition, published by National Fire Protection Association.
7. The most current edition adopted by the State of New Hampshire, International Energy Conservation Code (IEC) with New Hampshire Amendments.
8. The most current edition adopted by the State of New Hampshire, International Mechanical Code (IMC) Edition.
9. The most current edition adopted by the State of New Hampshire, NFPA 13, Installation of Sprinkler Systems, Edition, published by National Fire Protection Association.
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, 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, 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, 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, published by National Fire Protection Association.
14. The most current edition adopted by the State of New Hampshire, NFPA 72, National Fire Alarm Code, 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 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, 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, published by the National Fire Protection Association.
18. The most current edition adopted by the State of New Hampshire, NFPA I, Uniform Fire Code, 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, published by the National Fire Protection Association. Detectors must include a digital readout indicating the Parts Per Million (PPM).

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

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;

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 Box<sup>4</sup>**

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)<sup>5</sup>**

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**

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.

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<sup>4</sup> Added March 13, 2007

<sup>5</sup> Added March 13, 2007

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. 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) 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. Petroleum Storage Tanks– All proposed fuel storage tanks for the storage of petroleum or petroleum products shall comply with the New Hampshire Department of Environmental Services (DES) regulations. These regulations shall apply to all tanks of any capacity whether or not DES 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.<sup>6</sup>

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).

K. Septic Systems – No building permit shall be issued unless the applicant has first obtained approval from New Hampshire Department of Environmental Services 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.

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<sup>6</sup> Added March 13, 2007

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 (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.

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.

#### 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 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 leach field area. More test pits may be required by the Health Officer for each proposed leach field 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.

#### D. Inspections

1. All inspections shall be made by the Health Officer or a designee. 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



C 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.

#### E. Septic Tank and Leach Field Size

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

**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 system does not operate as designed.**

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 every 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.

## 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 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.