

SITE PLAN REVIEW REGULATIONS

TOWN OF LEE, NEW HAMPSHIRE

ADOPTED: January 5, 1977

LAST REVISED: April 19, 2023

TABLE OF CONTENTS

ARTICLE I	1
A. Authority	1
B. Purpose	1
C. Site Plan Review Required	2
D. Site Plan Review Not Required	3
E. Interpretation/Compliance	3
ARTICLE II – DEFINITIONS	4
ARTICLE III- APPLICATION PROCEDURE	9
A. Purpose	9
B. Fees	9
C. Pre-Application Review (Optional)	9
D. Procedure When Approvals from the Zoning Board of Adjustment Are Required	11
E. Procedure When Subdivision Approval Is Required	11
F. Applications, Plans and Others Submission Requirements	11
G. Plan Certification	17
H. Additional Documentation	17
I. Special Studies	18
J. Waivers	19
K. Board Review for Complete Application	20
L. Permission to Visit Property	21
M. Determination of Potential for Regional Impact	21
N. Public Hearing and Decision of the Board	22
O. Expiration of Site Plan Approval	23
ARTICLE IV- DEVELOPMENT LIMITATIONS	24
ARTICLE V- DESIGN REQUIREMENTS	24
A. General Requirements	24
ARTICLE VI- ACCESS AND PARKING	24
A. Access	24
B. Parking	25
C. General Requirements	26
D. Required Parking Spaces	27
ARTICLE VII- LIGHTING	29
A. Purpose	29
B. Submission materials	29
C. General Requirements	29
D. Lighting of Parking Lots, Passive Vehicular Storage Areas, and Exterior Display/Sales Areas	31
E. Lighting of Gasoline Station/Convenience Store/EV Charging Station/Aprons and Canopies	31

TABLE OF CONTENTS

F. Lighting of Building Facades and Landscaping	32
G. Lighting of Walkways/Bikeways and Parks	33
H. Pre -Existing Outdoor Lighting.....	33
I. Exemptions.....	33
ARTICLE VIII- STORMWATER MANAGEMENT REGULATIONS.....	34
A. Introduction	34
B. Purpose and Goals	34
C. Minimum Thresholds for Applicability	35
D. Stormwater Management for New Development.....	36
E. Submission Requirements for Stormwater Management Report and Plans.....	38
F. General Performance Criteria for Stormwater Management Plans.....	39
G. Stormwater Management for Redevelopment	39
H. Stormwater Operation and Maintenance Plan and Site Inspections.....	40
I. Inspection and Maintenance Responsibility	41
ARTICLE IX- LANDSCAPING AND SCREENING	41
A. PURPOSE	41
B. LANDSCAPING AND SCREENING	42
ARTICLE X- WATER SUPPLY.....	45
ARTICLE XI- WASTEWATER DISPOSAL	45
ARTICLE XII- UNDERGROUND STORAGE TANKS	45
ARTICLE XIII- HAZARDOUS AND TOXIC MATERIALS	46
A. General Requirements	46
ARTICLE XIV- EARTH REMOVAL OPERATIONS	46
A. PURPOSE	46
B. Excavation Permit Required, Application	46
C. Exemptions.....	47
D. Notice and Hearing; Decision	47
E. Prohibited Projects.....	48
F. Standards and Conditions for Operation	48
G. Reclamation.....	50
H. Renewals; Amendments	51
I. Existing Operations	51
J. Fees	52
K. Administration and Enforcement.....	52
L. Penalty.....	53
ARTICLE XV- FIRE PROTECTION IN THE COMMERCIAL ZONE	53
ARTICLE XVI- FINANCIAL GUARANTEE	53

TABLE OF CONTENTS

A. Financial Guarantees.....	53
ARTICLE XVII ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING.....	55
A. Active and Substantial Development or Building	55
B. Substantial Completion	56
ARTICLE XVIII- ENFORCEMENT	56
ARTICLE XIX- AMENDMENT.....	56
ARTICLE XX- EFFECTIVE DATE.....	56
ARTICLE XXI- CONFLICTING PROVISIONS	56
ARTICLE XXII- VALIDITY	57

SITE PLAN REVIEW REGULATIONS LEE, NEW HAMPSHIRE 2023

ARTICLE I

A. Authority

These regulations are adopted by the Planning Board of the Town of Lee, New Hampshire (the “Board” or “Planning Board”), pursuant to the authority vested in the Board at Town Meeting on February 14, 1952, in accordance with State law then in effect, and in accordance with current State laws including, but not limited to, Chapters 672 through 677 inclusive of the Revised Statutes Annotated of the State of New Hampshire, to review and approve, or disapprove site plans. This review authority shall be applied to the development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units, which are defined as any structures containing more than two dwelling units, whether such development includes a subdivision or re-subdivision of the site.

B. Purpose

The purpose of these Site Plan Review Regulations is to:

1. Provide for the safe and attractive development or change; or expansion of the use of the site and guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason of: (a) inadequate drainage or conditions conducive to flooding of the property or that of another; (b) inadequate protection for the quality of groundwater; (c) undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties; and (d) inadequate provision for fire safety, prevention, and control.
2. Provide for the harmonious and aesthetically pleasing development of the Town and its environs.
3. Provide for open spaces and green spaces of adequate proportions.
4. Require the proper arrangement and coordination of streets and driveways within the site in relation to other existing or planned streets or with features of the official map of the Town.
5. Require suitably located streets of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air and access for firefighting apparatus and equipment to buildings and be coordinated so as to compose a convenient system.
6. Require in proper cases, that plats showing new streets or narrowing or widening of such streets be submitted to the Board for approval.

7. Require that the land indicated on plats submitted to the Board shall be of such character that it can be used for building purposes without danger to health.
8. Include such provisions as will tend to create conditions favorable for health, safety, convenience, and prosperity.
9. Require innovative land use controls when supported by the Lee Master Plan.
10. Provide for the preliminary review of site plans.
11. Require, as a condition of site plan approval, that the applicant protect or document archeological resources in areas of archeological sensitivity that have been identified in the Lee Master Plan.

C. Site Plan Review Required

1. Whenever any development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units is proposed or whenever any changes are proposed that differ from an existing site plan as previously approved by the Board, these Site Plan Review Regulations shall apply. Before any construction, land clearing, building development or change is begun and before any permit for the construction of or change to any building or authorization for development on such site shall be granted, the owner of the property or the authorized agent shall apply for and secure from the Board approval of such proposed site development in accordance with the procedures set forth in these regulations.
2. The Board shall have the responsibility for making the final decision as to the necessity of site plan review. Where there is any doubt as to whether a project requires site plan review, the affected party should request a determination from the Board. To clarify what type of proposed development triggers Site Plan Review by the Board, a non-exclusive list of examples is set forth below:
 - a. A proposal that involves new construction of nonresidential or multifamily development (i.e., more than two dwelling units).
 - b. A proposal that involves a change of use category, e.g., from residential to commercial, or from single-family to multifamily.
 - c. Nonresidential or multi-family use that did not receive site plan review when originally constructed.
 - d. A proposal that involves the change or expansion of an existing use.
 - e. A proposal that involves the commercial excavation of earth. Site Plan Review approval, including an excavation permit, is required from the Board in accordance with Section XIV of these Site Plan Review Regulations. When such proposed excavation is located

- within the Residential Zone, a variance must be obtained from the Lee Zoning Board of Adjustment (the “Zoning Board”).
- f. A proposal for a Farm Market (as defined in the Lee Zoning Ordinance) that includes one or more permanent structures/buildings.
 - g. A proposal for a Recreational Playing Field.
 - h. A proposal for a Bed and Breakfast.
 - i. A proposal for a Church.
 - j. A proposal for any uses which permission was granted by either a Variance or a Special Exception from the Zoning Board. A proposal for an agriculture operations and agricultural tourism subject to applicable state law including NH RSA 674:32-b and NH RSA 674:32-c.
 - k. A proposal for a new tower or substantial modifications to existing towers, mounts or personal wireless services facility, as set forth by NH RSA 12-K: II.
3. No certificate of occupancy shall be issued for any building or structure or use of land within the purview of these regulations unless or until the building, structure, development, land, or use is constructed, developed, altered, installed, or used in conformity with an approved site plan or an amendment to any such plan.

D. Site Plan Review Not Required

- 1. Below is a non-exclusive list of construction activities, when considered individually, that do not require Site Plan Review by the Board:
 - a. One and two-family residential structures.
 - b. Internal building modifications to a nonresidential use that do not affect the scale, intensity, or impact of the existing use.
 - c. Accessibility and service ramps; stairs and fire escapes.
 - d. A proposal for a collocation or a modification of a personal wireless service facility, as defined in New Hampshire RSA 12 – K: 2.

E. Interpretation/Compliance

- 1. Compliance with these Site Plan Review Regulations does not relieve the applicant from compliance with all other ordinances, regulations, or codes in effect for the Town of Lee, including, without limitation, the Zoning Ordinance, Subdivision Regulations, Building

Regulations, or any other local, state, or federal ordinance, regulation, code, or statute that pertains to the proposed development.

2. The standards contained in these regulations shall be interpreted as minimum requirements, and compliance with these minimum requirements shall not obligate the Board to approve any application solely on that basis. The Board may at its discretion require higher standards or may waive certain requirements in accordance with the procedures outlined in these regulations. More stringent provisions may be required if it is determined that different standards are necessary to promote the public health, safety, and welfare. Only after the Board is reasonably satisfied that a proposed application complies with all pertinent requirements of the Site Plan Review Regulations and other applicable requirements and objectives, will the application be approved.

ARTICLE II – DEFINITIONS

Best Management Practices (BMPs): A structural or non-structural practice or component designed to temporarily store or treat stormwater runoff to mitigate flooding, reduce pollution, and manage potential impacts from a development.

Board: “Board” shall mean the Lee Planning Board.

Buffer: Landscaped or naturally vegetated area running generally parallel to the boundaries of a parcel or water feature and intended to lessen the negative impact of a land use on neighboring parcels or nearby areas.

Buffer Zone: As used in Article XIV, the area between the excavation site and right-of-way and/or abutting property line.

Dark Sky Compliant: To minimize light pollution, light trespass glare and offensive light sources.

Disturbed Area: An area in which the natural vegetative soil cover has been removed and the existing hydrology altered and, therefore, is susceptible to increased stormwater runoff and erosion.

Effective Impervious Area: The impervious area on the site that is hydraulically connected to a stormwater management system that discharges to a surface water body.

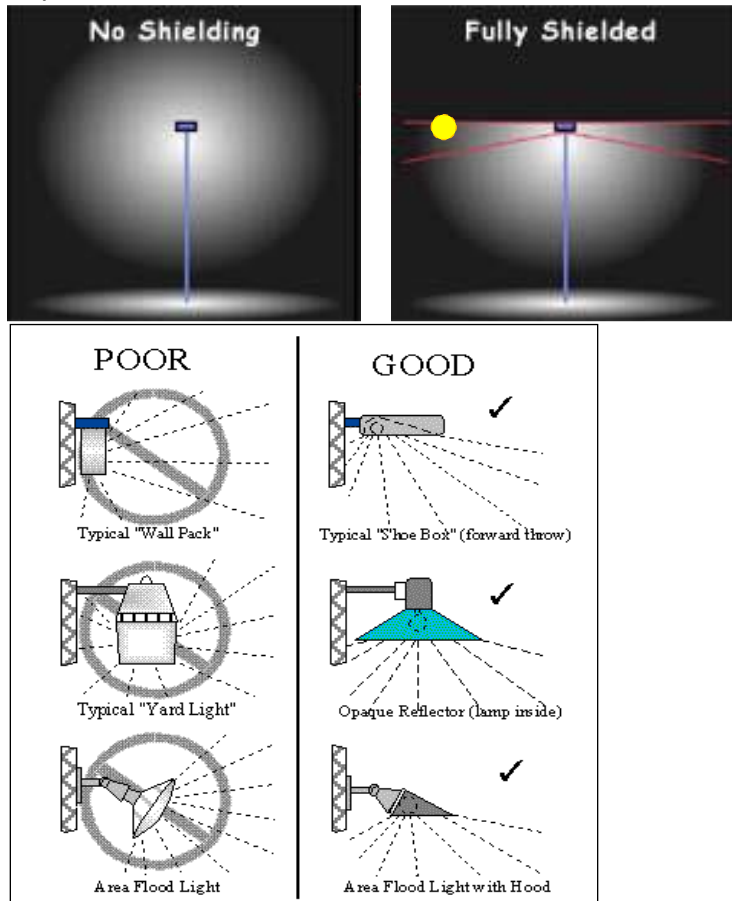
Excavation: A land area, which is used, or has been used, for the commercial taking of earth, including all slopes.

Excavation Site: Any area of contiguous land in common ownership upon which excavation takes place.

Filtration: The process of physically or chemically removing pollutants from runoff. Practices that capture and store stormwater runoff and pass it through a filtering media such as sand, organic material, or the native soil for pollutant removal. Stormwater filters are primarily water quality control devices designed to remove particulate pollutants and, to a lesser degree, bacteria, and nutrients.

Floodlight: A light fixture, which is positioned or designed to concentrate light, in a direction other than directly downward.

Fully shielded fixture: A fixture which emits zero light above the horizontal plane drawn through the lowest light-emitting part of a luminaire. Fixtures that comply with the Illuminating Engineering Society of North America standards for full cut-off lighting are considered fully shielded. (Such fixtures are often labeled as *Dark Sky Certified or Compliant*.) Examples of fully shielded fixtures are depicted below:



(2009) Images from the New England Light Pollution Advisory Group website at <http://nelpag.harvee.org>

Full cut-off fixture: A type of fixture as defined by the Illuminating Engineering Society of North America.

Foot-candle: The measure of light falling on a surface, usually the ground. One foot-candle equals the amount of light generated by one candle shining on a one square foot surface one foot away.

Glare: Light emitted from a luminaire with a level of intensity great enough to cause annoyance, distraction, discomfort, or loss in visual performance or visibility.

Groundwater Recharge: The process by which water that seeps into the ground, eventually replenishing groundwater aquifers and surface waters such as lakes, streams, and the oceans. This process helps maintain water flow in streams and wetlands and preserves water table levels that support drinking water supplies.

Groundwater Recharge Volume: The post-development design recharge volume (i.e., on a storm event basis) required to minimize the loss of annual pre-development groundwater recharge. The Groundwater Recharge Volume is a function of annual pre-development recharge for site-specific soils or surficial materials, average annual rainfall volume, and amount of impervious cover on a site.

Impaired Waters: Those waterbodies not meeting water quality standards. Pursuant to Section 303(d) of the federal Clean Water Act, each state prepares a list of impaired waters (known as the 303(d) list) which is presented in the state's Integrated Water Report as Category 5 waters. Those impaired waters for which a Total Maximum Daily Load (TMDL) has been approved by US EPA and is not otherwise impaired, are listed in Category 4A.

Impervious Coverage: All areas covered by buildings, structures, pavement, or materials impervious to water.

Impervious Cover: Those surfaces that cannot effectively infiltrate rainfall and stormwater consisting of surfaces such as building rooftops, pavement, concrete, compacted gravel (e.g., driveways and parking lots).

Indirect light: Direct light that has been reflected or has scattered off other surfaces.

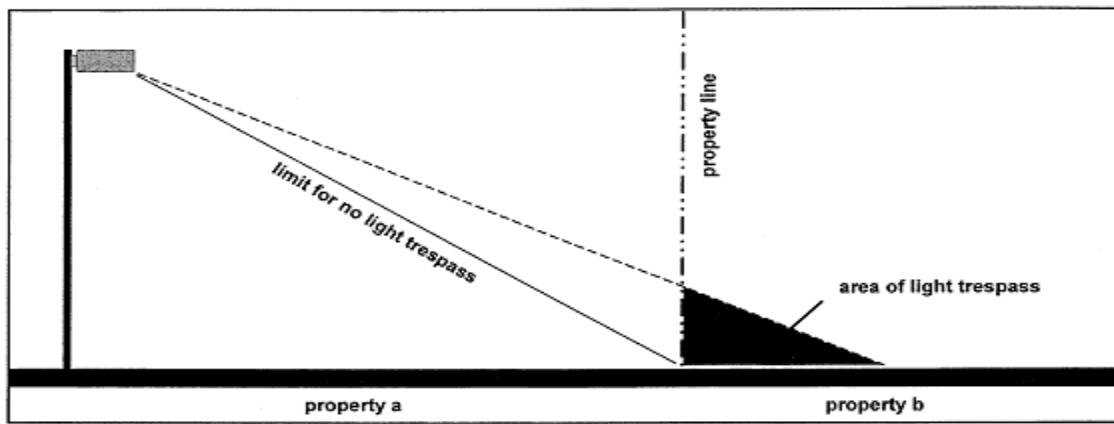
Infiltration: The process of stormwater runoff percolating into the ground (subsurface materials). Stormwater treatment practices designed to capture stormwater runoff and infiltrate it into the ground over a period of days.

Internal Roads: Roads contained within a development.

Lamp: The component of a luminaire that produces the actual light.

Light fixture or luminaire: A complete lighting assembly that houses a lamp or lamps and can include some or all the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast or driver, a reflector or mirror, and/or a refractor or lens.

Light trespass: The distribution of light beyond the boundaries of the property on which the source luminaire is located.



Low Impact Development (LID): Low impact development is a site planning and design strategy intended to maintain or replicate predevelopment hydrology using site planning, source control, and small-scale practices integrated throughout the site to prevent, infiltrate, and manage runoff as close to its source as possible. Examples of LID practices are pervious pavement, rain gardens, green roofs, bioretention basins and swales, filtration trenches, and other functionally similar BMPs located near the runoff source.

Maximum Extent Practicable (MEP): To show that a proposed development has met a standard to the maximum extent practicable, the applicant must demonstrate the following: (1) all reasonable efforts have been made to meet the standard, (2) a complete evaluation of all possible management measures has been performed, and (3) if full compliance cannot be achieved, the highest practicable level of management is being implemented.

Mitigation: Activities, strategies, policies, programs, actions that, over time, will serve to avoid, minimize, or compensate for (by treating or removing pollution sources) the impacts to or disruption of water quality and water resources.

Mounting height: The height of a light fixture measured as the vertical distance from the grade elevation directly below the luminaire to the lowest direct light-emitting part of the *light fixture* (i.e., luminaire).

Native Vegetation and Plantings: Plants that are indigenous to the region, adapted to the local soil and rainfall conditions, and require minimal supplemental watering, fertilizer, and pesticide application.

New Hampshire Department of Environmental Services (NHDES): The branch of New Hampshire state government that is authorized to administer and enforce all state adopted environmental regulations.

Outdoor lighting: The night-time illumination of any outside area or object by any man-made device located outdoors that produces light by any means.

Pollutant Load: An amount of pollutants that is introduced into a receiving waterbody measured in units of concentration or mass per time (i.e., concentration (mg/l) or mass (lbs./day).

Redevelopment: Any construction, alteration, or improvement that disturbs a total of 10,000 square feet or more of existing impervious area where the existing land use is commercial, industrial, institutional, governmental, recreational, or multifamily residential. Building demolition is included as an activity defined as “redevelopment”, but building renovation is not. Similarly, removing of roadway materials down to the erodible soil surface is an activity defined as “redevelopment,” but simply resurfacing of a roadway surface is not. Pavement excavation and patching that is incidental to the primary project purpose, such as replacement of a collapsed storm drain, is not classified as redevelopment.

Reviewing Engineer: The engineer(s) reviewing an application for the Planning Board.

Spotlight: A light fixture, which is positioned or designed to concentrate light, often in a single beam, in a direction other than directly downward.

Stacking Spaces: Stacking spaces are used to measure the capacity of a drive-through lane to hold cars while transactions are taking place at drive-through stations.

Stormwater: Surface water runoff and drainage that is generated from precipitation and snowmelt, including any debris, chemicals, sediment, or other substances carried along with the water.

Sufficient Weight or Volume (Commercially Useful): Shall be twenty (20%) percent of the existing volume, within the 5 -acre increment, to be excavated within a twenty-four (24) month time period.

Total Suspended Solids (TSS): The total amount of solids particulate matter which is suspended in the water column.

Water Quality Volume: The storage volume needed to capture and treat 1-inch of runoff from impervious surfaces.

Watershed: All land and water area from which runoff may run to a common (design) discharge point.

Wet soils: It 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 5.0 February 2017, 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. All wet soils shall be delineated by a certified NH Soil Scientist in good standing.

ARTICLE III- APPLICATION PROCEDURE

A. Purpose

The purpose of this Article is to set forth the procedure for Planning Board review and action on applications for site plan approval. The procedure is intended to facilitate the orderly and expeditious processing of such applications.

B. Fees

The Planning Board has established, and from time to time may amend, a Schedule of Fees. A copy of the schedule of fees is posted on the Lee Website at www.leenh.org and at the Office of Planning and Zoning.

C. Pre-Application Review (Optional)

1. General

- a. Pre-application review consists of one or both of two review stages: conceptual consultation and design review. Both stages are optional and are non-binding on both the applicant and the Planning Board. Both stages are strongly encouraged by the Planning Board in that they provide opportunities for the applicant to identify potential problems with the development concept and their potential solutions before investments are made on the design and engineering plans for a specific proposal.
- b. The purpose of the pre-application review is to provide an opportunity for the Board and the applicant to discuss a proposal without any binding decisions being made by either the Board or the applicant. Statements made by Planning Board members at pre-application discussions cannot be used to disqualify them during review of the completed application or as the basis for invalidating any further action of the Board.
- c. The applicant may decline to participate in the pre-application phase and begin the review process by filing a completed application. There are no statutory time limits for these phases, but the applicant may choose, at any time, to curtail the pre-application process and file a completed application to trigger the required review. During any design review stage, the Board may determine that design review process has ended and shall inform the applicant in writing within 10 days of such determination.

2. Conceptual Consultation

The applicant may request a meeting with the Board to discuss a proposal in conceptual form and in general terms. Such pre-application consultation shall be informal and directed toward:

- a. Reviewing the basic concepts of the proposal.
- b. Reviewing the proposal regarding the Lee Master Plan and Lee Zoning Ordinance.
- c. Explaining the local regulations that may apply to the proposal.
- d. Describing the procedures to be followed for the filing, submission, acceptance, and review of a completed application.

Preliminary conceptual consultation shall not bind the applicant or the Board. Such discussion may occur without formal public notice but must occur only at a posted meeting of the Board. Neither the applicant nor the Planning Board may proceed beyond a general conceptual discussion of the proposal until the abutters and the general public have been notified.

4. Design Review

- a. Prior to submission of an application for Board action, an applicant may request to meet with the Board or its designee for non-binding discussions beyond the conceptual and general, involving more specific design and engineering details of the potential application.
- b. Design review is intended to assure that the essential characteristics of the site and specific requirements of local regulations are reviewed and understood before the final design is prepared.
- c. The design review phase may proceed only after identification of and notice to abutters and the general public as required by RSA 676:4, I (d).
- d. Those wishing to engage in pre-application design review shall submit a “Request for Pre-application Review” and associated fees not less than 21 days before a regularly scheduled meeting of the Board. The request shall include:
 - i. List of abutters and their addresses from municipal records not more than 5 days before submission.
 - ii. Fees to cover abutter notifications.
 - iii. A site location map placing the parcel in the large context of the community.
 - iv. A site survey showing pertinent features of the site.
 - v. An indication of any future subdivisions contemplated in or adjacent to the proposal.
 - vi. A topographic map of the area.

- vii. Any soils information, percolation, or boring data that has been gathered.
- viii. A sketch showing the proposed layout of the lots, streets, recreation areas, watercourses, natural features, and easements.
- ix. Statements made by the Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.
- x. The Board shall not accept a completed application by the applicant at a meeting that was noticed and posted only for design review.

D. Procedure When Approvals from the Zoning Board of Adjustment Are Required

When approvals from the Zoning Board are required by the Lee Zoning Ordinance, such Zoning Board approvals shall be obtained before the Site Plan application will be deemed complete by the Planning Board. Any conditions imposed by the Zoning Board shall not be diminished by the requirements contained in these Site Plan Review Regulations. The condition that imposes the greater restriction or higher standard shall be controlling.

Any Site Plan application submitted prior to submission for necessary Zoning Board approvals will not be accepted by the Planning and Zoning Administrator.

E. Procedure When Subdivision Approval Is Required

When separate Subdivision and Site Plan Review approvals are required for a proposed development, the final subdivision or boundary line adjustment plat establishing the property boundaries shall be approved by the Planning Board before a subsequent Site Plan application shall be considered complete and a public hearing commenced.

Notwithstanding the above, the Board may, in its discretion, elect to hold both the Site Plan and final Subdivision reviews at the same time. In such case the Board shall review and determine that the application is complete according to all applicable Subdivision and Site Plan Review Regulations before commencing a public hearing. The provisions of both regulations shall be satisfied.

F. Applications, Plans and Others Submission Requirements

Applications shall contain sufficient information to enable the Planning Board to evaluate the proposed development for compliance with the Lee Zoning Ordinance, these Site Plan Review Regulations, and other applicable Town Ordinances and Codes, and for the Planning Board to make an informed decision.

An application for Site Plan Review shall include the following information:

1. A properly completed and signed application form.
2. The appropriate fees as established by the Board's fee schedule.
 - a. Additional review fees may be required pursuant to Article III, I. and Article XIV, J., which shall be due and payable in the manner prescribed by the Planning Board's policies and procedures.
3. A detailed written project description.
4. A list of the name(s) and address(es) of all persons to be notified by certified mail in accordance with RSA 676:4, I(d), including the following:
 - a. The Applicant(s).
 - b. The Owner(s) of record of the site.
 - c. The Owners of abutting properties.
 - d. Every surveyor, engineer, architect, and soil scientist, whose professional seal appears on any plan or document submitted to the Board.
 - e. All persons holding conservation, preservation, or agricultural preservation restrictions (as defined under RSA 477:45) on the subject property. (NOTE: When there are no such restrictions on the subject property, the applicant shall provide a definitive statement to that effect).
 - f. The holders of any easements, rights-of-way, or other restrictions on or over the subject property. (NOTE: When there are no such easements, rights-of-way, or other restrictions on the subject property, the applicant shall provide a definitive statement to that effect).
5. Paper copies of the proposed Site Plan drawing (the number to be determined by the Code Enforcement/Building Office on an as-needed basis).

Plans/Plats/Drawings shall be submitted digitally as well as on sheets 24" x 36". Plan sets with multiple sheets shall include sheets of uniform size and be bound on the left edge. When more than three (3) sheets are required, an additional cover sheet of the same size shall be attached including a table of contents. A scale of not smaller than one (1) inch equals 40 feet is suggested. All lettering shall be of a size and type that is legible.

Site Plan drawings shall include the following information (NOTE: The submission requirements described in subparagraphs 5.a. through 5. c. below shall not be waivable under the procedures set forth in Article III J. - "Waivers" of these Regulations):

- a. A vicinity sketch showing the location of the site in relation to the surrounding public street system (suggested scale: one (1) inch equals 500 feet).
- b. The names and mailing addresses of the applicant; the owner(s) of record of the site; the Owners of abutting properties based on the current records of the Assessor available at Town Hall, not more than 5 days before the date of filing of the application and the holders of any easements, rights of way, or other restrictions.
- c. The names and business addresses of the preparer(s) of the plan and every surveyor, engineer, architect, or soil scientist, whose professional seal appears on any plan or document submitted to the Board.
- d. The following information shall be provided on the first page (or cover page, if applicable) of the Site Plan:
 - i. The name of the Town and County in which the development is proposed.
 - ii. A north arrow.
 - iii. The scale of the plan.
 - iv. The date of the plan and of any revisions to the plan.
 - a. (NOTE: The date on the plan at the time of the initial submission to the Town for application review shall be included on all subsequent submissions to the Town. Any subsequent change(s) to the plan shall include a revision date and description of the revision(s)).
- e. The following basic site information in TABLE FORM:
 - i. Zoning designation for the subject property.
 - ii. Tax Map and Lot number(s) for the subject property.
 - iii. Area of lot.
 - iv. Gross floor area of existing and proposed buildings/additions.
 - v. Number of existing and proposed off-street parking spaces.
 - vi. Number of existing and proposed loading spaces.
 - vii. Height of existing and proposed buildings/additions.
 - viii. Number of stories and gross square footage of each.

- ix. Proposed use.
 - x. Required and proposed front, side, and rear yard setbacks.
 - xi. Maximum allowable lot coverage with existing and proposed calculations, and an indication as to whether or not the parcel is subject to any Overlay Districts pursuant to the Zoning Ordinance (for example, the Aquifer Conservation District, Shoreland Conservation District, and Wet Soils Conservation District) or to NHDES Comprehensive Shoreland Protection jurisdiction.
- f. A current survey prepared by a land surveyor licensed in New Hampshire, depicting the perimeter boundaries of the lot(s) of the proposed site, including compass bearings, distances, and lot areas, and depicting the location of any existing improvements on the property and the width and location of any rights-of-way and/or easements on the property.
- g. Existing and proposed grades, including topographic contours, with spot elevations. Where the grade is less than 20%, the contours shall be at 2-foot intervals; otherwise, they shall be at 5-foot intervals. All contours shall be referenced to the North American Vertical Datum of 1988 (NAVD 88). Existing topographic information shall be prepared by a professional engineer licensed in New Hampshire or land surveyor licensed in New Hampshire. Proposed grades shall be prepared by a professional engineer licensed in New Hampshire.
- h. The shape, size, height, and location of all existing structures, located on the site and within 200 feet of the site. Elevation views indicating shape, size, height, and location of all proposed structures, including expansions of or additions to existing buildings. Such elevation views shall provide sufficient detail to allow for review by the Board and of the adequacy of proposed access and egress points, walkways, lighting, and other site-related improvements.
- i. The location of existing natural features such as streams, marshes, lakes, ponds, wetlands, wetsoils, vernal pools, rock outcrops, or wooded areas, and existing man-made features such as roads and structures. The plan shall indicate those natural and man-made features that are to be removed, retained, or altered. Wetlands, wetsoils on the property shall be delineated by a NH Certified Soil Scientist, whose seal and signature shall appear on the plan. In addition, documentation in the form of the U.S. Army Corps of Engineers New England District Wetlands Delineation Data Sheets and/or other field notes and materials concerning the delineation shall be submitted to the Board.
- j. The Zoning District, Tax Map and Lot number, and use of abutting properties of the site boundary; the location of roads, streets, and driveways within 200 feet of the site boundary.

- k. Proposed streets, driveways, parking spaces, and sidewalks, with indication of direction of travel, width, and the inside radii of all curves. Parking spaces shall be numbered. Loading spaces and facilities used in connection with any structures on the site shall be shown. The total square footage and percentage of the lot covered by impervious cover shall also be shown.
- l. The size and location of all existing and proposed public and private utilities. Applications may not be submitted that rely on the use of utilities planned or under construction unless the proposed utilities are part of the application.
- m. A plan for outdoor lighting showing the proposed location mounting height, fixture type, lamp type, and wattage of all exterior free-standing or building-mounted light fixtures, as well as analyses and illuminance-level diagrams, to include average and minimum foot-candle measurements, showing that the proposed installation conforms to the lighting level standards in these Regulations. Manufacturer's specification information shall be provided for each proposed light fixture and lamp. The plan shall also include drawings of all relevant building elevations, showing the location and height of all building-mounted fixtures, the portions of any walls or architectural features to be illuminated, the illumination levels of the walls or architectural features, and the aiming points for any remote light fixtures. See Article VII of these Site Plan Review Regulations for additional requirements and submission materials.
- n. A plan for the location of free-standing or building-mounted signs, including the location, mounting, aiming, and shielding of any remote light fixtures for externally lit signs. For internally lit signs, relevant information concerning the method of illumination and the opacity of the sign background shall be provided, showing that the proposed installation conforms to the requirements of these Regulations.
- o. The 100-year flood elevation, floodway, and flood plain limits, where relevant.
- p. A landscaping plan showing proposed new plantings to be installed and existing natural vegetation to be retained. The combination of existing and new plantings must meet or exceed the required total as set forth in these Regulations. The plan shall show in detail the number, size (height and/or caliper), and species (botanical and common names), of all proposed shrubs and trees. Existing trees over 12 inches in diameter, measured 4.5 feet above the ground surface, and within 25 feet of the disturbed area, must be counted and shown on the plan, if included towards fulfilling the landscaping requirements. All calculations for square footage of perimeter landscaping shall be shown. All landscape plans shall show parking lot shading calculations by depicting new trees and shrubs at their 10-year crown size. See Article IX of these Site Plan Review Regulations for additional requirements and submission materials.
- q. All existing and proposed surface and subsurface storm drainage facilities, including Town storm drainage facilities located within 200 feet of the site. Plans for retention, detention, slow release, and treatment of storm water shall be provided, in accordance with the requirements of these Regulations.

- r. Stormwater Management Plan, see Article VIII of these Regulations for detailed submission requirements.
 - s. Plans showing snow management.
 - t. A plan for the development showing provisions for automobile, public transit, bicyclist, and pedestrian access and circulation. Such plan shall show means of access to the site and any proposed changes to existing public streets or sidewalks. Plans shall include any traffic control devices necessary in conjunction with the site development, as well as the location of all existing transit routes and transit stops located or passing within 1/4 mile (1,320 feet) of the property.
 - u. Construction detail drawings including, but not limited to, pavements, walks, steps, curbing, drainage structures, water and/or sewer utilities, and other site systems or structures. Where applicable, roadway, drainage, water and sewer utility profile drawings shall be provided at a scale of 1" =40 feet (horizontal) and 1" =4 feet (vertical) and typical cross section drawings shall be provided at a scale of 1"=5 feet (horizontal and vertical), unless prior approval to use an alternate scale is granted by the Reviewing Engineer. (NOTE: Ordinarily, only two (2) sets of such construction drawings shall be provided to the Board with the application submission).
 - v. Where applicable, phasing lines and schedules for construction and completion of buildings, parking facilities, landscaping, and other required improvements.
 - w. For multi-family structures, plans for on-site recreational facilities, as applicable.
 - x. Plans for fire protection.
6. A digital copy of the Site Plan drawings (PDF format) shall be provided depicting the information required under Article III, F., 5. above.
7. The following supporting documents and information:
- i. An estimated timetable, to include phasing schedules (where applicable), for construction and completion of buildings, parking facilities, landscaping, and other required improvements.
 - ii. Any development estimated to generate a net increase of 100 peak hour trips, or 1,000 average daily trips (based upon the most current edition of the Institute of Transportation Engineers' Trip Generation Manual) shall prepare and submit a Traffic Impact Study in accordance with standard traffic analysis conventions as set forth by the NH Department of Transportation. The Board may, in its discretion, require the submission of a Traffic Impact Study for developments estimated to generate less than 100 peak hour trips or 1,000 average daily trips if the Board

has reason to believe such development could adversely affect levels of service or have other adverse impacts.

- iii. Written requests for waivers from all applicable provisions of these Regulations shall be provided pursuant to Article III. J. - "Waivers."

G. Plan Certification

The following shall govern the preparation and certification of the plans and studies submitted by applicants for site plan approval.

1. A New Hampshire Licensed Land Surveyor shall prepare, sign, and seal the boundary survey and existing condition plan.
2. A New Hampshire Licensed Professional Engineer shall prepare, sign and seal all plans where grading, drainage and utility information is proposed.
3. Landscape plans shall be prepared by a New Hampshire Licensed Landscape Architect who shall sign and seal the landscape plans.
4. Architectural elevations shall be signed or sealed by a New Hampshire Licensed Architect, or a New Hampshire Licensed Professional Engineer, as allowed by the State of New Hampshire professional licensing boards.
5. Where wetland boundaries are required to be delineated, the delineation shall be performed by a New Hampshire Certified Soil Scientist who shall sign and seal the plan upon which the wetland boundaries are mapped.
6. Where soils are required to be identified, classified, and delineated, the identification, classification, and delineation shall be performed by a New Hampshire Certified Soil Scientist who shall sign and seal the plan upon which the soils are mapped.

H. Additional Documentation

In addition to all the information required under Article III. F. and throughout these Site Plan Review Regulations, the following documentation is required to be submitted with the final site review application.

1. Methods of sanitary sewage disposal and computations thereof.

2. Methods of water supply.
3. Final Road profiles and cross sections as described in the Lee Subdivision Regulations.
4. Review and comments from the following local department heads: Road Agent, Fire Chief and Police Chief.
5. Any required approvals from the Zoning Board.
6. Application for access approval from the New Hampshire Department of Transportation (if on a state road) or the Town of Lee.
7. Application for state permits as required from New Hampshire Department of Environmental Services (NHDES).

I. Special Studies

The following additional Special Studies may be required at the discretion of the Planning Board:

1. Nutrient loading analyses.
2. Hydro-geological studies.
3. Pesticide studies of soil and groundwater.
4. Environmental impact studies.
5. Economic impact studies.
6. Traffic impact analysis.
7. Wet Soils Mapping.
8. Additional soils and water analyses.
9. Other studies maybe required as the Board deems relevant.

The above studies will be contracted by the Town; the cost for which will be the responsibility of the developer/applicant.

The Planning Board, in its discretion, may require an engineering or other professional review of the plans, or a legal review of any contractual documents, by-laws or association documents.

These services will be contracted by the Town; the cost for which will be the responsibility of the developer/applicant. All payments must be received by the Town prior to final approval.

J. Waivers

1. In accordance with RSA 674:44 III(e), the Board may grant a waiver from any provision of these regulations provided the Board finds, by majority vote, that:
 - a. Strict conformity with the specific provision would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations;
or
 - b. Specific circumstances relative to the site plan, or conditions of the land in the site plan, indicate that the waiver will properly carry out the spirit and intent of these regulations.
2. Unless “unnecessary hardship” is defined otherwise in applicable case or statutory law, it is defined herein as a situation where practical difficulties or unnecessary expense would result from strict compliance with the requirement, and where the applicant would be unduly burdened by the requirement as opposed to merely inconvenienced. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
 - a. Topography.
 - b. Existing site features.
 - c. Geographic location of the property.
 - d. Size/magnitude of the proposed project
3. Unless defined otherwise in applicable case or statutory law, the Board shall consider the following in determining whether a waiver would “not be contrary to the spirit and intent of the regulations” (per the waiver provision, J.1,a above) or “properly carry out the spirit and intent of these regulations” (per the waiver provision, J.1.b):
 - a. Whether granting the waiver will be detrimental to the public safety, health, or welfare, or injurious to other property,
 - b. Whether granting the waiver will promote the public interest; and
 - c. Whether granting the waiver is consistent with the provisions of the Lee Zoning Ordinance, and any official maps.
4. Factors to be considered shall include, but not be limited to:

- a. Topography.
 - b. Existing site features.
 - c. Geographic location of the property; and
 - d. Size/magnitude of project being evaluated.
5. In approving waivers, the Board may impose such conditions as it deems appropriate to secure the purpose of the requirement being waived.
 6. A request for a waiver shall be submitted in writing by the applicant along with the application for Board review. The applicant shall address how any waiver request satisfies one of the two justifications for granting waivers. See Section J.1. above.
 7. The Board minutes shall include any waivers that are granted or denied, including the basis for the decision.
 8. Any approved waiver, including a description of the waiver, shall be noted in the Notice of Approval and on the site plan.

K. Board Review for Complete Application

1. The applicant shall file a complete application with the Board at least thirty (30) days prior to the date upon which the applicant wishes the Board to accept the application for site development approval. The Planning Board shall not act on any application for site development approval until the Board has formally accepted the application for review.
2. An application shall be complete when an application form, all plan requirements (as outlined in Article III, Section F.) or waiver requests and fees have been submitted to the Planning Board. For each item listed in Article III, Section F., the applicant shall submit either the requested information or a request for a waiver from the plan requirement, pursuant to Article III, J. All applications submitted without applicable plan requirements, waiver requests or fees, shall be determined to be incomplete and will be rejected for review by the Board.
3. The Planning Board shall, at the next regular meeting or within thirty (30) days following the delivery of the application, determine whether the application is complete. If an item is missing from the application and no waiver has been requested for it, the Board shall notify the applicant in writing that the application is not complete and request the additional information required. The applicant shall submit the additional information as soon as possible and the procedure in this paragraph shall be repeated until the application is complete. A complete application shall be accepted by the Board only at a public meeting of the Board. Formal acceptance of an application shall require an affirmative vote of a

majority of the members of the Board.

L. Permission to Visit Property

1. For the Board to review Site Plan applications effectively and efficiently, Town Staff, members of the Planning Board, abutters, and others providing testimony must have the ability to enter the property that is the subject of an application.
2. Submission of a Site Plan application shall be deemed as the granting of permission for Town Staff, Lee Planning Board members, and others attending the public hearings, to enter onto the property for purposes of review, during orderly visits, subject to reasonable notice. It shall be assumed that this permission is extended until the Board has acted to formally approve or disapprove an application. If for any reason an applicant wishes to place some limitation upon such access, the applicant shall so inform the Office of Planning and Zoning at the time of submission of the Site Plan application.
3. The property owner retains all rights to withdraw permission to enter onto the property at any time. However, such withdrawal of permission prior to the completion of the Site Plan Review process may result in the Board's disapproval of the application for lack of sufficient information.

M. Determination of Potential for Regional Impact

Upon receipt of an application for development, the Board shall review the application promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact, pursuant to RSA 36:54, et seq. Doubt concerning regional impact shall be resolved in a determination that the development has a potential for regional impact.

A development of regional impact means any proposal, which, in the determination of the Board, could reasonably be expected to have an impact on a neighboring municipality because of factors such as, but not limited to, the following:

1. The relative size or number of dwelling units as compared to existing stock.
2. The relative size of the development. Any proposal that involves 50,000 square feet or more of new non-residential gross floor area shall be deemed to have the potential for regional impact.
3. The proximity of the development to the borders of a neighboring community.
4. High-intensity traffic impact on regional transportation networks.
5. The anticipated emission of excessive light, noise/sound, smoke, odors, or particulates.

6. The proximity of the development to aquifers or surface water, which transcend municipal boundaries.
7. The impact on shared facilities, such as schools and solid waste disposal facilities.

The Board may, in its discretion, determine that any project has the potential for regional impact, whether the project meets or exceeds the criteria listed above.

N. Public Hearing and Decision of the Board

1. Upon formal acceptance of the final application for site development approval, the Planning Board may begin the public hearing immediately if public notice has been given, or the Board shall schedule a public hearing within thirty (30) days and place the application and plans on its agenda. Within sixty-five (65) days of the formal acceptance of the complete application for final site development approval, the Board shall vote to approve, approve with conditions, or disapprove the proposed site plan. The applicant may waive the sixty-five (65) day requirement. In the case of a determination by the Board that the application is a development of regional impact requiring notice in accordance with RSA 36:57 III, the Board shall have an additional 30-days to act to approve, conditionally approve, or disapprove the application.

If the Board determines that it lacks sufficient information to make a final decision on an application, and the applicant does not consent to an extension, and the Board may, in its discretion, deny the application without prejudice, in which case the applicant may resubmit the same or a substantially similar application at a later time. If the Board does not act on the application within a 65-day timeframe, (or, in the case of a project with regional impact, 95-days) then the Select Board shall certify on the applicant's application that the plan is approved pursuant to RSA 674:4 (c) (1). Such a certification shall constitute final approval for all purposes, including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

2. In accordance with RSA 676:4, I(e), the Planning Board shall not take action upon a site plan without first holding a public hearing. Notice of the public hearing shall be provided to the applicant, abutters and general public as set forth in RSA 676:4, I(d). At the public hearing, any applicant, abutter, holder of conservation, preservation or agricultural preservation restrictions, or any person with a direct interest in the application may testify in person or in writing. Notwithstanding the foregoing provisions of this Section, the Board may disapprove an application for site development approval without a public hearing, based upon failure of the applicant to supply information required by these regulations, including abutters' notification, or failure to meet reasonable deadlines established by the Board or failure to pay costs of the notice or other fees required by the Board.

3. The Planning Board may grant conditional approval of an application, if: the remaining actions on the application are administrative in nature; do not involve discretionary judgment by the Board; and/or involve the possession of permits and approvals granted by other boards or agencies, a further public hearing is not required to grant final approval. A further public hearing will be required to demonstrate compliance with the terms of all other conditions pursuant to RSA 676:4, I(i). Final approval will be granted when all conditions have been met to the satisfaction of the Board.
4. If the Planning Board determines that the proposed site development does not meet all of the applicable requirements after considering any waiver requests, it shall vote to disapprove the application. The reasons for disapproval will be clearly stated in the Board's records and shall be communicated to the applicant in writing.

O. Expiration of Site Plan Approval

1. Any approved site plan for which a Building Permit has not been obtained within two (2) years of the date of the original approval shall be considered void; however, the Board may, for good cause, specify in the original Notice of Decision some alternative time limit for obtaining a Building Permit. The voiding of an approval under this paragraph shall terminate the vesting of the application against changes in regulations, as set forth in RSA 676:12, VI and RSA 674:39.
2. Notwithstanding paragraph 1 above, the Board may grant an extension of up to two (2) additional years beyond the original expiration date. A request for such an extension must be submitted by the applicant to the Office of Planning and Zoning prior to such expiration date, and requests for extension of the site plan approval received after the expiration date will not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section N.2. of this Article III.
3. In determining whether to grant such an extension, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the applicant toward satisfying the conditions-precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the applicant, rather than to the applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision on an extension request under this Section. The Board shall grant no more than one extension for any site plan, unless it determines, based on legal advice, that such extension is required to prevent a violation of constitutional rights.
4. For applications subject to both Site Plan and Subdivision review, expiration of Board approvals shall occur as set forth above.

ARTICLE IV- DEVELOPMENT LIMITATIONS

There are numerous provisions in the Lee Zoning Ordinance that may apply to the development or use of land that is subject to the Site Review Regulations. Such provisions include, but are not limited to, restrictions on the use of “undevelopable land”, setbacks from wet soils, and development limitations within the Shoreland Conservation District, Aquifer Conservation District, and designated Floodplain. No site plan shall be approved by the Board unless such plan complies with the Lee Zoning Ordinance, all other applicable Lee ordinances and regulations, and all applicable state and federal laws.

ARTICLE V- DESIGN REQUIREMENTS

A. General Requirements

1. Grading and clearing should be minimized to avoid creating undue erosion or interruption of natural drainage ways. Particular attention should be given to natural land features that provide buffers between lots and enhance privacy and attractiveness. Construction practices shall be employed which minimize the disturbance to the environment.
2. If the Board finds certain land to be unsuitable for development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which may be harmful to the safety, health, or general welfare of the present or future users of the development, inhabitants or the surrounding area, or residents of the Town of Lee, the land shall not be developed.
3. All structures shall be designed with due consideration of existing and proposed neighboring structures. The design of structures shall take advantage of the topography and reflect the character, scale, and purpose of the area of which it is a part. All commercial structures shall be faced with an aesthetic material and all roof lines/configurations, and other attached or detached structures associated with the build out including exterior colors shall be approved by the Board.
4. The developer may, as deemed appropriate by the Board, be required to make off-site improvements, or fund a proportionate amount of capital improvements necessary to accommodate the development.

ARTICLE VI- ACCESS AND PARKING

A. Access

1. There shall be permitted only one access per landowner per one thousand (1,000) feet of frontage on a public right-of-way.
2. Access approval shall be obtained in writing from the New Hampshire Department of Transportation (NHDOT) (if on a state road) or from the Town of Lee (if on a town road).
3. Access shall be laid out either directly opposite another access onto the right-of-way or offset by a minimum of 125 feet.
4. Access shall not be closer than fifty feet from an intersection.
5. All season sight distance shall be a minimum of four hundred (400) feet in either direction or three hundred fifty (350) feet if the speed limit is less than 35 miles per hour.
6. Projects shall be so designed so as not to significantly reduce the existing level of service (as defined by the New Hampshire Department of Transportation), within proximity to the development. The applicant, when calculating level of service shall include estimated traffic volumes projected for five- and ten-year periods.
7. The developer shall bear the cost of any lighting, curbing, signage, for the right-of-way as deemed necessary for the proposal. Any improvements shall be determined by the Town of Lee or New Hampshire Department of Transportation.
8. Internal roads within the development shall not be permitted within the required buffer area.
9. Internal roads within the development shall conform to the Construction and Design specifications set forth in the Lee Subdivision Regulations.

B. Parking

1. No use of the premises shall be authorized, or expanded or intensified, and no building shall be erected or enlarged, unless parking and loading requirements are met for the new, expanded, or intensified use.
2. Parking areas, including compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, shall be reviewed by the Board as an integral part of the site plan review process. All parking shall be reviewed for safety and access. Each parking space shall be clearly marked. The paved area shall be surrounded by trees or hedges and any divisions between parking aisles shall not be less than four feet wide. Curbing may be required at the discretion of the board. The applicant shall propose ways to minimize

continuous asphalt extending more than 150 feet (e.g., landscape islands; hardscape walkways).

C. General Requirements

1. All developments shall make adequate provisions for off street parking and loading facilities. No on-street parking, delivery or loading is permitted. Such developments shall be designed to ensure the safety and convenience of pedestrian and vehicle movement on the site. The design shall also minimize the impact of intrusive elements of parking and loading such as noise, dust and glare upon neighboring properties and land uses of neighboring properties. Whenever a use existing on the effective date of these regulations is expanded or changed thereafter to a new use, parking facilities shall be provided for such new use.
2. Parking and loading areas shall be provided on-site and shall be appropriately surfaced and drained.
3. Parking spaces shall be arranged so that cars will not back into a public street.
4. No parking spaces shall be located closer than three feet to an abutting structure, sidewalk, or public street.
5. All parking and loading shall be situated on the same tract or parcel of land as the primary use, building or structure.
6. When the use is allowed by Special Exceptions no parking areas shall be permitted in the setback area or the buffer zone. (See Zoning Ordinance)
7. Provisions shall be made for emergency vehicle access and parking adjacent to the entrance of the building.
8. All parking areas and travel ways shall be surfaced with a hard-finished surface such as asphalt or concrete. Upon the Board approval, developments that generate little parking and traffic, or low usage may be finished with gravel, crushed stone, or comparable materials.
9. All paved parking spaces shall be appropriately demarcated with painted lines or other markings. Parking spaces that are non-paved or like surfaces, may be painted or otherwise clearly demarcated and appropriately maintained.
10. Locations for snow storage shall be designated on the plan or there shall be a note indicating that all snow shall be removed from site and disposed of in a lawful manner. Snow storage shall not be in the parking or loading areas. In no case shall snow be stored on a landscaped area, nor shall it be placed in a wetland or the wetland buffer.

11. All sites and parking lots shall be in compliance with the ADA. The number and design of ADA accessible parking spaces shall conform to the N.H. Architectural Barrier Free Design code, as prepared by the Governor's Commission for the Handicapped and/or Title III of the Americans with Disabilities Act.
12. Each required off-street paved, or equivalent, parking space shall be large enough to contain a rectangle measuring not less than nine feet by eighteen feet. Non-paved, or equivalent surfaces, shall be ten feet by twenty feet. Angle parking and parallel parking shall be also permitted according to state requirements. Each parking space shall have direct access to an aisle or driveway. Two-way aisles shall have a minimum width of twenty-two feet, one-way traffic aisles shall have a minimum of eighteen feet. In the event the need for parking exceeds projections, and the excess number, size or type of vehicles leads to unsafe conditions in the judgement of the Planning Board, or to parking on roadsides, the owner shall be required as a condition of approval to apply for an amendment to the approved site plan showing how the additional parking will be provided. In some cases, the applicant will be required to show a reserve area on the plan which will be set aside for the construction of additional parking if needed in the future.

D. Required Parking Spaces

Bank: 1 space per 250 square feet.

Beauty or Barber Shop: 2 spaces per beauty or barber chair.

Bed and Breakfast/Air-BNB/Hotel/Motel: 1 Space per rental unit; 2 spaces per permanent unit & 1 space per employee at maximum shift.

Campground: 1 space per campsite plus 1 space per employee at maximum shift.

Church/Religious Institutions: 1 space per 3 seats at maximum occupancy capacity.

Commercial Kennel/Dog Daycare Facility: 1 space per 400 square feet, minimum of 4.

Convenience Store: 1 space per 300 square feet.

Daycare Facility: 1 space per teacher/employee; 1 space per 7 children/adult at maximum rated occupancy.

Drive-thru Establishments: 14 stacking spaces per pick up window plus spaces as required for primary use.

Education Facilities: 1 space per staff member & 1 space for every 4 seats in the largest public assembly room.

Elderly Housing: 1 space per dwelling unit & 1 space per employee at maximum shift.

Equestrian Facilities: one-half space (0.5) per stall, plus required spaces for public assembly area.

Funeral Home: 1 space per 4 patron seats or 20 spaces whichever is greater.

Golf Course or Range: 5 spaces per tee & required spaces for any restaurant facility at a golf course; 1 space for tee box at a driving range & 1 space per employee.

Medical Office or Medical Office Building: 1 space per 250 square feet plus one space per employee max shift.

Motor Vehicle Repair Shop: 3 spaces per service bay, plus 1 space per employee per maximum shift.

Office (non-customer service): 1 space per employee, not fewer than 1 space per 400 square feet of gross floor area.

Profession Office or Office Building: 1 space per 250 square feet.

Repair Service or Shop: 1 space per 600 square feet.

Restaurants: 1 space per every 2 seats; plus 1 space per every 250 square feet of gross area; plus 2 spaces per employee per maximum shift.

Retail Store: 1 space per 250 square feet.

Retail II (furniture, hardware, or carpets): 1 space per 500 square feet of gross floor area.

Roadside Farm Stands/Farm Stands: 1 space per 100 square feet with a minimum of 6 spaces.

Shopping Center: 1 space per 250 square feet.

Storage Facility: 3 spaces plus 1 space per each 100 individual storage units.

Supermarket, Grocery Store: 1 space per 300 square feet.

Veterinary Clinic: 1 space per 250 square feet, plus one space per employee at maximum shift.

Warehousing: 1 space per 1000 square feet.

Mixed Uses- Sum of various use computed separately.

Uses not listed – Closest similar use or as reasonably determined by the Board as the public safety shall require.

**All Square footage is measured by Gross Floor Area

ARTICLE VII- LIGHTING

A. Purpose

The purpose of this section is to guide property owners and applicants in appropriately lighting their development proposals.

New lighting technologies have produced lights that are extremely powerful and thus need to be installed sensibly so that they do not create problems of excessive glare, light trespass, ecological/health impacts, skyglow, and higher energy use. Outdoor lighting along roadways, walkways, parking lots, and other public areas shall be designed and located with consideration to fixture and lamp type, mounting height, spacing, and distribution of light in order to: assure adequate illumination for the safety and security of drivers, pedestrians, bicyclists, and other passersby; avoid adverse impacts to adjacent properties and on wildlife habitat; assure that light pollution does not limit the ability of citizens to enjoy the nighttime sky; and minimize the unnecessary use of electricity.

B. Submission materials

The applicant shall submit the following information for any proposal subject to these regulations:

1. A site plan drawn to scale showing buildings, landscaping, parking areas, and all proposed outdoor lighting fixtures.
2. Specifications for each fixture including mounting height, wattage, type of lamp (high pressure sodium, metal halide, etc.), and a detail drawing of the fixture.
3. A photometric diagram showing a numerical grid (or "contours") of lighting levels in foot-candles on the ground. Submission of a photometric layout will not be required for small, simple, or low-level lighting installations where the plan would clearly conform to the requirements herein.

C. General Requirements

Proposed lighting installations may be approved only if the Board finds that they are designed to prevent light trespass onto adjacent properties or streets, minimize light directed skyward, and do not result in excessive lighting levels.

Outdoor lighting shall be located, mounted, aimed, and shielded in such a way that adjacent uses are suitably protected from light trespass. Such lighting shall not interfere with traffic on nearby highways. The standards and guidelines contained in the most current edition of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook shall be utilized to determine the appropriateness of exterior lighting levels and conformity with these Regulations.

All light fixtures, including fixtures mounted inside buildings or structures, shall be located, mounted, aimed, and shielded to minimize glare perceptible to drivers, pedestrians, bicyclists, and other passersby within adjacent streets or rights-of-way. In addition to these general standards, the following shall also apply:

1. Lighting installations shall be designed to provide the minimum illumination necessary to facilitate the use of the site. Except as otherwise stated in the special provisions of this section or unless approved by the Board, lighting levels shall not exceed the minimum level of illumination recommended by the IESNA for the proposed use and level of activity.
2. Light fixtures shall be located, mounted, aimed, and shielded so as to not cause light trespass upon adjacent properties or onto streets or rights-of-way in excess of the following levels: The light intensity at adjoining streets or commercial property boundaries shall not exceed 0.5 foot-candles at grade level, and the light intensity at adjoining residential property boundaries shall not exceed 0.1 foot-candles at grade level.
3. Lighting installations shall utilize fully shielded fixtures, as defined herein, or full cut-off fixtures, as defined by the IESNA, so as to produce no light above a horizontal plane through the lowest direct light-emitting part of the fixture.
4. Lighting installations shall include timers, dimmers, sensors, and/or other energy-saving technologies to reduce overall energy consumption. Non-essential lighting shall be turned off or reduced after normal business hours, leaving only necessary lighting for security purposes. (Non-essential lighting includes, but may not be limited to, display, aesthetic, parking, and/or sign lighting as determined by the Board).
5. The maximum mounting height of the light fixture shall not exceed fifteen (15) feet in residential zoning districts or twenty (20) feet in commercial, institutional, or mixed zoning districts.
6. Lighting installations used to illuminate areas such as streets, walkways, or parking lots shall utilize energy-efficient lighting such as LED (light-emitting diodes), low-pressure sodium, high-pressure sodium, metal halide lamps, or equivalent technology in terms of luminaire efficacy as measured in lumens/watt. Mercury vapor lamps shall not be used due to their inefficiency, high operating costs, and toxic mercury content.

Technological advances in outdoor lighting may allow for options not otherwise considered in these Regulations. The use of new technologies, especially those that have energy-saving properties, is encouraged. Applications that use new technologies and follow the purpose and intent of these Regulations will be considered and evaluated for approval.

7. Floodlights or spotlights shall be mounted above the object or area targeted for lighting and shall be shielded and aimed no higher than 45 degrees above straight down (half-way between straight down and the horizontal plane).
8. Up lighting is prohibited.
9. To minimize the risk of disability glare or other harm to human and ecological health, and to promote visual access to dark skies, all outdoor lighting shall have a color correlated temperature (CCT) of 3000 Kelvin (K) or less (warmer light), unless a compelling need for a higher CCT (cooler light) can be demonstrated based on supporting evidence. Luminaires may prove qualification by being listed as Dark Sky Friendly by the International Dark Sky Association.

D. Lighting of Parking Lots, Passive Vehicular Storage Areas, and Exterior Display/Sales Areas

In addition to the General Requirements listed above, the following standards shall apply:

1. Areas designated as parking lots, passive vehicular storage areas, or exterior display/sales areas shall be illuminated so that the average horizontal illuminance at grade level is no more than 5.0 foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 4:1. The average and minimum shall be computed for only that area designated as parking lots, passive vehicular storage areas, and exterior display/sales areas.
2. The above standards shall also apply to the top and/or unenclosed levels of any parking structure.

E. Lighting of Gasoline Station/Convenience Store/EV Charging Station/Aprons and Canopies

In addition to the General Requirements listed above, the following standards shall apply:

1. Areas on the apron used for parking or vehicle storage away from the gasoline pump islands, as defined by the extent of the canopy, shall be illuminated in accordance with the requirements for parking areas. If no gasoline pumps are provided, the entire apron shall be treated as any other parking area.

2. Areas around the pump islands and under the canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least 1.0 foot-candle and no more than 5.0 foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 4:1, which yields an average illumination level of no more than 20.0 foot-candles.
3. Light fixtures mounted on canopies shall be recessed, so that the lens cover either is recessed or flush with the bottom surface (ceiling) of the canopy, and/or is shielded by the fixture or the edge of the canopy. The light shall be restrained to no more than 85 degrees from vertical.
4. As an alternative (or supplement) to recessed ceiling lights, indirect lighting may be used whereby light is beamed upward and then reflected down from the underside of the canopy. In this case, fixtures must be shielded so that direct light is focused exclusively on the underside of the canopy.
5. Lights shall not be mounted on the top or fascias of the canopy and the sides or fascias of the canopy shall not be illuminated.



The above photographs illustrate the impact of glare on a lighting installation. The left photo has high-glare, non-recessed fixtures under the canopy. Note how bright the lights themselves are and how dark the pump area is. The right photo shows the same gas station canopy with full-cutoff, recessed fixtures. Note how the light is directed effectively toward the gas pumps. Images from <http://www.skyandtelescope.com>

F. Lighting of Building Facades and Landscaping

When approved by the Board, building façades of a dark color (such as brick or dark paint), facades of symbolic or historic structures, and/or landscaping features when required for safety, may be illuminated according to the following guidelines:

1. The maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 foot-candles.
2. Light fixtures shall be carefully located, aimed, and shielded so that light is directed only onto the building façade, or the object or area targeted for lighting. Light fixtures shall not be directed toward adjacent properties, streets, or roads, nor skyward.

3. Light fixtures mounted on the building and designed to “wash” the façade with light is preferred.
4. To the extent practicable, light fixtures shall be directed downward, below the horizontal plane.

G. Lighting of Walkways/Bikeways and Parks

1. Areas within parks or along walkways and bikeways to be illuminated shall not exceed an average level of 1.0 foot-candle at grade level.
2. Light fixtures for walkways and bikeways and within parks shall be mounted no more than 15 feet above grade and shall be designed to direct light downward.

H. Pre -Existing Outdoor Lighting

1. Any light fixture that replaces a pre-existing, non-conforming light fixture, or any light fixture that is relocated, shall meet the standards of these Regulations, unless otherwise approved by the Board.

I. Exemptions

1. Light fixtures used for roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.
2. Hazard-warning lights required by federal regulatory agencies, such as the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC) shall be exempt from these Regulations. In addition, temporary lighting required by police, fire, public authorities, or other emergency services shall be exempt from these Regulations.
3. Seasonal holiday lighting and illumination of the American and state flags shall be exempt from these Regulations, provided that such lighting does not produce light trespass or glare on roadways or neighboring properties.

ARTICLE VIII- STORMWATER MANAGEMENT REGULATIONS

A. Introduction

Stormwater management is a vital part of all developments and is necessary to protect the environment, health, safety, and welfare. Stormwater runoff from the development may not increase off the site or adversely affect any abutting properties or receiving water bodies. The developer is responsible for obtaining any necessary easements for drainage over abutting properties. All proposed development shall comply with the following regulations and all easements are subject to review by the Board and/or their designee.

B. Purpose and Goals

1. The purpose of these stormwater management regulations is to provide criteria for the design and construction of stormwater management elements associated with proposed developments, to protect local natural resources and abutting properties from degradation and prevent adverse impacts to adjacent and downstream land, property, facilities, and infrastructure. These provisions regulate discharges of stormwater runoff from land development projects and other construction activities to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff.
2. The goal of these stormwater management regulations is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public in the Town of Lee, New Hampshire. These regulations seek to meet that goal through the following objectives:
 - a. Minimize increases in stormwater runoff from any development to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels.
 - b. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.
 - c. Minimize the total volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic condition to the maximum extent practicable as allowable by site conditions.
 - d. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety or cause excessive municipal expenditures.
 - e. Protect the quality of groundwater resources, surface water bodies and wetlands.

C. Minimum Thresholds for Applicability

1. These stormwater management regulations apply to any development or redevelopment project which are subject to Site Plan Review in the Town of Lee and disturbs more than 20,000 square feet of the site or more than 10,000 square feet within 100 feet of a surface water body, or a site that utilizes a closed drainage system that discharges to a surface water body.
2. Developments that disturb less than 20,000 square feet must provide adequate stormwater management facilities and erosion control BMPs meeting the current industry standards so as not to adversely affect any abutting properties or receiving water bodies.
3. Developments that disturb less than 30,000 square feet and the amount of the new impervious cover created does not exceed 10,000 square feet (i.e., redevelopments) may be eligible for a waiver from certain stormwater management BMPs required of new developments as deemed appropriate by the Board. When a waiver/exemption is granted by the Board, the following regulations will be applied to these projects as conditions of approval and in accordance with the following:
 - a. All runoff from new impervious surfaces and structures shall be directed to a subsurface filtration and/or infiltration device or properly discharged to a naturally occurring or fully replanted and vegetated area with slopes of 15 percent or less and with adequate controls to prevent soil erosion and concentrated flow.
 - b. Impervious surfaces for parking areas and roads shall be minimized to the extent possible (including minimum parking requirements for proposed uses).
 - c. All runoff generated from new impervious surfaces shall be retained on the development site and property.
 - d. Determination of compliance with regulations (a. to c. above) will be made by the Board on a case-by-case basis as site conditions and constraints will differ greatly between various development proposals.
4. The following activities are considered exempt from preparing and submitting a stormwater management plan:
 - a. Agricultural and forestry practices located outside wetlands and surface water setbacks and/or buffers.
 - b. Resurfacing and routine maintenance of roads and parking lots.

- c. Exterior and interior alterations and maintenance to existing buildings and structures.

D. Stormwater Management for New Development

1. All proposed stormwater management practices and treatment systems shall meet the following performance standards.
 - a. Stormwater management and erosion and sediment control practices shall be located outside any specified buffer zones unless otherwise approved by the Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered whenever possible.
 - b. Low Impact Development (LID) techniques, site planning and design strategies must be used to the maximum extent practicable (MEP) to reduce stormwater runoff volumes, protect water quality, and maintain predevelopment site hydrology. The goals of LID are:
 - i. Protecting water quality, and
 - ii. Maintain predevelopment site hydrology.
2. LID techniques include techniques that preserve existing vegetation, reduce the development footprint, minimize, or disconnect impervious area. Such LID techniques include enhanced stormwater BMP's such as pervious pavements, raingardens, bioretention systems, tree box filters, and similar stormwater management landscaping techniques. Such techniques shall be incorporated into landscaped areas and/or within impervious areas to reduce the overall effective impervious area relative to the total impervious area of the site. Capture and reuse of stormwater is strongly encouraged. The applicant must document in writing why LID strategies are not appropriate when not used to manage stormwater.
 - a. All stormwater treatment areas shall be planted with native plantings appropriate for the site conditions. For example: trees, turf and ornamental grasses, shrubs and/or other native plants in sufficient numbers and density to prevent soil erosion and to achieve the water quality treatment requirements.
 - b. All stormwater installations and areas that receive rainfall runoff must be designed to drain any retained runoff volume within a maximum of 72 hours for vector control.
 - c. Salt storage areas shall be identified in the Site Plan and shall be fully covered. Loading/offloading areas shall be located and designed to not drain directly to receiving waters and be maintained using Best Management Practices (BMP) in accordance with NHDES published guidance. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or

allowed to infiltrate into the groundwater. See NHDES published guidance fact sheets on road salt and snow disposal.

- d. Surface water runoff from all impervious areas shall be directed into appropriate stormwater control measures designed for, treatment and/or filtration to the maximum extent practicable and/or captured and reused onsite. Only discharge from effective impervious areas need be considered in the calculation of post-development surface water runoff.
- e. Measures shall be taken to control the post-development peak rate runoff so that it does not exceed pre-development runoff. Drainage analyses shall include calculations comparing pre- and post-development stormwater runoff rates (cubic feet/second) and volumes (cubic feet) for the 1-inch rainstorm and the 2-year, 10-year, and 25-year, 24-hour storm events as defined by the most recent extreme precipitation data produced by the Northeast Region Climate Center (NRCC), herein referred to as the “regulated storm events”. Measures shall be taken to control the post-development runoff volumes from the regulated storm events to infiltrate the groundwater recharge volume (GR_v) according to the following ratios of Hydrologic Soil Group (HSG) type versus infiltration rate multiplier: (HSG-A: 0.4; HSG-B: 0.25; HSG-C: 0.1; HSG-D: 0.00). For sites where infiltration is limited or not practicable, the applicant must demonstrate that the project will not create or contribute to water quality impairment. Infiltration structures shall be in locations with the highest permeability on the site.
- f. The design of the stormwater drainage systems shall provide structural measures to control and manage the stormwater discharge from the 100-year 24-hour storm event without damaging the proposed stormwater control measures, or cause flooding or functional impairment to streets, adjacent properties, downstream properties, soils, or vegetation.
- g. All additional managed stormwater generated from storm events greater than the regulated storm events shall be treated on the site. Runoff shall not be discharged from the development site to municipal drainage systems or privately owned drainage systems (whether enclosed or open drainage) or to surface water bodies and wetlands in volumes greater than discharged under pre-development conditions. The proposed approach shall include provisions to manage stormwater on the site by using the natural terrain and flow patterns of the site.
- h. Runoff from all impervious surfaces for the regulated storm events shall be treated to achieve at least 70% removal of Total Suspended Solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the most recent edition of the NH Stormwater Manual. Where practical, the use of natural, vegetated filtration and/or infiltration practices or subsurface gravel wetlands for water quality treatment is preferred given its relatively high nitrogen removal efficiency. All new impervious area draining to surface waters impaired by nitrogen, phosphorus or nutrients shall be treated with stormwater BMPs designed to optimize pollutant removal efficiencies based on design standards and performance

data published by the UNH Stormwater Center and/or included in the latest version of the NH Stormwater Manual. Note: The Anti-Degradation provisions of the State Water Quality Standards require that runoff from new development shall not contribute additional pollutant loads to existing water body impairments.

- i. The design of the stormwater management systems shall account for upstream and upgradient runoff that flows onto, over, or through the site to be developed or re-developed and provide for this contribution of runoff.
- j. Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.

E. Submission Requirements for Stormwater Management Report and Plans

1. All applications meeting the requirements of Section C. 1. and 2. above shall include a comprehensive Stormwater Management Plan (SMP). The SMP shall include a narrative description and an Existing Conditions Site Plan showing all pre-development impervious surfaces, buildings, and structures; surface water bodies and wetlands; drainage patterns, sub-catchment, and watershed boundaries; building setbacks and buffers, locations of various hydrologic group soil types, mature vegetation, land topographic contours with minimum 2-foot intervals and spot grades where appropriate.
2. The SMP shall include a narrative description and a Proposed Conditions Site Plan showing all post-development proposed impervious surfaces, buildings and structures; temporary and permanent stormwater management elements and best management practices (BMP), including important hydrologic features created or preserved at the site; drainage patterns, sub-catchment and watershed boundaries; building setbacks and buffers; proposed tree clearing and topographic contours with minimum 2-foot intervals. The plans shall provide calculations and identification of the total area of disturbance proposed on the site (and off site if applicable) and total area of new impervious surface created. A summary of the drainage analysis showing a comparison of the estimated peak flow and volumes for the regulated storms events at each stormwater outlet location shall be provided.
3. The SMP shall include calculations of the change in impervious area, pollution loading and removal volumes for each best management practice, and all stormwater management infrastructure elements (e.g., catch basins, swales, detention/bioretention areas, piping).
4. The SMP shall include a description and a proposed Site Plan showing proposed erosion and sediment control measures, limits of disturbance, temporary and permanent soil stabilization measures in accordance with the most recent edition of the NH Stormwater Manual. In addition, the SMP shall provide a construction site inspection plan including phased installation of best management practices (BMP) and final inspection upon completion of construction.

5. The SMP shall include a long-term stormwater management BMP inspection and maintenance plan (see Section H) that identifies the responsible parties and contact information for the qualified individuals who will perform future BMP inspections. The inspection frequency, maintenance and reporting protocols shall be included.
6. The SMP shall describe and identify locations of any proposed deicing chemical and/or snow storage areas. SMP will describe how deicing chemical use will be minimized and used most efficiently.

F. General Performance Criteria for Stormwater Management Plans

1. All applications shall apply site design practices to reduce the generation of stormwater in the post-developed condition, reduce overall impervious surface coverage; seek opportunities to capture, reuse, and minimize the discharge of stormwater to the municipal stormwater management system, and prevent stormwater runoff from creating or contributing to water quality impairment.
2. Stormwater runoff generated from new development or redevelopment shall not be discharged directly into a jurisdictional wetland or surface water body without adequate treatment.
3. Onsite groundwater recharge rates shall be maintained by promoting infiltration through use of structural and non-structural methods. The annual recharge from the post-development site shall maintain or exceed the annual recharge from pre-development site conditions. Capture, treatment, and/or reuse of stormwater runoff is encouraged in instances where groundwater recharge is limited by site conditions.
4. Stormwater system design, performance standards and protection criteria shall be provided as prescribed in the most recent edition of the NH Stormwater Manual. Calculations shall include sizing of all structures and best management practices, including sizing of emergency overflow structures based on assessment of the 100-year 24-hour frequency storm discharge rate.
5. The sizing and design of stormwater management practices shall utilize the most recent extreme precipitation data from the Northeast Region Climate Center (NRCC). See the NRCC website at <http://precip.eas.cornell.edu/>.

G. Stormwater Management for Redevelopment

1. The following section is intended to promote the incorporation of updated stormwater site

design practices to reduce negative impacts caused by stormwater runoff from existing site while also minimizing the apparent disincentives of redevelopment projects experienced by these regulations.

2. The following activities are not considered redevelopment for purposes of stormwater management:
 - a. Interior and exterior building renovation.
 - b. Resurfacing of an existing paved surface (e.g., parking lot, walkway, or roadway).
 - c. Pavement excavation and patching that is incidental to the primary project purpose, such as replacement of a collapsed storm drain.
 - d. Landscaping maintenance.
3. For sites meeting the definition of a redevelopment project and having equal to or less than 40% existing impervious surface area the stormwater management requirements will be the same as new development projects. The applicant must satisfactorily demonstrate that additional impervious area is minimized, and LID practices have been implemented on-site to the maximum extent practicable.
4. For sites meeting the definition of a redevelopment project and having more than 40% existing impervious surface area, stormwater shall be managed for water quality by implementing LID practices onsite. Such LID practices shall disconnect and/or treat 100% of the proposed impervious surface area and at least 30% of the existing impervious area.

H. Stormwater Operation and Maintenance Plan and Site Inspections

1. The applicant shall provide a Stormwater Operations and Maintenance Plan for all stormwater management and treatment practices to ensure all systems function as designed into perpetuity. The applicant shall also secure maintenance easements as necessary to allow access to inspect, perform routine maintenance and repairs as necessary to ensure proper functioning of the stormwater system. The Operations and Maintenance Plan shall specify the parties responsible for the proper maintenance of all stormwater treatment practices. The operations and maintenance Plan shall be provided to the Board as part of the application prior to issuance of any local permits for land disturbance and construction activities.
2. The Board may, in its discretion require that the applicant provide legally binding documents for filing with the registry of deeds which demonstrate that the obligation for maintenance of stormwater best management practices and infrastructure runs with the land and allowing the Town legal access to inspect the property to ensure onsite stormwater infrastructure is functioning as intended.

I. Inspection and Maintenance Responsibility

1. Pursuant to Article VIII, Section H above, Town Staff or their designated agent shall be allowed access to the site to complete routine inspections to ensure compliance with the approved Stormwater Operations and Maintenance Plan. Such inspections shall be performed annually or as needed.
 - a. If permission to inspect is denied by the landowner, Town staff or their designated agent may secure an administrative inspection warrant from the district or superior court under RSA 595-B Administrative Inspection Warrants. Expenses associated with inspections shall be the responsibility of the property owner.
 - b. If violations or non-compliance with a condition(s) of approval are found on the site during routine inspections, the inspector shall provide a report to the Planning and Zoning Administrator documenting these violations or non-compliance including recommended corrective actions. The Planning and Zoning Administrator shall notify the property owner in writing of these violations or non-compliance and corrective actions necessary to bring the property into full compliance. The Planning and Zoning Administrator, at their discretion, may recommend to the Select Board to issue enforcement actions if corrective measures are not implemented in a timely manner.
 - c. If corrective actions are not completed within the period set forth in the Planning and Zoning Administrator's notification, the Board may exercise its jurisdiction under RSA 676:4-a, Revocation of Recorded Approval.
2. The Town retains the right in its sole discretion, to repair or maintain stormwater infrastructure if a property is abandoned or becomes vacant or, in the event a property owner refuses to repair infrastructure that is damaged or is not functioning properly.
3. The applicant is responsible for keeping the Operations and Maintenance Plan (OMP) current including updated contact information of responsible parties.
4. The property owner shall be responsible for reimbursing the Town for all costs and expenses it incurs in making repairs and maintenance to the storm water infrastructure.

ARTICLE IX- LANDSCAPING AND SCREENING

A. PURPOSE

The purpose of landscaping and screening standards is to:

1. Help integrate the built environment with the natural environment.
2. Enhance the quality and appearance of development.

3. Preserve open space and natural habitats.
4. Control excessive stormwater runoff.
5. Prevent soil erosion and pollution of water bodies.
6. Reduce noise, wind, glare, and dust.
7. Provide shade and windbreaks to increase energy conservation in buildings.
8. Establish an attractive streetscape adjacent to roadways.
9. Screen vehicular headlights in parking areas.
10. Promote public safety by guiding vehicles and pedestrians within a site.
11. Provide areas for snow storage.
12. Enhance privacy.
13. Enhance the health and survivability of selected landscaping materials.
14. Protect the value of surrounding property; and
15. Protect and enhance the natural beauty, environment, and green space within the Town of Lee.

B. LANDSCAPING AND SCREENING

1. Landscaping: Landscaping shall be provided with proper regard to adjacent properties, adjacent roadways, and, within the site, include interior landscaping of parking areas as specified in this Article. The visual expanse of a building's exterior shall be broken up by planting shrubs and/or shade trees around the building's perimeter. Landscaped areas shall consist of a combination of grass, flowers, vines, groundcovers, shrubs, and/or trees, as appropriate. All planting areas shall be landscaped with a combination of climate tolerant plant material and protective groundcover and bark mulch, as appropriate. No area shall be left to remain as bare soil. Sites shall be designed to retain and enhance the existing natural features as reasonably determined by the Planning Board.
2. Landscaping Plan: A landscaping plan shall be provided and prepared in accordance with Article III, F.,5., p of these Site Plan Review Regulations and this Article IX.
3. Visual Barrier: All outdoor storage areas, loading areas, and trash receptacles shall be located, fenced, and landscaped to prevent visibility from either the parking area or

neighboring properties. The manner of waste disposal shall be specified, and the site plan shall show the location of all waste disposal facilities.

4. Landscape Strips: Existing trees and vegetation shall be incorporated into landscape or buffer strips, to the extent possible. Landscape strips shall be at least 20-feet in width and 4 to 6 feet in height to effectively screen the view from adjacent residential properties. If approved by the Board, the use of fencing, landscaped berms and/or other type screening materials can be used in lieu of providing a 20-foot-wide planted landscape strip. Landscape strips shall be used for screening purposes in the following situations:
 - a. Where a proposed non-residential use abuts a residential zoning district.
 - b. Where a proposed non-residential use abuts an existing residential use.
 - c. Where a proposed road of any development abuts an existing property line or is within 20 feet of a property line in which the existing use is residential.
5. Tree Planting: At its discretion, the Board may require the developer to plant shade trees within the rights-of-way abutting the development. The developer shall supply planting plans to the Board who will seek an advisory opinion on said plans from the Conservation Commission and/ or a landscape architect engaged by the Board and at the expense of the applicant.
6. Plant Quality: Plant materials shall be of specimen quality conforming to the most recent version of the American Standards for Nursery Stock (ANSI) and be pest free. Plant materials shall be guaranteed for at least two growing seasons or two years, whichever is greater. Plant materials that die or are in poor condition during the 2-year warranty period shall be replaced.
7. Maintenance and Replacement of Landscaping and Screening:
 - a. The developer or property owner shall be responsible for the maintenance and repair of all required landscaping and screening materials for three years from the date of planting. A written, 3-year tree maintenance plan shall be submitted that includes specifications for watering, mulching, removal of guy wires/stakes (if used), pruning, and tree protection.
 - b. All required plant materials (including mulched beds) shall be tended and maintained in a healthy growing condition reasonably free of weeds, replaced when necessary, and kept free of refuse and debris. All required fences and walls shall be maintained in good repair.
 - c. The property owner shall remove plant materials that are dead or in poor condition immediately once their condition is recognized and replace them with the same type,

size, and quantity of plant materials as originally installed, unless alternative plantings are approved by the Planning Board.

- d. A performance bond or letter of credit is required to ensure compliance with this section and to cover maintenance for a period of three (3) years after the time of planting.

8. Landscaping for Parking Areas and New Roadways: The guidelines and design standards listed below are intended to help an applicant prepare a suitable landscaping plan for proposed parking areas and new roadways.

- a. The visual expanse of a building's exterior shall be broken up by planting shrubs and/or shade trees around the building's perimeter.
- b. Parking areas and new roadways shall be effectively landscaped with trees and shrubs to reduce the visual impact of glare, headlights, and parking lot lights from the public right-of-way and from adjacent properties. In addition, parking lots shall be adequately shaded to reduce the amount of reflected heat.
- c. In case where substantial grading is necessary that results in a parking lot lower in elevation than the surrounding or adjacent right-of-way, the resulting embankment shall be planted with low shrubs and shade or ornamental trees. Where feasible, a minimum of 10-feet of landscaping is required between the edge of any paved surface and the property line, except as otherwise required in these regulations.
- d. A curbed traffic control island shall be provided between every four rows of parking. The traffic control island shall be a minimum of 8-feet in width to accommodate low hedges, shade trees, or drainage swales. At the ends of the traffic control islands, landscaping plans shall create 12-foot-wide curbed planting islands to be located throughout the lot and planted with shade trees, low shrubs, and/or ground cover. These planting islands shall extend the full length of the parking stalls, and if the parking row is double, shall extend the total width of the row. The applicant, if desired, may shorten the main traffic control island no more than 14-feet at each end just before each planting island to better allow for the removal of snow. If the main traffic control island is proposed to be shortened, pavement markings shall be required to prohibit through traffic.
- e. Landscaping plans shall provide additional curbed planting islands (a minimum of 9-feet wide) between every ten to fifteen parking spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one shade tree having a clear trunk height of at least 6-feet.
- f. Curbing for all traffic control and planting islands shall be granite or concrete.
- g. Within the interior of the parking lot, landscaping should be used to delineate vehicular and pedestrian circulation patterns. Clear and legible signs, different color and texture

paving materials, raised areas, and other techniques should be used to further direct the flow of both vehicular and pedestrian traffic within the site.

- h. Landscaping plans shall use deciduous shade trees with ground cover or low shrubs as the primary landscape material within parking lots and avoid tall shrubs or low-branching trees that will restrict visibility.
- i. Species on the current Prohibited or Restricted Invasive Plant Species Lists maintained by the NH Department of Agriculture shall not be planted.

ARTICLE X- WATER SUPPLY

All developments shall provide a water supply either through private wells or a community system which shall conform and meet all standards set by local zoning requirements and/or New Hampshire Department of Environmental Services.

ARTICLE XI- WASTEWATER DISPOSAL

1. All developments shall make provisions for sanitary sewage disposal in conformance with the Lee Building Regulations and the laws of the State of New Hampshire.
2. There shall be two acceptable test pits for each proposed leaching area, guaranteeing a minimum area of suitability of 5,000 square feet. One of such test pits shall be located within the designed system. The leach beds shall be located on the same parcel as the primary use. Leaching area, including areas for fill and sloping shall not be within 125 feet of a wetland or a well and shall not be within the buffer area.
3. The proposed system shall be approved and inspected according to local and state regulations.

ARTICLE XII- UNDERGROUND STORAGE TANKS

All proposed and/or existing underground tanks for the storage of petroleum or petroleum products shall comply with the NH DES regulations. These regulations shall apply to all tanks of any capacity regardless of if NHDES invokes jurisdiction. In addition, these tanks shall comply with the standards set forth in the Lee Zoning Ordinance, the Lee Building Regulations and all applicable state and federal laws.

ARTICLE XIII- HAZARDOUS AND TOXIC MATERIALS

A. General Requirements

1. There shall be no discharge or disposal (above or underground) of toxic or hazardous materials. There shall be no storage of toxic or hazardous materials in the Aquifer Zone.
2. Any site plan which includes the receiving, handling, storing, or processing of any toxic or hazardous materials shall disclose this information as part of the plans. Also, an impact statement shall be submitted which shall address risk assessment concerning public and employee safety and environmental aspect. Such plans shall include a complete list of products used, quantities, methods of storage and disposal including Material Safety Data Sheets. Plans and impact statements shall be reviewed by the NHDES, Health Risk Assessment Unit, and the New Hampshire Division of Public Health Services as well as the local fire chief, police chief and building inspector. At the discretion of the Board a private consultant shall be hired by the Town at the expense of the developer to review such plans.

ARTICLE XIV- EARTH REMOVAL OPERATIONS

A. PURPOSE

The purpose of this Article is to address the recognized safety hazards which open excavations create; to preserve our natural assets of the soil, water, forests, and wildlife; to maintain aesthetic features of our environment; to prevent land and water pollution; to promote soil stabilization; and to control any excavation that may create a safety or health hazard to the public or to adjacent property owners, or may be detrimental to the immediate neighborhood or to the Town.

B. Excavation Permit Required, Application

1. Before any excavation is commenced or expanded, except as provided in Article XIII, Section C., the owner of the property or their designated agent shall obtain a written permit therefore, from the Board.
2. Application for said permit shall be submitted on a form provided by the Board, along with the fee required under Section J, 1, of this Article. Said application shall be submitted to the Board and the Conservation Commission along with an Excavation Site Plan, a Reclamation Plan, and such other information and/or documents as the Board may require.
3. No such excavation shall be in a residential zone. (See Lee Zoning Ordinance).
4. The Board shall require that the appropriate maps be prepared and bear the seal of a land surveyor or engineer licensed by the State. If in the judgment of the Board, the scale or the nature of the excavation justifies, the Board may waive the requirements that the maps be prepared by a licensed land surveyor or engineer.

C. Exemptions

1. Existing operations, existing stationary manufacturing plants, and highway excavation shall not be subject to the permit requirements of this Article to the extent they are exempted by RSA 155-E:2
2. Except as limited by Section C.1. and RSA 155-E, the provisions of this Article and the requirement to obtain a permit shall apply to all excavation, grading, filling, or removal of earth from any lot except when incidental to or in connection with:
 - a. The lawful construction or alteration of a structure or the lawful construction or alteration of a parking lot or way, including a driveway, on a portion or the premises where such removal occurs.
 - b. Agricultural or silvicultural activities, normal landscaping, or minor topographical adjustment.
3. Excavation operations under this Article conducted solely by or on behalf of the Town of Lee shall be exempted only from the requirement that a permit be obtained. All other requirements shall apply.

D. Notice and Hearing: Decision

1. A public hearing shall be held on any application for an excavation permit, renewal or amended excavation permit in accordance with RSA 155-E:7.

2. Notice of such hearing shall be given as required in RSA 155-E:7, and all abutters of record shall be notified by certified mail.
3. The Board shall render its decision on the application within twenty (20) days of said hearing and shall give its reasons for any disapproval.

E. Prohibited Projects

The Board shall not grant a permit as prohibited by RSA 155-E:4; or:

1. When the excavation is prohibited by other applicable local or state law.
2. When the excavation would create conditions which would be unduly hazardous or injurious to the public health.
3. Where the excavation would substantially damage a known aquifer, so designated by the United States Geological survey.
4. When an excavation is planned beneath or adjacent to inland surface waters in such a manner that a permit is required from NHDES, or other state or federal agencies with jurisdiction over the premises, but the Board may approve the application when all the necessary permits have been obtained and submitted to the Board.
5. Where the project cannot comply with the reclamation provisions of this Article and RSA 155-E:5 and 5-a.

F. Standards and Conditions for Operation

In addition to the minimum standards imposed by RSA 155-E:4-a, all excavations subject to permit shall comply with the following:

1. Excavation Plans: All excavation, grading, filling, or removal of earth shall be completed in accordance with the maps and plans as approved by the Board and within the exterior limits thereof.
2. Access: Truck access to the lot and work area shall be so arranged as to minimize traffic hazards on the street and to avoid nuisance to the residents of the neighborhood. Access shall be closed when not in operation and monitored during hours of operation.
3. Machinery: No processing machinery shall be erected or maintained on any lot within three hundred feet (300') of any residential lot line and such machinery shall be removed from the lot upon expiration of the permit.

4. Storage of Material: No material shall be stockpiled or located outside the permit area.
5. Dust Control: Dust control measures to protect the surrounding property shall be taken when deemed necessary by the Board, including the covering of all trucks carrying excavation material.
6. Hours of Operation: Hours of operation shall be established by the Board at the time of issuing the permit. They shall not exceed 7:00 A.M. to 5:00 P.M., five (5) days per week (Monday through Friday) where such excavation is located in Zone A and shall not exceed 7:00 A.M. to 5:00 P.M. six (6) days per week (Monday through Saturday) when such excavation is located in Zone C.
7. Buffer: A visual vegetative, topographical, or other such barrier as determined by the Board shall be maintained or erected in the buffer zones between surrounding streets, highways, commercial and/or residential land uses and the excavation site. Existing visual barriers in the e may not be removed except to provide access to the excavation site. A suitable vegetative buffer or visual barrier shall be maintained or erected between the excavation site and the surrounding property.
8. Setbacks: No excavation shall be permitted:
 - a. Below road level within one hundred twenty-five feet (125') of any highway right-of-way unless the excavation is for the purpose of said highway.
 - b. Within two hundred feet (200') of a residential lot line, or one hundred feet (100') of a commercial lot line, except as provided in paragraph c.
 - c. Within ten feet (10') of any lot line when the abutter has submitted a written waiver of the setbacks required by paragraph 8 above to the Board.
9. Timber Harvesting: The applicable New Hampshire statutes and rules pertaining to forest practice and timber harvesting shall apply to the removal of all vegetative cover at the excavation site.
10. Reclamation: Incremental reclamation shall be performed throughout the entire excavation operation.
11. Topsoil: Prior to the removal of material from a new excavation site, topsoil material shall be stripped and stored for site reclamation use when the project is completed.
12. Depth of Excavation
 - a. Depending on the proposed reuse of the affected area, the following criteria shall govern the final depth of the excavation:

REUSE

FINAL DEPTH OF EXCAVATION

Buildings - Eight feet (8') above annual high-water table or conforming to the original grade prior to any disturbance of the earth.

Vegetation - Four feet (4') above annual high-water table or conforming to the original grade prior to any disturbance.

Pond- Must comply with the Strafford County Conservation District's recommendation and guidelines in effect at the time of reclamation.

- b. An applicant may provide evidence to the Board to demonstrate that excavation to a greater depth than provided for in Article XIVF.12. a, will not adversely affect water quality. If the Board is convinced by a preponderance of the evidence that no adverse effect will result, it may grant an exception to this provision. Written notice of any such exception shall be recorded in the Registry of Deeds filed with the NHDES.

G. Reclamation

Incremental reclamation shall be performed throughout every excavation operation. In addition to the minimum requirements established by RSA 155-E:5, within twelve (12) months after the expiration date on the permit, or the completion of any excavation subject to permit, whichever comes first, the owner of the excavation site shall reclaim or cause to be reclaimed the area affected by the excavation to meet the following conditions:

1. Except for an exposed rock ledge, arable soil shall be spread on all areas that present a severe erosion hazard, limed, fertilized, seeded with grass, mulched with suitable material, or otherwise maintained until the ground has been stabilized with a dense vegetative cover, and there exists no danger of erosion. On the areas not subject to potentially severe erosion, other suitable vegetation such as grasses, shrubs and trees may be established.
2. Said area shall be evenly graded to slopes not to exceed one foot (1') of rise to two feet (2') of horizontal distance, or one foot (1') rise to three feet (3') of horizontal distance if the excavation occurs within one hundred feet (100') of an abutting property line. The required slope may be modified by the Board where rock ledge makes steeper slopes possible or to a lesser degree if necessary for soil stability, safety or reasonable reuse and development of the lot.
3. All debris and loose boulders not incorporated into the improvement of the lot shall be buried or removed from the lot.

4. Reclamation shall be performed in compliance with the Strafford County Conservation District's recommendations and guidelines in effect at the time of reclamation.
5. Excavation sites, upon completion, shall be permanently closed and gated so that the site cannot be used for dumping.

H. Renewals; Amendments

1. Permits shall be issued for a period of twenty-four (24) months. A copy of the permit shall be prominently posted at the excavation site or the principal access thereto. Said permit shall not be assignable or transferable without the prior written consent of the Board.
2. Application for permit renewals shall be submitted along with the required fee, within thirty (30) days prior to the expiration date of said permit. Permit renewals shall be granted if excavation is allowed in that location under the then-current zoning ordinance, no violations of the current permit exist, incremental reclamation has been performed, and the excavation has not gone beyond the plans originally submitted. The renewal application shall include all information required in an original application in updated form for the renewal period.
3. When the scope of the project for which an excavation permit has been issued, is proposed to be altered to affect either the size or location of the excavation, the rate of removal or the plan for reclamation, the owner shall submit an application, along with the required fee, for amendment of this excavation permit. Said application shall be subject to approval in the same manner as provided for an excavation permit.

I. Existing Operations

1. Excavation operations in existence as of August 24, 1979, and from which earth material of sufficient weight or volume to be commercially useful has been removed during the two year period before August 24, 1979, shall be exempted only from the requirement that a permit be obtained, and from local ordinances regulating their location, if, at the time the excavation first began, they were in compliance with such ordinances as were then in effect. Existing operations shall be subject to the express operational and reclamation standards of RSA 155-E. All other requirements shall apply, including the submitting to the Board of an Excavation Site Plan, a Reclamation Plan, and such other information and/or documents as the Board may require.
2. Existing operations may continue until abandoned as defined in RSA 155-E: 2{a}. An excavation shall be deemed abandoned if no earth material of sufficient weight or volume to be commercially useful has been removed from the excavation site during any two-year period, or if it meets any of the criteria under RSA 155E-2, II{a}.

3. Existing operations shall be subject to the applicable provisions of RSA 155-E and to this Article to the extent permitted by law.

J. Fees

1. The applicant shall pay an application fee to cover the costs of the hearing, posting, publishing, and mailing of notices. Application fees are listed on the application.
2. The Board may set inspection fees to cover the costs of subsequent site inspections to be paid by the applicant.

K. Administration and Enforcement

1. As a precondition to issuing a permit, the Board shall require the applicant to file with the Treasurer a performance bond or other such surety in a form acceptable to the Board in such an agreed upon amount sufficient to cover all costs pertaining to the reclamation of the site in accordance with the provisions of this Article. Twenty-five (25%) percent of said bond shall be retained for a period of twenty-four (24) months following the completion of reclamation as a maintenance bond to ensure that the reclamation becomes established as anticipated.
2. If, in the opinion of the Board, special assistance is required to ensure that the provisions of this Article are being carried out, the Board shall consult a professional engineer or surveyor or other person with the appropriate qualifications to make such investigation and determination as may be necessary from time to time. The cost of such services may be billed to the applicant/operator. The performance bond required in the above paragraph shall serve as surety for any such amounts due.
3. In order to ascertain if there is compliance with RSA 155-E or this Article, a permit issued hereunder, or an order issued, the Board or its duly authorized agent may enter upon any land for which there is reason to believe an excavation is being conducted or has been conducted since August 24, 1979.
4. The Town may enter upon any excavated land where reclamation has not been accomplished according to the reclamation plan and cause reclamation to be done. The cost of such reclamation shall be paid by forfeiture of the surety bond or may be assessed against the owner pursuant to RSA 155-E.
5. Administration and enforcement procedures not included within this Article shall conform to RSA 155-E: 6 through 11.

L. Penalty

Whoever violates any provisions of this Article, a permit issued hereunder, or a valid order issued hereunder shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

ARTICLE XV- FIRE PROTECTION IN THE COMMERCIAL ZONE

1. Unless there is an adequate supply of a community or other public water system, as reasonably determined by the Fire Chief or their designee, the development shall include at least one 30,000-gallon cistern with outside access, or such other size cistern as determined by the Fire Chief or their designee.
2. If the proposed commercial building(s) is required by either the State Building Code (RSA 155-A) or locally adopted regulations or ordinances (adopted or as amended) to be sprinkled, then the proposed cistern and gallon requirements shall be determined by the Fire Chief or their designee.
3. Cistern Construction requirements: Cistern construction and installation shall comply with the requirements as provided in the Lee Subdivision Regulations, Section IX; Fire Protection, Section A, numbers 1-28 as adopted or amended.

ARTICLE XVI- FINANCIAL GUARANTEE

A. Financial Guarantees

1. As a condition to the approval of a site plan, the Planning Board may require the applicant to provide a performance guarantee in an amount sufficient to cover the estimated cost of constructing and installing all required site improvements, including, but not limited to, the construction of streets, drainage structures, water and sewer lines and drains, storm drains, erosion control and other public and/or common private improvements.
2. The following types of financial guarantees are acceptable to assure the completion of the required improvements.
 - a. A non-lapsing letter of credit drawn on a bank authorized to do business in New Hampshire and reasonably acceptable to the Town. The letter of credit shall be payable to the Town and deposited with it.
 - b. A non-lapsing surety bond issued by a surety company authorized to do business in New Hampshire and reasonably acceptable to the Town. The surety bond shall be filed with the Town.

- c. Cash or a certified check to be deposited with the Town under a written escrow agreement.
- 3. The amount of the guarantee she will be based on an estimate of the costs provided by the applicant and, at the discretion of the Select Board, or its designee, reviewed by a registered/licensed engineer. The cost of such a review shall be borne by the applicant.
- 4. All financial guarantees shall be satisfactory to Town Counsel as to form, sufficiency, and manner of execution.
- 5. Construction of the required improvements shall be completed within two years of site plan approval. If construction is not completed during this time period, the Select Board, or its designee, may grant an extension of up to one additional year. Failure to complete all required improvements to the satisfaction of the Select Board, or its designee, within the time specified shall result in forfeiture of the financial guarantee.
- 6. The performance guarantee shall be reduced in phases as portions of the secured improvements or installations are completed according to a predetermined schedule, following satisfactory inspection by Town Staff or a third-party engineer engaged by the Town and approved by the Select Board, or its designee, in accordance with the approved site plan.
- 7. A performance guarantee shall not be released in full until Town staff or a third-party engineer engaged by the Town has approved the installation of all of the required improvements, the applicant's engineer has submitted a certificate stating that all required improvements have been installed in accordance with the approved site plan, an acceptable as-built plan has been submitted to the Planning Board, a maintenance guarantee has been provided to the Town and all costs incurred by the Town for inspections and testing of all required improvements have been paid to the Town.
- 8. The applicant shall be required to file a maintenance guarantee with the Town at the time of release of the performance guarantee. The maintenance guarantee shall be in an amount considered adequate by the Select Board, or its designee, and in a form satisfactory to Town Counsel, to assure the satisfactory condition of the required improvements. At a minimum, the maintenance guarantee shall be in an amount equal to 15% of the cost of the installation of the required improvements and, in no event, shall be less than 15% of the original performance guarantee. The maintenance guarantee shall be for a period of two years after the date of the acceptance of the improvements by the Select Board, or its designee. Unsatisfactory condition of the improvements as determined by the Select Board, or its designee, within the time specified, shall result in forfeiture of the maintenance guarantee.
- 9. As a condition to the approval of a site plan, the applicant shall be responsible for and pay to the Town all the costs incurred by the Town directly related to the establishment of financial guarantees and the inspection and testing of the required improvements.

ARTICLE XVII ACTIVE AND SUBSTANTIAL DEVELOPMENT OR BUILDING

As provided for in RSA 674:39, III, the Board may specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project.

A. Active and Substantial Development or Building

1. For purposes of these Regulations, unless modified by the Board at the time of approval of a specific application, the completion of all the following shall imply “Active and Substantial Development or Building” when inspected and approved by the Reviewing Engineer:
 - a. Construction of and/or installation of basic infrastructure to support the development (including all of the following: roadways, access ways, parking lots, etc. to a minimum gravel base; and water and wastewater lines and other utilities placed in underground conduit ready for connection to proposed buildings/structures) in accordance with the approved plans; and,
 - b. Construction and completion of drainage improvements to service the development (including all of the following: detention/retention basins, treatment swales, pipes, underdrains, catch basins, etc.) in accordance with the approved plans; and,
 - c. Placement and maintenance of all erosion control measures on the site as specified on the approved plans.

Movement of earth, excavation, or logging of a site without completion of items a, b, and c above, shall not be considered “Active and Substantial Development or Building.” Plans approved in phases shall be subject to this definition for the phase or phases currently being developed.

2. Unless otherwise specified by the Board, Active and Substantial Development or Building shall be achieved within two (2) years from the date of the Planning Board’s approval.
3. The time for completion of Active and Substantial Development or Building may be extended for good cause by the Planning Board. A request for an extension of time within which to complete such Active and Substantial Development or Building shall be submitted by the applicant to the Office of Planning and Zoning prior to such expiration date for review in accordance with the provisions of Article III, O of these Regulations. Requests for extension of time to complete Active and Substantial Development or Building received after the expiration date shall not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Article III. Section N.2. of these Regulations.

In no event shall the time for completion of Active and Substantial Development or Building be extended to more than five (5) years from the date of the Planning Board’s approval unless the development has been approved for completion in phases. In the event the Planning Board

approves an extension request, the applicant shall be required to update any Security Agreements or other documents, as necessary, to reflect the dates of the extended approval.

B. Substantial Completion

- a. For purposes of these Regulations, unless modified by the Board at the time of approval of a specific application, Substantial Completion shall be deemed to have occurred when all on-site and off-site improvements specified in the Site Plan approval have been constructed or installed by the applicant and inspected and approved by the Reviewing Engineer, except for those improvements which are explicitly deferred by vote of the Board.

In the event that the Town calls a performance security for such improvements and the funds are paid to the Town, Substantial Completion of the improvements shall be deemed to have occurred.

ARTICLE XVIII- ENFORCEMENT

The Select Board will be responsible for the enforcement of these regulations in accordance with applicable state laws.

ARTICLE XIX- AMENDMENT

These regulations may be amended or rescinded in accordance with applicable state laws.

ARTICLE XX- EFFECTIVE DATE

These regulations shall take effect upon their passage following a public hearing and majority vote by the Board.

ARTICLE XXI- CONFLICTING PROVISIONS

When the regulations made under the authority hereof differs from those described by statute, ordinance, or other regulations, that provision which imposes the greater restriction, or the higher standards shall govern.

ARTICLE XXII- VALIDITY

If any section, clause, provision, portion, or phrase of these regulations shall be held to be 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 these regulations.