

SITE PLAN REGULATIONS
LEE, NEW HAMPSHIRE
2006

ARTICLE I

Authority:

These regulations are enacted by the Town of Lee pursuant to the provisions of the New Hampshire Revised Statutes 674:43. The Planning Board shall review all site plans for development of tracts within the Town of Lee, New Hampshire for non-residential use or for multi-family dwelling units containing more than two units.

Purpose:

The purpose of these regulations is to provide for a balanced, responsible and desirable growth by encouraging the most appropriate use of land, providing safety of its residents. It is the intent of this ordinance to insure that sound site utilization principles be followed to protect abutters against elements of pollution; to afford adequate light and air; and to insure safe vehicular traffic and emergency access.

Applicability:

Site Plans shall be submitted for Planning Board review by any applicant seeking new, altered, or converted use of a multifamily dwelling or non-residential site or structure. Site Plan Review shall also be required for mixed use development which combines single family, multifamily or non-residential land uses. Site Plan Review shall not be required if, in the opinion of the Planning Board, the proposed multifamily or non-residential development involves no significant building alterations or changes in the site.

Planning Board approval of said site plans shall be a necessary prerequisite to issuance of a building permit.

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

Interpretation:

These Site Plan Regulations in no way relieve the developer from compliance with the Zoning Ordinance of the Town of Lee, the Subdivision Regulations, the Building Regulations and/or any other local or state regulations. In an instance of conflicting provisions, the ordinance which imposes the greater restriction or the strictest standards shall apply.

ARTICLE II APPLICATION PROCEDURE

A. Preliminary Consultation

An applicant may meet with the Planning Board or a designated agent of the Planning Board to discuss the proposal prior to submission of an application. Preliminary consultations may be used to discuss plans in conceptual form. Notice to abutters is not required and the consultation shall not be binding on either the board or the applicant.

B. Application

The Planning Board shall begin formal action within thirty days following submission of a completed application. A complete application shall consist of the following:

1. Current application on the appropriate Site Plan Review form;
2. List of abutting property owners, names and addresses;
3. Fees for posting and hearings shall be listed on the application for Site Review.
4. Proof of ownership or notarized designation of agent from the property owner;
5. One preliminary plan including:
 - a. Owner's names and addresses, book and page of deed reference.
 - b. Names and addresses of all abutting property owners, book and page deed references;
 - c. Locus or reference map showing location of the site, within town;
 - d. Boundary survey of the entire parcel held in a single ownership regardless of whether or not the entire parcel is being developed;
 - e. Bearing and distance of all property lines;
 - f. Acreage of the parcel;
 - g. Location of all existing and proposed buildings (including size and height driveways, sidewalks, parking and loading areas, open spaces and landscaping.)
 - h. Soil mapping, test pits, delineation of Wet Soils shall be done by a State of New Hampshire Certified Soil Scientist at the expense of the applicant and/or owner.
 - i. Delineation of Wet Soils and Undevelopable areas (See Section III).

C. Public Hearing

Within thirty days of submission of a completed application, the Planning Board shall schedule a public hearing hereon. All abutters and the applicant(s) shall be notified of said

hearing by certified or registered mail; the hearing shall be posted in accordance with the provisions of 675:7.

D. Site Review

Prior to any action of said application a site review shall be conducted at the site with not less than three Planning Board members in attendance. A report of the site review shall be included in the records of the board.

E. Action

Within sixty-five (65) days of the receipt of the final site plan and at a regularly scheduled meeting of the board, the Planning Board shall act to approve or disapprove the site plan as submitted.

One ninety day extension for action may be granted upon approval by the Selectmen or upon request by the applicant.

F. Final Site Plan

The following shall constitute a final plan submission:

1. Title block containing: title of the project, owner's names and addresses, name, address and seal of the preparer(s) of the plan; date of the plan and any revisions, scale of the plan;
2. North arrow, dated;
3. Bar Scale;
4. Signature block for the Planning Board approval;
5. Boundaries and area of the entire parcel, bearing and distance of all property lines.
6. Reference to any and all plans reviewed in relation to this project;
7. Book and page of deed description in the county record;
8. Names and addresses of abutting property owners - book and page;
9. Legend with sufficient information to enable a layman to identify natural and man made landmarks;
10. Locus;
11. Location of all existing and proposed buildings;
12. Location of existing and proposed streets (with names) and existing lot lines;
13. Location of existing and proposed easements and encumbrances;
14. Location of Wet Soils, floodplains and slopes greater than 15%; Shoreline Conservation District;
15. Boundaries of all zoning districts, town lines;
16. Location of existing or proposed fire ponds;
17. Location of all attempted test pits (numbered to correlate with town records);
18. Existing and proposed contours.

The final plan should be submitted with three copies at a scale of 1 inch equals fifty feet.

G. Additional Documentation

The following documentation must also be submitted with the final plan including:

1. Proposed 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. Final storm drainage plans;
5. Review and approval from the following local department heads: Road Agent, Fire Chief, Police Chief and Conservation Commission.
6. Any required approvals from the Board of Adjustment;
7. Access approval from the New Hampshire Division of Public Works and Highways (if on a state road) or the local road agent;
8. State permits as required from: New Hampshire Division of Water Supply and Pollution Control, Water Resources Board, Wet Soils Board;
9. Plans for signage;
10. Lighting plans;
11. Landscaping plans;
12. Elevation of proposed structures.

* SEE ALSO SITE PLAN REVIEW CHECKLIST

H. 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.

These studies will be contracted by the town; the cost for which will be borne by the developer.

The Planning Board, at their discretion, may require an engineering review of the final 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 borne by the developer.

ARTICLE III GENERAL REQUIREMENTS

A. Undevelopable land area shall not comprise of more than 25% of the land under consideration for development. Undevelopable land area shall include Wet Soils, floodplains and land with slopes greater than 15%. (15 feet of rise to 100 feet of horizontal distance.)

B. There shall be no development within 75 feet of the Wet Soils Zone including parking and roadways or other man made structures; also to include fill and excavation. A special exception must be obtained from the Board of Adjustment to permit any crossing of the Wet Soils. (See Lee Zoning Ordinance applicable article).

C. There shall be no development within the Shoreline Conservation District. (See Lee Zoning Ordinance applicable article.)

D. Impervious Land Coverage shall not exceed 25% of the total land area. If such development is in the Aquifer Zone, as designated on the Town of Lee Zoning Maps, such coverage shall not exceed ten (10) percent.

The restrictions of the Aquifer Zone shall supersede all other requirements if such land is located in a designated Aquifer Zone.

E. Floodplain

1. All site plans shall include 100 year flood elevation.
2. All plans for development shall identify the special flood hazard areas as shown on the Flood Insurance Rate Maps for the Town of Lee as prepared by the Federal Flood Management Agency.
3. There shall be no structures within the identified floodplain.
4. All facilities including utilities and drainage shall be designed to minimize infiltration into flood waters and minimize flood damage.

ARTICLE IV DESIGN REQUIREMENTS

A. General Requirements

1. Grading and clearing should be minimized so as 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 Planning 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.

ARTICLE V

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 Public Works and Highways (if on a state road) or from the road agent of 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 site visibility shall be a minimum of four hundred (400) feet in both 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 and adjacent 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 may, as deemed appropriate by the Planning Board, be required to make off-site improvements or fund a proportionate amount of capital improvements necessary to accommodate his development. Off-site improvements shall be based upon a predetermined fair share estimate for impact fees.
8. The developer shall bear the cost of any lighting, curbing, signage, for the right-of-way as deemed necessary for his proposal. Any improvements shall be determined by the local road agent.

B. Parking

No use of the premises shall be authorized or extended and no building shall be erected or enlarged unless parking and loading requirements are met for the new or the added use.

Parking areas shall be reviewed by the Planning board as an integral part of the Site plan Review process. Any parking area for ten or more vehicles 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. There shall not be more than 150 feet of continuous asphalt in the parking areas.

C. General Requirements

1. All developments shall make adequate provisions for off street parking and loading facilities. Such facilities shall be designed to ensure the safety and convenience of pedestrian and vehicle movement of 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. No on-street parking, delivery or loading is permitted. 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. No parking areas shall be permitted in the setback areas or the buffer zone.
7. Provisions shall be made for emergency vehicle access and parking adjacent to the entrance of the building.
8. Dimensions - each required off-street parking space shall be large enough to contain a rectangle measuring not less than ten by twenty feet except for parallel parking, as permitted, on the side of a roadway which shall be at least nine feet by twenty feet. Angle parking shall be permitted according to state requirements.
9. Each parking space shall have direct access to an aisle or driveway having a minimum width of twenty-two feet.

Parking spaces shall be allocated according to the following schedule:

Minimum number of spaces by use:

-Apartment	2.5 per dwelling unit
-Hotel/Motel	1 per unit & 1 per employee
-Rest Home/Nursing home	1 per 4 beds & 1 per employee
-Mobile Home Park	2 per unit
-Educational Facility	1 per employee & 1 for each 4 seats in the auditorium
-Place of Assembly (Church, Theatre, Restaurant)	1 per three seats
-Medical Offices, Retail & & Service Businesses (bank)	1 per 250 square feet + 1 per employee
-Research or Administrative Offices	.5 per employee
-Other	Adequate spaces as determined by the Planning Board

D. Roads

1. Roads shall be of a loop design with only one access per 1,000 feet per landowner.

2. Roads shall not be permitted within the required buffer area except as necessary for site access.
3. Roads shall conform to the Construction and Design specifications set forth in the Lee Subdivision Regulations.

ARTICLE VI STORM WATER DRAINAGE

All developments shall make provisions for storm water disposal facilities which shall be designed by a registered engineer. The plan shall show existing and proposed methods of handling run-off, the direction of flow, the location, size, elevations of all existing and proposed catch basins, dry wells, drainage ditches, swales and retention area.

Calculations must be performed by a licensed engineer to determine watershed impact of added run-off.

Drainage from the development ,may not increase off the site or adversely effect any abutting properties. The developer is responsible for obtaining any necessary easements for drainage over abutting properties.

ARTICLE VII 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 an/or New Hampshire Water Supply and Pollution Control Division.

ARTICLE VIII WASTE WATER DISPOSAL

All developments shall make provisions for sanitary sewage disposal in conformance with the Lee Building Regulations, applicable section, and regulations of the New Hampshire Water Supply and Pollution Control Division.

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.

The proposed system shall be approved and inspected according to local and state regulations.

ARTICLE IX
UNDERGROUND STORAGE TANKS

All proposed and/or existing underground tanks for the storage of petroleum or petroleum products shall comply with the New Hampshire Water Supply and Pollution Control Division standards WS411. These regulations shall apply to all tanks of any capacity whether or not the WSPCC invokes jurisdiction. In addition, these tanks shall comply with the standards set forth in the Lee Zoning Ordinance, the Lee Building Regulations and the Federal Resource Conservation Recovery Act.

ARTICLE X
HAZARDOUS AND TOXIC MATERIALS

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 or storage and disposal. Plans and impact statements shall be reviewed by the New Hampshire Water supply and Pollution Control Division, 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 Planning Board a private consultant shall be hired by the town (at the expense of the developer) to review such plans.

ARTICLE XI
EARTH REMOVAL OPERATIONS

Substantially Revised December 1991

A. PURPOSE

The purpose of this Article is to cope with 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. DEFINITIONS

Buffer Zone: The area between the excavation site and a highway right-of-way and/or abutting property line.

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

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

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 period of time.

C. EXCAVATION PERMIT REQUIRED; APPLICATION

1. Before any excavation is commenced or expanded, except as provided in Section XII, D, the owner of the property or his designated agent shall obtain a written permit therefore, from the Planning Board.

2. Application for said permit shall be submitted on a form provided by the Planning Board, along with the fee required under Section K, 1. Said application shall be submitted to the Planning Board and the Conservation Commission along with an Excavation Site Plan, A Reclamation Plan, and such other information and/or documents as the Planning Board may require.

3. No such excavation shall be located in a residential zone. (See Lee Zoning Ordinance).

4. The Planning 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 Planning 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.

D. 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 paragraph D 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 silvi-cultural activities, normal landscaping or minor topographical adjustment.

3. Excavation operations under this Article conducted solely by or in behalf of the Town of Lee shall be exempted only from the requirement that a permit be obtained. All other requirements shall apply.

E. 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 Planning Board shall render its decision on the application within twenty (20) days of said hearing, and shall give its reasons for any disapproval.

F. PROHIBITED PROJECTS

The Planning 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 the Division of Water Supply and Pollution Control the Wet Soils Board, the Division of Water Resources, or other state or federal agencies with jurisdiction over the premises, but the Planning 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.

G. 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 Planning 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 Planning Board, including the covering of all trucks carrying excavation material.

6. Hours of Operation. Hours of operation shall be established by the Planning 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 Planning 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 buffer zone 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 b to the Planning Board.

9. Timber Harvesting. The applicable New Hampshire statues 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 sit 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:

<u>REUSE</u>	<u>FINAL DEPTH OF EXCAVATION</u>
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 paragraph 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 Division of Water Supply and Pollution Control.

H. 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 Planning 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.

I. 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 principle access thereto. Said permit shall not be assignable or transferable without the prior written consent of the Planning 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 so as 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.

J. 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 also be subject to the express operational and reclamation standards of RSA 155-E. All other requirements shall apply, including the submitting to the Planning Board of an Excavation Site Plan, a Reclamation Plan and such other information and/or documents as the Planning 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.

K. 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.

L. ADMINISTRATION AND ENFORCEMENT

1. As a precondition to issuing a permit, the Planning Board shall require the applicant to file with the Treasurer a performance bond or other such surety in a form acceptable to the Planning 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 Planning Board, special assistance is required to ensure that the provisions of this Article are being carried out, the Planning Board shall cause 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 Planning 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 with RSA 155-E:6 through 11.

M. 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 XII Fire Protection in the Commercial Zone

1. All proposed commercial development shall install at least one 30,000 gallon cistern or the gallon size is at the discretion of the Fire Chief, Deputy Fire Chief or their designee.
2. If the proposed commercial building(s) are required by either the State Building Code (RSA 153-A: 2) 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, Deputy Fire Chief or their designee. In all instances the development shall include at least a 30,000 gallon cistern with outside access as required by the Fire Chief, Deputy 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 1-27 as adopted or amended

ARTICLE XIII PERFORMANCE GUARANTEE

The developer shall provide a performance bond to guarantee proper completion of all site work. Such bond shall be in the form of a cash bond or irrevocable letter of credit which must be posted with the town and accepted by the Board of Selectmen prior to final subdivision approval.

Said bond shall be in the amount of 100% of the estimated cost of construction of the roadway and other site improvements as determined by the Selectmen. In addition, ten (10) percent of the total estimated cost shall be held in an escrow account to cover any legal expenses incurred by the town in the event of litigation concerning said bond. Said security shall include a time limit for completion.

In addition, a cash fee in the amount of three (3%) percent of the agreed bond shall be posted to cover the costs of inspections during the construction period. Said inspections shall be done by a consulting engineer in conjunction with the Building Inspector.

Said bond shall be released by the selectmen in increments according to a predetermined schedule, following satisfactory completion and inspection at each phase of construction. A maintenance bond in the amount of twenty five (25%) percent of the total shall be retained by the town for a period of two years following the final inspection and acceptance of improvements by the town.

Construction and installation of the required improvements must be satisfactorily completed within the time constraints established by the selectmen or said bond shall be forfeited. This shall also include final monumentation on property corners according to town standards. Should said bond be forfeited, the Town of Lee shall then use said surety to complete the improvements.

ARTICLE XIV ENFORCEMENT

The Board of Selectmen will be responsible for the enforcement of these regulations as provided under NH RSA 676:17.

ARTICLE XV AMENDMENT

These regulations may be amended or altered, changed, added to or rescinded under NH RSA 675:6

ARTICLE XVI TAKES EFFECT

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

ARTICLE XVII 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 XVIII 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.