

Proposals to Lee Zoning Bylaw

(underlined text to be added, ~~overstruck~~ text to be deleted)

Question 1: Shall the town amend the zoning bylaw section 4.1 relating to the establishment of use regulations as follows?

§ 4.1 Use Regulations Established.

All buildings or structures erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning Bylaw. No building or structure or land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth in the List of Permitted Uses as expressly permitted in the district in which such building, structure or land is located or set forth in the List of Permitted Uses as permissible as allowed by special permit in said ~~that~~ district and so authorized after that a special permit has been granted and recorded. Nothing in this bylaw supersedes the provisions of the State Building Code.

Question 2: Shall the town amend the zoning bylaw in various places to eliminate obsolete references to the Business Multiple Dwelling (BM) Zone, as follows?

1. Section 2.1(B)(1) is repealed, relating to creating the BM district.
2. Section 4.2(F) is repealed, relating to the uses allowed in the BM District.
3. Section 9.2(K)(6) is repealed, relating to certain yard requirements in the BM district.
4. Section 7.7(O) is amended to delete reference to the “BM” zoning district.
5. Section 7.9(A) is amended to delete reference to the “BM” zoning district.
6. Section 9.2(K) is amended to delete reference to the “BM” zoning district.
7. Each of the two tables of Dimensional Requirements appended to the bylaw are amended to delete reference to the “BM” zoning district.

Question 3: Shall the town amend the zoning bylaw, Section 4.2 and Subchapter 14, as follows, relating to parking lots and multistory parking structures?

4.2. LIST OF PERMITTED USES

(A) Residential Districts (R-20 & R-30)

* * *

(4) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, shall be as follows:

* * *

(a) Parking lot.

* * *

(B) Residential-Agricultural District (RA)

* * *

(4) Uses requiring a special permit from the Planning Board in accordance with the regulations appearing in Section 13.4 of this chapter, and in compliance with all applicable provisions of this chapter, shall be as follows:

(b) Parking lot.

* * *

(C) Residential-Multiple Dwelling Districts (RM)

* * *

(4) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, shall be as follows:

(a) Parking lot.

(D) Conservation-Residential Districts (CR)

* * *

(4) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, shall be as follows:

(a) Parking lot.

(E) Rural Business District (RB)

* * *

(4) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, shall be as follows:

(a) Parking lot.

(G) Commercial Business Corridor (CBC)

(1) Uses allowed by-right:

* * *

(g) Parking lot.

* * *

(5) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, ~~and in compliance with all other applicable provisions of this chapter,~~ shall be as follows:

* * *

(k) Multistory parking.

(H) Downtown Commercial Business Corridor District (DCBC)

(1) Uses allowed under site plan review by the Planning Board in accordance with Section 13.3 of this chapter, shall be as follows:

* * *

(l) Parking lot.

* * *

(4) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, shall be as follows:

(a) Multistory parking.

(I) Planned Commercial Village Center District (PCVC)

(2) Uses requiring a special permit from the Planning Board in accordance with the regulations ~~appearing in~~ Section 13.4 and Section 10.2 of this chapter ~~and in compliance with all other applicable provisions of this chapter~~ shall be as follows:

* * *

(c) Multistory parking.

* * *

(J) Industrial District (I)

(2) Uses allowed under site plan review by the Planning Board in accordance with Section 13.3 of this chapter, shall be as follows:

* * *

(h) Parking lot.

(3) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, ~~and in compliance with all other applicable provisions of this chapter,~~ shall be as follows:

* * *

(j) Multistory parking.

(K) Office Park and Light Industrial District (OPLI)

(1) Uses allowed under site plan review by the Planning Board in accordance with Section 13.3 of this chapter, shall be as follows:

* * *

(j) Parking lot.

(2) Uses requiring a special permit from the Planning Board in accordance with Section 13.4 of this chapter, and in compliance with all other applicable provisions of this chapter, shall be as follows:

* * *

(g) Multistory parking.

(Question 3 continued) And to further amend the Zoning Bylaw by adding a definition to Subchapter 14 as follows:

(64) Parking Lot. Any lot, available to the public, whether operated for gain or not, which is used principally for the short-term parking of motor vehicles, which is not used for the repair of motor vehicles.

Question 4: Shall the town add a new section 4.5 to the Zoning Bylaw, relating to animals, and also make coordinating amendments to portions of section 4.2 as follows?

§ 4.5 ANIMALS

A) Dogs, cats and other small and traditional domestic pets are allowed by right in all zones as an accessory use to any occupied residence. Breeding such pets is also allowed, provided the breeding meets the requirements of a home occupation.

B) The following are allowed by right as an accessory use to any occupied residence in zones (RA-20), (RA-30), (RA), (CR) and (RB).

(1) Up to ten poultry, but no roosters.

(2) Beekeeping.

C) Commercial kennels (in which more than 3 dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold) and commercial animal day care services (serving 3 or more animals) are allowed by right in zone (I), and allowed after obtaining a special permit from the Planning Board in zones (RA), (CR), and (RB).

D) The raising of horses, hogs, pigs, poultry or fur bearing animals (not otherwise allowed as an agricultural use under the preceding subsection) is allowed after obtaining a special permit from the Planning Board in zones (R-20), (R-30), (RA), (CR) and (RB).

E) Commercial agriculture, aquaculture, silviculture, horticulture, floriculture and viticulture shall not be unreasonably regulated in a way that violates Chapter 40A Section 3 of state law, and no special permit shall be required for those uses in any zone.

(Question 4 continued) In addition, the following coordinating changes are made to portions of § 4.2

§ 4.2 LIST OF PERMITTED USES

F) Residential-Agricultural District (RA)

(3) Uses allowed by right:

(g) Farm, forestry or nursery, including the display and sale of natural products raised in ~~Town town and the raising of stock as limited in § 199-4.2B(3)(f) below. The raising of horses for personal use is permitted, provided that such action is carried on at least 300 feet from any property line.~~

D) Conservation-Residential Districts (CR)

(1) Uses allowed by right:

(g) Farm, forestry or nursery, including the display and sale of natural products raised in town ~~and the raising of stock as limited in Section 4.2(D)(3)(f).~~

E. Rural Business District (RB).

(1) Uses allowed by right:

(h) Farm, forestry or nursery, including the display and sale of natural products raised in ~~Town town and the raising of stock as limited in § 199-4.2E(3)(f). The raising of horses for personal use is permitted, provided that such action is carried on at least 300 feet from any property line.~~

(Question 4 continued) In further addition, the following coordinating repeals are made to § 4.2:

- (1) Subdivision (B)(3)(f), relating to raising livestock in the RA zone is repealed.
- (2) Subdivision (D)(3)(f), relating to raising livestock in the CR zone is repealed.
- (3) Subdivision (E)(3)(f), relating to raising livestock in the RB zone is repealed.

Question 5: Shall the town amend the zoning bylaw Section 6.1(B) and (E) as follows, relating to special permits to extend nonconforming structures, signs and uses and abandonments?

§ 6.1 NON-CONFORMING STRUCTURES, USES AND LOTS.

* * * *

B) Requirements for Extension, Reconstruction or Change in Use or Structure.

The Planning Board may authorize by special permit any extension, alteration or reconstruction of a nonconforming structure or to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, provided that no such extension, alteration, reconstruction or change in use shall be permitted unless the Planning Board finds that:

- (1) ~~Such~~ For a change in use, the change, extension or alteration shall will not be substantially more detrimental than the existing nonconforming use to the neighborhood.
- (2) ~~Such~~ The extended, altered or reconstructed structure or changed use shall will not be in greater nonconformity with open space, yard and off-street parking requirements of this chapter.
- (3) The use or structure complies with other findings under § 13.4 that the board deems relevant.

* * * *

E) Abandonment. Any nonconforming use or structure which has been abandoned or not used for two years or more shall not be reestablished except by special permit from the Planning Board; otherwise, any future use of such premises shall conform to the provisions of this chapter.

* * * *

Question 6: Shall the town amend the zoning bylaw Section 7.5 as follows, relating to nonconforming signs?

§ 7.5 NONCONFORMING SIGNS

A) **Maintenance and Replacement.** Any lawfully existing nonconforming sign cannot be enlarged, reworded, redesigned or altered in any way, except to conform to the requirements of this section, may be reworded or repainted. and provided, further, that any such sign which has deteriorated to such an extent that Any lawfully existing nonconforming sign may be repaired or restored; however, where the cost of repair or restoration of a free standing sign would exceed 35% of the replacement cost, then the sign shall not be repaired, rebuilt or altered except to conform to the requirements of this section bylaw.

B) **Replacement.** Any sign replacing a nonconforming sign shall conform to the provisions of this section, and the nonconforming sign shall no longer be displayed.

C) **Abandonment** If a nonconforming sign associated with a permitted use or structure that has been abandoned for six months or more, then the nonconforming sign shall be removed and its nonconformity shall not continue.

B) The rules for the replacement of, abandonment of and special permits for nonconforming structures also apply to nonconforming signs.

Question 7: Shall the town amend the zoning bylaw Sections 7.6 as follows, relating to administration of sign permits?

§ 7.6 ADMINISTRATION AND ENFORCEMENT.

B) Permits

(1) A permit for a permanent sign shall be reviewed and acted upon with 30 days of filing a complete application, together with the fee. A permit may be issued only after the following:

(a) The Planning Board examines the request for a permanent sign permit and finds it in compliance with this chapter.

(b) The Building Commissioner determines that the sign complies or will comply with the State Building Code pertaining to signs.

(c) A permanent sign permit shall be valid only when signed and dated by the Planning Board and the Sign Enforcement Official.

A permit for a permanent sign shall be issued by the Building Commissioner after determining that the sign complies or will comply with this bylaw. The Building Commissioner shall take action within 30 days on all complete applications that were filed with the proper fee. After issuing a permanent sign permit, the Building Commissioner shall send a copy to the Planning Board with notes sufficient to demonstrate compliance with this chapter.

- (2) ~~A permit for a temporary sign shall be issued only after the following:~~
- (a) Temporary sign permits are issued only after the Building Commissioner determines the sign complies or will comply with the State Building Code as per the section pertaining to signs and sends the permit on to the Selectmen.
 - ~~(b) —~~The Board of Selectmen shall be the issuing authority for temporary sign permits.

Question 8: Shall the town repeal existing zoning bylaw subsections 13.3 (Site Plan Review) and 13.4 (Special Permits) and replace them with new subsections as follows?

§ 13.3. SITE PLAN REVIEW.

A) Purposes and Scope

- (1) Site plan review provides oversight of uses and structures that have the potential for substantial impact on the town. It examines primarily the details of site and building design.
- (2) The review aims to protect the natural, environmental, scenic and aesthetic qualities of the town and the health, safety and general welfare of its residents. The review assesses the functioning and design of the lot or site and the likely impacts on nearby properties and the town at large.
- (3) This section describes procedures used by the Planning Board during site plan review. It does not apply to reviews under the town's subdivision regulations, which prescribe separate review procedures.

B) When Required

- (1) A site plan review is required whenever another provision of this bylaw so states.
- (2) In addition, a site plan review is also required for any nonresidential use in the R-20, R-30, RA, RM, CR, RB, OPLI, I or PCVC Zoning Districts that involves any of the following:

- (a) Has at least 10,000 aggregate square feet of new construction or expansion of existing construction.
 - (b) A use that generates at least 500 vehicle trips per day, calculated in accordance with the Institute of Traffic Engineers traffic standards.
 - (c) A use that generates at least 2,000 gallons of sewer flow per day, calculated in accordance with the standards established by Title V of the State Sanitary Code.
 - (d) The direct alteration of 25 or more acres of land for new nonresidential construction (other than utility lines).
- (3) In addition, in the CBC and DCBC Districts, a site plan review is required for any new nonresidential business creating a change of use requiring a new certificate of occupancy or building permit.

C) Applications

- (1) An applicant for site plan review shall file either a Minor Site Plan Review Application (Minor Site Plan) or a Major Site Plan Review Application (Major Site Plan).
- (2) A Major Site Plan is required if, in the judgment of the Planning Board, the project has the potential for substantial effect on nearby uses. An example of a Minor Site Plan is a plan that proposes to transfer ownership of an existing restaurant or retail store with no outside changes to the building or lot. An example of a Major Site Plan is a proposal to build a structure with 10,000 aggregate square feet.
- (3) A Minor Site Plan shall include the following information:
 - (a) The applicant's name, contact information and signature.
 - (b) The property owner's name, contact information and signature.
 - (c) The current and intended uses.
 - (d) The zoning district.
 - (e) A brief narrative explanation or summary of the project including recent uses and proposed uses.
 - (f) A plan or statement describing existing and proposed exterior lighting.
 - (g) A plan or statement describing proposed ongoing waste disposal and refuse removal.
 - (h) A plan or drawing approximately to scale showing the location and dimensions of the following:
 - (i) Site boundaries.

- (ii) Existing and proposed buildings, structures, parking spaces, pedestrian walks, driveways, and natural areas.
 - (iii) Existing and proposed easements (or other use restrictions), watercourses and wetlands, if any.
- (4) A Major Site Plan shall include all the information required for a Minor Site Plan application and the following additional information.
 - (a) The name, signature and contact information of any licensed professional architect, landscape architect, registered professional engineer or registered professional land surveyor who has certified the site plan information.
 - (b) A site plan drawn to scale on one or more sheets that show the location and dimensions of the following:
 - (i) Site boundaries and natural features.
 - (ii) Topography, with elevation lines at no more than ten-foot intervals, as measured using the nearest United States Coast and Geodetic Survey bench mark [National Geodetic Vertical Datum (NGVD)].
 - (iii) Existing and proposed buildings and structures, parking spaces, pedestrian walks, driveways, internal roads, access and egress points, loading areas, external storage areas, dumpsters, service areas and natural areas.
 - (iv) Existing and proposed landscaping, including fencing, walls, planting areas, screening, surface treatments and other vegetation.
 - (v) Existing and proposed drainage and utility systems, including water and sewer, natural gas, electric, street lighting and entertainment and telecommunications systems.
 - (vi) Existing and proposed freestanding signs.
 - (vii) Existing and proposed exterior lighting, indicating height, size, design, LUX (lumens per square meter) of lit areas, and materials.
 - (viii) Existing and proposed easements (or other use restrictions), watercourses and wetlands, if any.
 - (ix) Existing and proposed open spaces, common areas, pedestrian amenities available to the public, other recreational uses and land to be left in or restored to its natural state.
 - (x) Any unusual historical considerations affecting the area.
 - (c) Facade elevations of any new construction and/or alteration to any existing building or structure.
 - (d) The existing and proposed floor area of all structures and the number of residential units proposed

- (e) The number and location of proposed parking areas, including those reserved for handicapped individuals.
- (f) Whether existing buildings will be reused.
- (g) A table indicating, for each zoning classification, the applicable required and proposed front, side and rear yard setback distances.
- (h) A description of the use, ownership and zoning of adjacent land within 200 feet of the site boundaries and the use of any buildings thereon.
- (i) Photographs of the site, identifying any existing structures to be altered and the relationships to adjacent properties.
- (j) Proposed covenants, deed restrictions or similar land use restrictions, if any.
- (k) Plans for drainage and dust and erosion control.
- (l) Where gravel or loam removal or filling is proposed, the location of extraction or filled areas and the approximate volume in cubic yards.
- (m) Whether the project affects significant visual corridors.
- (n) Where a site will generate more than 500 vehicle trips per day, a study showing projected pedestrian movement and vehicular traffic flow within the site and in relation to adjacent areas or roads and an estimation of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.
- (o) Other information that the Planning Board deems necessary in order to perform a complete analysis.

(5) Application Waivers. On request of an applicant, the Planning Board may waive some or all content required in a Site Plan application.

D) Filing Procedure, Copies

- (1) A Site Plan application shall be filed with a paper original, with seven paper copies plus an electronic copy in a commonly used format.
- (2) Before filing, an applicant for a building permit which might require a prior site plan review may discuss the application and all plans and supplemental documents with a designee of the Planning Board.
- (3) Thereafter, the applicant shall file the application and all plans and supplemental documents with the Town Clerk, who shall stamp the date and time of submission. The Town Clerk shall then forward the filing to the Planning Board or its designee.

E) Fees and Costs

(1) The Planning Board shall adopt and may amend a fee schedule sufficient to cover the routine cost of site plan reviews, including the costs associated with public input meetings. Before accepting the filing of an application for a site plan review, the Planning Board or its designee shall require the applicant to pay the fee prescribed.

(2) The Planning Board may require an additional deposit sufficient to cover any extraordinary expenses connected with review of the application, such as for consultant services, which it deems necessary for a thorough review.

F) Acceptance for Review

(1) The Planning Board or its designee shall determine whether each application complies with the requirements of this section and is sufficient for review.

(2) If the Planning Board determines that a project has the potential for substantial effect on nearby uses, and if the applicant has filed a Minor Site Plan, then the Planning Board may determine that the application is not sufficient for review. Thereafter, the applicant may file a Major Site Plan for the same project.

G) Review by Other Town Boards and Agencies

(1) When it accepts an application for site plan review as sufficient for review, the Planning Board may seek comment from some or all of the following town boards and officers:

- (a) Conservation Commission;
- (b) Board of Health;
- (c) Department of Public Works;
- (d) Board of Selectmen;
- (e) Traffic Commission;
- (f) Building Commissioner; and
- (g) Town Clerk.

(2) Whenever the Planning Board seeks comment from other town boards and officers, it shall request comment by a specified date. For a Major Site Plan, the other boards shall normally be allowed at least 35 days for comment.

(3) Any town board or officer may submit written recommendations to the Planning Board, whether or not the Planning Board has requested that comment.

(4) If an officer or board fails to provide a timely response, the Planning Board shall deem that the application is unopposed by that officer or board.

H) Public Input Meeting.

(1) The Planning Board, in its discretion, may hold a public input meeting regarding any site plan review. Any public input meeting will, as required by state law, be conducted as a public meeting and with the primary purpose of accepting comments and answering questions from the public regarding the site plan.

(2) Notice of Public Input Meeting.

(a) Required notice. The Planning Board shall give notice of any Public Input Meeting as follows:

- (i) By posting notice in a conspicuous place in the town hall.
- (ii) By posting notice on the town's internet website.

(3) Additional notice. The Planning Board, in its discretion, may give or require additional notice as follows:

- (i) Where a proposal affects a property on or near a town boundary, by mailing notice to the Planning Board of the adjacent municipality.
- (ii) By mailing written notice to other neighboring landowners.

D) Approval, Conditions, Disapproval

(1) Before approving a site plan, the Planning Board may require modifications or impose conditions and safeguards that are reasonable in relation to the interests of the town and public health, safety and welfare and for the protection of neighboring uses or otherwise serving the purposes of this chapter. Any conditions, safeguards or limitations shall be in writing and shall become a zoning requirement.

(2) Conditions may be imposed for the following purposes:

- (a) To ensure adequate parking.
- (b) To ensure adequate interior circulation and minimal conflict between vehicles and pedestrians.
- (c) To ensure safe and adequate access to and from public rights of way.
- (d) To ensure adequate access, travel and on-site movement for fire, and police equipment and other emergency services.
- (e) To ensure reasonably adequate underground electric, telephone, cable television, internet, and other communications and other such utilities.
- (f) To ensure compliance with the sign bylaw.
- (g) To provide landscaping and screening sufficient to establish buffers between incompatible land uses, including measures to reduce the visual impact of potentially unsightly uses such as storage areas, machinery, service areas, truck loading areas, dumpsters, and utility buildings.

- (h) To ensure that exterior and site lighting will be compatible with the neighborhood, will not inconvenience neighbors, and will not add unreasonably to overall light pollution in the town.
 - (i) To make adequate provisions for storage, refuse storage and removal, drainage, dust and erosion control, water supply, wastewater disposal and power supply.
 - (j) To ensure that the project is reasonably compatible with abutting properties or any special features in the area.
 - (k) To protect significant visual corridors.
 - (l) To make reasonable accommodations to any significant historical considerations affecting the area.
 - (m) If the project is in the Industrial (I), Commercial Business Corridor (CBC) or Downtown Commercial Business Corridor District (DCBC) zones, to encourage reasonable reuse of existing buildings.
- (3) Conditions may also be imposed for the following purposes when a site plan involves construction or substantial expansion of a structure:
- (a) To better match the architectural style of the proposed building(s) to the prevailing character of and scale of buildings in the neighborhood and the town.
 - (b) To make the height of any proposed alteration compatible with the style and character of the surrounding buildings.
 - (c) To make the proportions and relationships between windows and doors compatible with the architectural style and character of the surrounding area.
 - (d) To improve the compatibility of the structure to the open space between it and adjoining structures.
 - (e) To improve the compatibility of the design of the roof with the architectural style and character of the surrounding area.
 - (f) To improve the compatibility of the landscaping with the character and appearance of the surrounding area.
 - (g) To improve the compatibility of the scale of the structure with its architectural style and the character of the surrounding buildings.
 - (h) To better blend the facades with other structures in the surrounding area with regard to the dominant vertical or horizontal expression.
 - (i) To improve the compatibility of architectural details, including signs, materials, colors and textures with the original architectural style and to preserve and enhance the character of the surrounding area.

J) Written Decision

- (1) The Planning Board shall cause to be made a detailed record of its proceedings. The record of proceedings shall state the planning board's decision and the authority for and reasons for that decision. It shall also indicate the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The record shall also include written recommendations received from other town officers and boards. Copies of the record shall be filed in the office of the Town Clerk and shall be a public record.
- (2) After approving a site plan, or any extension, modification or renewal thereof, the Planning Board shall issue a written decision memorandum stating its official actions, including any conditions imposed.
- (3) A copy of decision memorandum shall be mailed to the owner (and to the applicant if other than the owner), containing the name and address of the owner, identifying the land affected, and stating that copies of the decision and all plans referred to in the decision have been filed with the Town Clerk. Copies of the decision shall also be mailed to every person who was present at the public input meeting and who requested that notice be sent to him or her and who provided a mailing address. A copy shall also be filed in the town's records of land use decisions.

K) Time Limits for Town Actions

- (1) Once accepted for review by the Planning Board, an application for site plan review shall be deemed approved without condition if the Planning Board has neither scheduled a public input meeting nor taken final action within 90 days of the original filing with the Town Clerk.
- (2) Time limits for Planning Board actions may be extended with written or verbal recorded consent of the applicant.

L) Post-Decision Events

- (1) Site plan approval shall lapse two years following the issuance of the associated building permit if a substantial use or construction has not occurred.
- (2) A Site Plan that is disapproved may be revised and resubmitted without prejudice.
- (3) Any approved site plan may be revised by following the same procedure as required for original approval. Nevertheless, the Planning Board may accept minor revisions to an approved site plan without collecting fees, notifying other boards or officers or conducting a public input meeting.

§ 13.4 SPECIAL PERMITS

A) Purpose and Scope

- (1) Special permit review provides detailed oversight of uses and structures which have the potential for substantial impact on the town or are likely to create conflicts with surrounding uses. Special permits are also required for other land regulation purposes, such as construction in flood hazard areas and expansion of nonconforming uses.
- (2) Special permit review aims to protect the natural, environmental, scenic and aesthetic qualities of the town and the health, safety and general welfare of its residents. The review assesses the impacts on abutting and nearby properties, and also on traffic, town services and the general environment.
- (3) This section describes procedures used by the “special permit granting authority” in reviewing special permit applications. Depending on the case, that may be the Planning Board, the Zoning Board of Appeals or the Board of Selectmen.

B) Applications. An applicant for a special permit shall file an application that includes:

- (1) All the information required for a Major Site Plan Review application under section 13.3. Nevertheless, the Planning Board may waive one or more of those requirements and accept a site plan for review if, considering the scale and impact of the project, meeting the requirement would be unduly burdensome.
- (2) A statement describing any conditions, easements or limitations which the applicant is willing to accept to mitigate possibly harmful impacts on the neighborhood or town.
- (3) A narrative statement explaining facts which the applicant believes can assist the special permit granting authority in making the findings required below to approve the special permit.
- (4) Application Waivers. On request, the special permit granting authority may waive some or all content required in a Special Permit application.

C) Filing Procedure, Copies

- (1) A Special Permit application shall be filed with a paper original, seven paper copies, and an electronic copy in a commonly used format.
- (2) Before filing, an applicant may discuss the application and all plans and supplemental documents with a designee of the Planning Board.
- (3) Thereafter, the applicant shall file the application, including all plans and supplemental documents, with the Town Clerk, who shall stamp the date and time. The Town Clerk shall then forward the site plan portion of the filing to the Planning

Board or its designee and the remainder of the filing to the special permit granting authority or its designee.

(4) If a project requires two or more special permits from different boards, on request of the applicant, the boards may hear the project in a joint hearing, collect a single fee, and provide a single notice to the public.

D) Fees and Costs

(1) The Planning Board shall adopt (and from time to time amend) a fee schedule sufficient to cover the routine cost of special permit reviews, including the costs associated with public hearings. Before accepting the filing of an application for a special permit, the special permit granting authority or its designee shall require the applicant to pay the fee prescribed.

(2) The special permit granting authority may require an additional deposit sufficient to cover any extraordinary expenses connected with review of the application, such as for consultant services, which it deems necessary for a thorough review.

(3) On request, the special permit granting authority may waive some or all fees and costs in cases of demonstrated hardship or in cases where an applicant makes a minor revision to a special permit within one year of its effective date.

E) Acceptance for Review. The special permit granting authority (or its designee) shall determine whether each application complies with all appropriate requirements of this section and is sufficient for review. An application that is not sufficient for review shall be deemed rejected, without prejudice to refileing.

F) Review by Other Town Boards and Agencies

(1) When it accepts a Special Permit application as sufficient for review, the special permit granting authority may seek comment from some or all the following town boards and officers:

- (a) Conservation Commission;
- (b) Board of Health;
- (c) Department of Public Works
- (d) Board of Selectmen;
- (e) Traffic Commission;
- (f) Building Commissioner;
- (g) Town Clerk;
- (h) School Committee; and

(i) Planning Board.

(2) Whenever the special permit granting authority seeks comment from other town boards and officers, it shall request comment by a specified date, which shall normally be at least 35 days hence.

(3) Any town board or officer may submit written recommendations to the special permit granting authority that it deems appropriate, whether or not the special permit granting authority has requested that comment.

(4) If an officer or board fails to provide a timely response, the special permit granting authority may deem that the application is unopposed by that officer or board.

G) Coordination with Site Plan Review

(1) When the special permit granting authority is the Planning Board, that board shall conduct a consolidated proceeding to decide both the site plan review and the special permit.

(2) When the special permit granting authority is the Zoning Board of Appeals or the Selectmen, the Planning Board shall conduct an advisory site plan review. The special permit granting authority shall give the Planning Board at least 30 days to conduct that review before granting or denying the special permit. Thereafter, the special permit granting authority may approve, approve with conditions or disapprove the special permit.

H) Public Hearing

(1) The special permit granting authority shall hold a public hearing on each special permit application that has been found sufficient for review.

(2) The special permit granting authority shall give notice of the public hearing as follows:

(a) By posting notice in a conspicuous place in the Town Hall for at least 14 days in advance.

(b) By posting on the town's internet website.

(c) By publication in a newspaper of general circulation in the town once in each of two successive weeks, the first time at least fourteen days in advance.

(d) By first class mail to all parties in interest as defined in state law.

(3) Additional notice. The special permit granting authority, in its discretion, may give additional notice by mailing written notice to other neighboring landowners.

I) **Mandatory Findings.** Before granting a special permit, with or without conditions, the special permit granting authority shall find that the proposed structure or use satisfies all of the following standards:

- (1) The structure and/or use is in compliance with all provisions and requirements of this chapter and in harmony with its general intent and purpose.
- (2) The structure and/or use is essential or desirable to the public convenience or welfare at the proposed location.
- (3) The structure and/or use will not be detrimental to adjacent uses or to the established or future character of the neighborhood.
- (4) There will not be undue traffic congestion or undue impairment to pedestrian safety.
- (5) The structure and/or use will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting public health, safety or general welfare.

J) **Approval, Conditions, Disapproval**

- (1) Before approving a special permit, the special permit granting authority may impose conditions and safeguards.
- (2) Any conditions shall be reasonable in relation to the interests of the town and public health, safety and welfare, for the protection of neighboring uses or otherwise serving the purposes of this chapter. Any conditions, safeguards or limitations shall be in writing and shall be made part of the special permit. The special permit granting authority may impose the following conditions, safeguards or limitations:
 - (a) Conditions recommended by the Planning Board after consideration of the site plan.
 - (b) Front, side and rear yards greater than the minimum required by this chapter and screening buffers or planting strips, fences or walls as specified by the special permit granting authority.
 - (c) Limitations upon the dimensions of buildings, lot coverage, method and time of operation, time duration of the permit or extent of facilities.
 - (d) Regulation of the number and location of driveways or other traffic features and off-street parking or loading or other special features beyond the minimum required by this chapter.

K) **Voting Requirements**

- (1) **Supermajority.** Approval of a special permit, with or without conditions, requires a vote of at least four members of any five-member board and a unanimous

vote of any three-member board. Where a motion to grant a special permit fails to obtain the required majority, the special permit is denied.

(2) **Associate Members.** The Board of Selectmen may appoint an associate member of the Planning Board. The associate member may participate in all meetings of the Planning Board. The associate member may vote only on questions regarding a special permit and only when the board has either a vacancy, an absent regular member, or a regular member disqualified due to conflict of interest.

L) Written Decision

(1) **Record.** The special permit granting authority shall cause to be made a detailed record of its proceedings. The record of proceedings shall state the special permit granting authority's decision and the authority and reasons for that decision. It shall also indicate the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The record shall also include written recommendations received from other town officers and boards, including any recommended decision from the Planning Board after a site plan review.

(2) **Written Decision.** After granting a special permit, or any extension, modification or renewal thereof, the special permit granting authority shall issue a written decision memorandum stating its official actions, including any conditions imposed. The decision memorandum shall also specify which appeals, if any, may be made under state law and this bylaw.

(3) **Mailing and Copies.** A copy of the record shall be filed within fourteen days in the office of the Town Clerk. A certified copy of the decision memorandum shall be mailed to the owner (and to the applicant if other than the owner), containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of that special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and the Town Clerk. Copies shall also be mailed to other parties in interest. Copies of the decision shall also be mailed to every person who was present at the public hearing and who requested that notice be sent to him or her and who provided a mailing address. A copy shall also be filed in the town's records of land use decisions.

M) Recording. A special permit shall not take effect until a copy of the decision by the special permit granting authority, to which is attached a certification of the Town Clerk that no appeal has been filed, is recorded by the applicant in the Registry of Deeds.

N) Time Limits for Town Actions

(1) Public hearings on special permit applications shall be held within 65 days of the original filing of the application with the Town Clerk.

(2) An application for special permit shall be deemed approved without condition if the special permit granting authority has not taken final action within 90 days of concluding the public hearing.

(3) In accord with state law, time limits for board actions prescribed in this section may be extended by written agreement between the applicant and the special permit granting authority.

O) Post-Decision Events

(1) Special permits shall lapse two years following the issuance of the special permit if a substantial use or construction has not begun.

(2) A special permit application that has been unfavorably and finally acted upon by the special permit granting authority shall not be resubmitted within the following two years unless:

(a) After notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

(b) The special permit granting authority finds, by the same majority required to have granted the special permit, that specific and material changes have occurred to the conditions leading to the previous unfavorable action, and so describes those changes in the record of its proceedings, and

(c) All but one of the members of the planning board consents.

(3) A special permit may be revised by following the same procedure as required for original approval. Nevertheless, the special permit granting authority may accept minor revisions to any special permit without public hearing.

Question 9: Shall the town amend zoning bylaw Section 16.3 as follows, correcting a typographical error made previously?

§ 16.3 OVERLAY DISTRICT

A) **Establishment.** The Smart Growth Overlay District, hereinafter referred to as the “SGOD,” is an overlay district having a land area of approximately 9.9 acres in size that is superimposed over the underlying zoning district (s) and consists of land shown in the 2017 Town of Lee Assessor’s map 12A, Parcel 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72 and shown on the Zoning Map as set forth on the map entitled “Smart Growth Overlay District”, dated September 13, 2017, and on file in the Town Clerk.

Question 10: Shall the town amend the zoning bylaw, Appendix A, Table 2, as follows, relating to dimensional requirements for multifamily housing in the CBC Zone?

Table of Dimensional Requirements for Multiple Dwellings - Table 2 of 2

Zoning District	Area:	Maximum Number of Dwelling Units (per acre)	Additional Square Feet per Dwelling Unit	Minimum Frontage (feet)	Minimum Yard Dimensions			Maximum Lot Coverage
					Front (feet)	Side (feet)	Rear (feet)	

Commercial Business Corridor (CBC)	<u>8,000 sq.ft</u>	<u>NR</u>	<u>NR</u>	<u>60</u>	<u>25⁴</u>	<u>10</u>	<u>20</u>	<u>35%</u>

NOTES TO TABLE 2:

* * * *

4. A landscaped buffer strip, continuous except for approved driveways, shall be established adjacent to any public road. A coordinated landscape design for the entire project shall be reviewed by the Planning Board and incorporated into site plan review and approval.

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Question 199-001

Chapter 199 Zoning

Nomenclature. This chapter references both the "Building Inspector" and the "Building Commissioner." Are these in fact different positions with difference responsibilities for the purposes of this chapter or should the same title be used throughout?

To find all instances of the terms, simply enter the title in quotes (e.g., "building inspector") in the Search box on eCode360.

Pick one option from list below

- ☒ Change "Building Inspector" to "Building Commissioner" throughout chapter.
- ☐ Change "Building Commissioner" to "Building Inspector" throughout chapter.
- ☐ Revise as follows:

- ☐ Do not revise.

Question 199-002

Chapter 199 Zoning

Table of Dimensional Requirements. Should the Smart Growth Overlay District (SGOD) – Subchapter 16 of this chapter – be referenced in this table? A new entry could be added to Tables 1 and 2 identifying the SGOD, with "See Subchapter 16" directing readers to the appropriate requirements.

Pick one option from list below

- ☐ Revise as suggested.
- ☐ Revise as follows:

- ☒ Do not revise.

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Question 199-003

Chapter 199 Zoning

Subchapter 1 Introduction and Authority

§ 199-1.1 Title.

Code Content:

[§ 199-1.1] This chapter shall be known as the "Zoning Bylaw of the Town of Lee, Massachusetts," hereinafter referred to as "this chapter."

There are instances throughout this chapter where this chapter, or a section thereof, is referred to as "the bylaw". For the sake of consistency, the Town may wish to change these references to "this section" or "this chapter," as appropriate.

See, for example, § 199-3.1B(1), regarding the AROD: *Private buildings, municipal buildings or public or private school buildings as defined in Subsection B(1)(a) and and (b) below and located in any zoning district is eligible for conversion to those uses listed in § 199-3.1D of this [bylaw] chapter, but only if it meets all of the following tests: . . .*

See also § 199-3.1C(1): *The AROD is superimposed over rather than replacing the underlying zoning districts. The regulations of this overlay district shall govern all reconstruction or expansion of privately owned buildings, municipal buildings and public and private school buildings as defined in § 199-3.1B above. Provisions of § 199-3.1 shall supersede those of Subchapter 4, Use Regulations, and Subchapter 5, Intensity Regulations, in [the Bylaw] this chapter. On all other matters, the provisions of the underlying districts shall continue.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-004

Chapter 199 Zoning

Subchapter 1 Introduction and Authority

§ 199-1.3 Purpose.

The organization of this section could be revised to:

- Make current Subsection A a lead-in paragraph to the remaining content; and
- Redesignate current Subsections B through F as Subsections A through E.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-005

Chapter 199 Zoning

Subchapter 1 Introduction and Authority

§ 199-1.3 Purpose.

Code Content:

[§ 199-1.3E(4)] The objectives of the Comprehensive Plan of the Berkshire County Regional Planning Commission.

It appears that the correct title of the commission highlighted above is: *Berkshire [County] Regional Planning Commission.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-006

Chapter 199 Zoning

Subchapter 2 Establishment of Districts

§ 199-2.1 Types of districts.

Code Content:

[§ 199-2.1A(3)] Residential-Agricultural District (RA-40).

This subsection identifies the "RA-40" District, while the Zoning Map attached to this chapter identifies the "RA" District. Which designation is correct?

Pick one option from list below

☒ Change "RA-40" to "RA" throughout the Zoning Bylaw.

☐ Revise as follows:

☐ Do not revise.

Question 199-007

Chapter 199 Zoning

Subchapter 2 Establishment of Districts

§ 199-2.2 Types of overlay districts.

This section could be revised to add a new Subsection C:

C. Smart Growth (SGOD).

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-008

Chapter 199 Zoning

Subchapter 2 Establishment of Districts

§ 199-2.3 Purpose of districts.

This section could be revised to:

1. List the districts in the order in which they appear in the list of districts in § 199-2.1 above.
2. Add a lead-in statement, such as the following: *The purpose of the districts noted below shall be as follows: . . .*
3. Add purpose statements for the residential districts and the remaining business districts.

Pick one option from list below

☒ Revise as follows:

2. Add a lead-in statement, such as the following: The purpose of the districts noted below shall be as follows: . . .

☐ Do not revise.

Question 199-009

Chapter 199 Zoning

Subchapter 2 Establishment of Districts

§ 199-2.3 Purpose of districts.

Code Content:

[§ 199-2.3E] DCBC.

In terms of organization, we would suggest that a new Subsection (2) be added to this section, beginning with the word "Additionally." (This organization would match that found in Subsection D for the CBC District.)

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-010

Chapter 199 Zoning

Subchapter 2 Establishment of Districts

§ 199-2.4 Location of districts: Zoning Map.

The Zoning Map attached to this chapter has an "October 28, 2011" date on it. This section could be revised in one of the following ways:

(1) *The location and boundaries of these districts are hereby established as shown on a map entitled "Zoning Map of Lee, Massachusetts" dated [~~April 16, 1974, and revised February 28, 1984, and revised May 27, 1992, and revised July 14, 1994, and revised February 9, 1995, and revised May 11, 1995, and revised November 22, 2004, and revised May 12, 2005, and revised May 8, 2006,~~] **October 28, 2011,** bearing the signature of the members of the Planning Board and on file in the office of the Town Clerk, which map, with all explanatory matter thereon, is hereby made a part of this chapter.*

(2) *The location and boundaries of these districts are hereby established as shown on [a] **the current** map entitled "Zoning Map of Lee, Massachusetts", **as amended,** [~~dated April 16, 1974, and revised February 28, 1984, and revised May 27, 1992, and revised July 14, 1994, and revised February 9, 1995, and revised May 11, 1995, and revised November 22, 2004, and revised May 12, 2005, and revised May 8, 2006,~~] bearing the signature of the members of the Planning Board and on file in the office of the Town Clerk, which map, with all explanatory matter thereon, is hereby made a part of this chapter.*

Pick one option from list below

☒ Revise as suggested in (1) above.

☐ Revise as suggested in (2) above.

☐ Revise as follows:

☐ Do not revise.

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Question 199-011

Chapter 199 Zoning

Subchapter 2 Establishment of Districts

§ 199-2.4 Location of districts: Zoning Map.

Code Content:

[§ 199-2.4A] *Where a street constitutes a zone boundary, the center line of that street is the boundary.*

This Subsection A sets forth an interpretation of zoning district boundaries. We frequently see more detailed interpretations. See, for example, the following samples from other Massachusetts towns:

- Town of Dalton § 350-8
- Town of Weymouth § 120-10

Pick one option from list below

☐ Revise as follows:

Town of Weymouth 120-10. Hold for discussion.

☐ Do not revise.

Question 199-012

Chapter 199 Zoning

Subchapter 2 Establishment of Districts

§ 199-2.4 Location of districts: Zoning Map.

Code Content:

[§ 199-2.4B] *The floodplain shall be considered as overlying other districts. See § 199-3.2.*

The Town also has two other overlay districts, the Adaptive Reuse Overlay District (AROD) and the Smart Growth Overlay District (SGOD). Should these districts also be included in this Subsection B? It could be revised in one of the following ways:

(1) *The floodplain, adaptive reuse and smart growth districts shall be considered as overlying other districts. See §§ 199-3.1, 199-3.2 and Subchapter 16.*

(2) *The [floodplain] overlay districts identified in § 199-2.2 shall be considered as overlying other districts. See §§ 199-3.1, 199-3.2 and Subchapter 16.*

Pick one option from list below

☐ Revise as suggested in (1) above.

☐ Revise as suggested in (2) above.

☒ Revise as follows:

Repeal 2.4 B and assign A. to first paragraph and assign B to A.

☐ Do not revise.

Question 199-013

Chapter 199 Zoning

Subchapter 3 Special Overlay Districts

§ 199-3.1 Adaptive Reuse Overlay District (AROD).

Code Content:

[§ 199-3.1B(1)] Private buildings, municipal buildings or public or private school buildings as defined in Subsection B(1)(a) and (b) below and located in any zoning district is eligible for conversion to those uses listed in § 199-3.1D of this bylaw, but only if it meets all of the following tests:

Grammatical errors in this subsection could be corrected as follows:

*(1) Private buildings, municipal buildings or public or private school buildings as defined in Subsection B(1)(a) and (b) below and located in any zoning district [~~is~~] **are** eligible for conversion to those uses listed in § 199-3.1D of this bylaw, but only if [~~it meets~~] **they meet** all of the following tests:*

*(a) [~~It was~~] **They were** used for not less than 15 years.*

*(b) [~~It contains~~] **They contain** not less than 10,000 square feet in total gross floor area.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-014

Chapter 199 Zoning

Subchapter 3 Special Overlay Districts

§ 199-3.1 Adaptive Reuse Overlay District (AROD).

Code Content:

[§ 199-3.1C(1)] The AROD is superimposed over rather than replacing the underlying zoning districts. The regulations of this overlay district shall govern all reconstruction or expansion of privately owned buildings, municipal buildings and public and private school buildings as defined in § 199-3.1B above. Provisions of § 199-3.1 shall supersede those of Subchapter 4, Use Regulations and Subchapter 5, Intensity Regulations in the Bylaw. On all other matters, the provisions of the underlying districts shall continue.

This Subsection C(1) references "privately owned buildings" while the preceding subsections reference "private buildings." For the sake of consistency, should this subsection be revised to change "privately owned buildings" to "private buildings"?

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

Privately Owned Buildings when mentioned.

☐ Do not revise.

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Question 199-015

Chapter 199 Zoning

Subchapter 3 Special Overlay Districts

§ 199-3.1 Adaptive Reuse Overlay District (AROD).

Code Content:

[§ 199-3.1D(1)] Uses allowed by right. Any uses permitted by right in the underlying zoning district in which this structure is located shall be permitted by right.

For the sake of clarity, "this structure" could be changed to "the structure" as follows:

(1) Uses allowed by right. Any uses permitted by right in the underlying zoning district in which ~~[this]~~ the structure is located shall be permitted by right.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-016

Chapter 199 Zoning

Subchapter 3 Special Overlay Districts

§ 199-3.1 Adaptive Reuse Overlay District (AROD).

Code Content:

[§ 199-3.1D(3)] Multiple or mixed uses. Any combination of uses allowed by right in § 199-3.1D and uses allowed by special permit in § 199-3.1D may be allowed provided they are compatible with each other and maintain the public health, safety and welfare of the community.

The citations in this subsection could be made more specific as follows:

(3) Multiple or mixed uses. Any combination of uses allowed by right in § 199-3.1D(1) and uses allowed by special permit in § 199-3.1D(2) may be allowed, provided they are compatible with each other and maintain the public health, safety and welfare of the community.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-017

Chapter 199 Zoning

Subchapter 3 Special Overlay Districts

§ 199-3.1 Adaptive Reuse Overlay District (AROD).

Code Content:

[§ 199-3.1E(2)] Off-street parking spaces and loading and unloading spaces shall conform to the provisions of Subchapter 8. The SPGA may grant waivers if existing parking does not meet current parking requirements and additional space would be a detriment to compatibility of neighborhood character.

There may be text missing from this subsection, which could be revised as follows:

(2) Off-street parking spaces and loading and unloading spaces shall conform to the provisions of Subchapter 8. The SPGA may grant waivers if existing parking does not meet current parking requirements and additional space would be a detriment to the compatibility of the use with neighborhood character.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-018

Chapter 199 Zoning

Subchapter 3 Special Overlay Districts

§ 199-3.2 Floodplain District.

It appears that this section supersedes Chapter 108, Floodplain Management, of the Town Code.

Pick one option from list below

☐ Delete Chapter 108, Floodplain Management.

☐ Revise as follows:

☒ Do not revise.

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Question 199-019

Chapter 199 Zoning

Subchapter 3 Special Overlay Districts

§ 199-3.2 Floodplain District.

Code Content:

[§ 199-3.2C] Use regulations. The Floodplain District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or special permit, must be in compliance with MGL c. 131, § 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplain (currently Section 744).

The State Building Code reference highlighted above is no longer accurate.

Pick one option from list below

☒ Delete parenthetical phrase highlighted above: [~~currently Section 744~~]

☐ Revise as follows:

☐ Do not revise.

Question 199-020

Chapter 199 Zoning

Subchapter 4 Use Regulations

§ 199-4.2 List of Permitted Uses.

Code Content:

[§ 199-4.2A(1)(e)[2]] Use of premises or building thereon in connection with his or her trade by a resident carpenter, electrician, painter, plumber or other artisan, provided that no manufacturing or business requiring two or more employees on the premises, in compliance with off-street parking and all other applicable provisions of this chapter, and provided that all storage of materials, supplies and equipment shall be kept within the principal building or within a suitable accessory building and that no undue burden shall be placed on the neighborhood by parking on the street or an excess of traffic or other noises.

For the sake of clarity, this subsection could be revised as follows:

*[2] Use of premises or building thereon in connection with his or her trade by a resident carpenter, electrician, painter, plumber or other artisan, provided that no manufacturing or business ~~[requiring]~~ **requires** two or more employees on the premises, **the use is** in compliance with off-street parking and all other applicable provisions of this chapter, and provided that all storage of materials, supplies and equipment shall be kept within the principal building or within a suitable accessory building and that no undue burden shall be placed on the neighborhood by parking on the street or an excess of traffic or other noises.*

See also the same text in Subsections B(1)(e)[2], C(1)(e)[2], D(1)(e)[2], E(1)(e)[2], F(1)(e)[2], G(1)(e)[2], H(1)(2)(e)[2].

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

accept the edits, please break into paragraphs.

☐ Do not revise.

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Question 199-021

Chapter 199 Zoning Subchapter 4 Use Regulations § 199-4.2 List of Permitted Uses.

Code Content:

[§ 199-4.2G(5)(e)] *Automobile dealer and service station.*

This subsection refers to an "automobile dealer" while § 199-4.2E(1)(k) [also in Subsection F(1)(j)] references an "automobile salesroom or lot." Do these phrases refer to the same use? If so, should the same term be used in all instances?

Pick one option from list below

☐ Change "automobile dealer" to "automobile salesroom or lot."

☒ Revise as follows:

1. Change "automobile salesroom or lot" to "automobile dealer" in §199-4.2E(1)(k) (RB district).
2. Repeal § 199-4.2G(5)(h) (CBC district).

☐ Do not revise.

Question 199-022

Chapter 199 Zoning Subchapter 4 Use Regulations § 199-4.2 List of Permitted Uses.

Code Content:

[§ 199-4.2J(2)(a)[5]] *Telecommunication (subject to provisions of the telecommunications bylaws).*

This subsection references the "telecommunications bylaw." Does the Town have such a bylaw that should be included in the Code? Is this a reference to § 199-9.7, Wireless communications, in this chapter?

Pick one option from list below

☒ Revise as follows:

Delete parenthetical text

☐ Do not revise.

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Question 199-023

Chapter 199 Zoning

Subchapter 4 Use Regulations

§ 199-4.2 List of Permitted Uses.

Code Content:

[§ 199-4.2J(3)(a)] Outside storage of materials not used in the manufacturing process may be allowed by special permit of the Planning Board.

Based on the lead-in to this subsection, this Subsection (3)(a) could be revised as follows:

(3) Uses requiring a special permit from the Planning Board in accordance with § 199-13.4 of this chapter, and in compliance with all other applicable provisions of this chapter, shall be as follows:

(a) Outside storage of materials not used in the manufacturing process [~~may be allowed by special permit of the Planning Board~~].

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-024

Chapter 199 Zoning Subchapter 4 Use Regulations § 199-4.3 Prohibited uses.

Code Content:

[§ 199-4.3A] The following uses are specifically prohibited:

For the sake of clarity, this Subsection A could be revised as follows: *The following uses are specifically prohibited **in all districts**: . . .*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-025

Chapter 199 Zoning Subchapter 5 Intensity Regulations § 199-5.1 Dimensional requirements.

Code Content:

[§ 199-5.1A(5)] No lot minimum will be given for nonresidential buildings in Business and Downtown Commercial Business Corridor Districts. However, these dimensions will be left up to the administrators of this chapter after consultation with the parties concerned. The type of business and the inclusion of adequate parking facilities, etc., would be an important factor in this decision in each individual case.

Is the sentence highlighted above correct? The Table of Dimensional Requirements included as an attachment to this chapter appears to include lot minimums.

Pick one option from list below

☒ Revise as follows:

The lot minima in DCBC and CBC are 8,000 square feet, which is 80 by 100. Suggest:
1) delete whole paragraph above as unworkably vague.
2) reduce minimum lot size in DCBC to 2,000 square feet (50 x 40).

☐ Do not revise.

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Question 199-026

Chapter 199 Zoning

Subchapter 6 Nonconforming Structures, Uses and Lots

§ 199-6.1 General provisions.

This section could be revised so that the subsections appear as separate sections within this Subchapter 6:

§ 199-6.1. Exemptions.

§ 199-6.2. Requirements for extension, reconstruction or change in use.

§ 199-6.3. Reconstruction of structure damaged by fire, explosion or other catastrophe.

§ 199-6.4. Maintenance, repair and reconstruction of unsafe structures.

§ 199-6.5. Abandonment.

§ 199-6.6. Conditions, safeguards and limitations.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-027

Chapter 199 Zoning

Subchapter 6 Nonconforming Structures, Uses and Lots

§ 199-6.1 General provisions.

Code Content:

[§ 199-6.1A] Exemptions. Exemptions shall be as follows:

For the sake of clarity, the lead-in statement to this section could be revised as follows:

*A. Exemption. [~~Exemptions shall be as follows:~~] **The nonconforming structure and use provisions of this section shall not apply to the following:** . . .*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-028

Chapter 199 Zoning

Subchapter 7 Signs

In general, this subchapter should be reviewed in light of the 2015 United States Supreme Court case, *Reid v. Town of Gilbert* (135 S.Ct. 2887). This case subjects any municipal sign regulations to strict scrutiny. Any regulations that could be considered to be content-based are constitutionally suspect. Those that regulate signs by type or location will likely survive a constitutional challenge.

In the Town's case, regulations regarding some of the specific signs in § 199-7.7 could be considered to be content-based and therefore subject to challenge. Your Town Attorney should be consulted in this regard.

Pick one option from list below

☒ Town Comment (if any):

Ask for advice from town attorney.

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Question 199-029

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.3 Definitions.

Code Content:

LANDMARK SIGN *A sign of artistic or historic merit, uniqueness or extraordinary significance to the Town as identified by the local Historic Commission, or the Board of Selectmen in its absence.*

Since it appears that the Town has an Historical Commission, this definition could be revised as follows:

*LANDMARK SIGN - A sign of artistic or historic merit, uniqueness or extraordinary significance to the Town as identified by the [~~local Historic Commission, or the Board of Selectmen in its absence~~] **Historical Commission**.*

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

change "local Historic" to "Historical."

☐ Do not revise.

Question 199-030

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.3 Definitions.

Code Content:

[NONCONFORMING SIGN] *Any sign that lawfully exists but does not conform to this section at the time of adoption.*

To account for signs made nonconforming by amendments to this subchapter, this definition could be revised as follows:

*NONCONFORMING SIGN - Any sign that lawfully exists but does not conform to this ~~[section]~~ **Subchapter 7** at the time of its adoption or adoption of any amendment thereto.*

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

"NONCONFORMING SIGN - Any sign that was lawful when placed or mounted but does not later conform to Subchapter 7, as amended."

☐ Do not revise.

Question 199-031

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.3 Definitions.

Code Content:

[OFF-PREMISES SIGN] *Any sign which is not on the premises of the business, including a billboard.*

For purposes of clarity, this definition could be revised as follows:

OFF-PREMISES SIGN - Any sign which is not on the premises of the business to which it relates, including a billboard.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-032

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.3 Definitions.

Code Content:

WALL SIGN Any sign which is painted on, incorporated into or affixed parallel to the wall of a building and which extends not more than 10 inches from the surface of the building. A parapet or a dormer sign shall be considered a wall sign.

This Subchapter 7 appears to use "wall sign" and "building sign" interchangeably, and in one instance this chapter refers to a "building wall sign" (see § 199-16.13D(7)(l)[2]). For the sake of clarity, then, the Town may wish to revise this defined term to change WALL SIGN to WALL **OR BUILDING** SIGN.

To find all instances of these terms, simply enter "wall sign" or "building sign" (with quotes) in the Search box on eCode360.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-033

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.4 General regulations.

Section 199-10.2D includes operating center sign provisions for the Planned Commercial Village Center District. Should those additional sign regulations be referenced in this section or elsewhere in this Subchapter 7? If so, how?

See also the PCVC sign regulations in § 199-10.2E.

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

Question 199-034

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.4 General regulations.

Code Content:

[§ 199-7.4A] Signs permitted by right. The following signs are allowed without a permit if they conform to § 199-7.7, General standards.

This Subsection A could be revised to add "Open" flags per § 199-7.7P, which states that such flags are permitted without a permit.

Pick one option from list below

☐ Revise as suggested.

☒ Revise as follows:

(9) "Open" flags, subject to Section 7.7(P) below.

☐ Do not revise.

Question 199-035

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.4 General regulations.

Code Content:

[§ 199-7.4C(2)] Flashing signs, roof signs, signs containing moving parts, any noisemaking sign or device and signs containing reflective elements which sparkle in the sunlight are not permitted. Signs indicating the current time and/or temperature are permitted, provided that they meet all other provisions of this section.

[§ 199-7.4C(14)] Roof signs are not permitted.

Roof signs are prohibited by both Subsections (2) and (14) of this Subsection C. To eliminate this redundancy the Town could:

(1) Revise Subsection C(2) to delete "roof signs"; or

(2) Delete Subsection C(14).

Pick one option from list below

☒ Revise as suggested in (1) above.

☐ Revise as suggested in (2) above.

☐ Revise as follows:

☐ Do not revise.

Question 199-036

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.4 General regulations.

Code Content:

[§ 199-7.4C(3)] *Billboards, streamers, pennants, ribbons, banners, spinners or other similar devices shall not be constructed, posted or erected in any zone. Exceptions include grand openings, special events and charitable or civic events with the granting of a temporary permit by the Board of Selectmen for 10 days' duration or less. Decorations for state and national holidays are exempt from requiring a temporary sign permit so long as they are not deemed to be a public nuisance or hazard by the Building Commissioner.*

[§ 199-7.4C(6)] *No billboard shall be permitted in any district in the Town of Lee.*

Billboards are prohibited by both Subsections (3) and (6) of this Subsection C. Rather than duplicating the prohibition the Town could:

(1) Revise Subsection C(3) to delete "Billboards"; or

(2) Delete Subsection C(6).

Pick one option from list below

☒ Revise as suggested in (1) above.

☐ Revise as suggested in (2) above.

☐ Revise as follows:

☐ Do not revise.

Question 199-037

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.6 Administration and enforcement.

Code Content:

[§ 199-7.6A] No sign shall be erected, displayed, altered or enlarged until an application has been filed and a permit for such action has been issued. Applications shall be on forms prescribed by the Building Commissioner. At a minimum, all applications shall include the applicant's signature, a scale drawing specifying dimensions, materials, illumination, letter sizes, colors, support systems and location on land or buildings, with all relevant measurements.

For the sake of clarity, this Subsection A could be revised as follows:

*A. No sign shall be erected, displayed, altered or enlarged until an application has been filed and a permit for such action has been issued. Applications shall be on forms prescribed by the Building Commissioner. At a minimum, all applications shall include the applicant's signature, a scale drawing specifying **the proposed sign's** dimensions, materials, illumination, letter sizes, colors, support systems and location on land or buildings, with all relevant measurements.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-038

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.6 Administration and enforcement.

Code Content:

[§ 199-7.6D(1)] The Board of Selectmen shall designate a Building Commissioner, and that Building Commissioner is hereby authorized to enforce this Subchapter 7. The Building Commissioner is authorized to order the repair or removal of any sign and supporting structure which is erected or maintained contrary to these regulations. Whenever a Building Commissioner is designated, that person or board should notify the State Outdoor Advertising Board.

Since the Town has designated the Building Commissioner as the enforcement authority for this chapter (see § 199-13.1), this Subsection D(1) could be revised as follows:

(1) The ~~[Board of Selectmen shall designate a Building Commissioner, and that]~~ Building Commissioner is hereby authorized to enforce this Subchapter 7. The Building Commissioner is authorized to order the repair or removal of any sign and supporting structure which is erected or maintained contrary to these regulations. ~~[Whenever a Building Commissioner is designated, that person or board should notify the State Outdoor Advertising Board.]~~

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-039

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.6 Administration and enforcement.

Code Content:

[§ 199-7.6G] Penalties.

Are the penalties in this Subsection G necessary in light of the general chapter penalties in § 199-13.1D?

Note that if this Subsection G is retained, the noncriminal disposition procedures in MGL c. 40, § 21D require a specific penalty to be imposed. The "not to exceed" amount in Subsection G(1) does not comply with this requirement.

Pick one option from list below

- ☒ Delete Subsection G.
- ☐ Replace Subsection G with the following: *Penalties. Whoever violates any of the provisions of this Subchapter 7 shall be subject to penalties as set forth in § 199-13.1 of this chapter.*
- ☐ Retain Subsection G but revise Subsection G(1) to change "fine not to exceed \$300" to "fine of \$300."
- ☐ Revise as follows:

- ☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-040

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.7 General standards.

Code Content:

[§ 199-7.7A] Accessory sign. Any accessory sign is allowed with a permit. The sign shall be mounted on the same post or pylon as a freestanding sign and display a message that is standard to the industry, such as (but not limited to) vacancy/no vacancy, open/closed, dinner being served, credit card, AAA. The total area of all accessory signs associated with any freestanding sign shall not exceed six square feet. A permit granted for an accessory sign may include conditions necessary to maintain safety. When application for an accessory sign is made in conjunction with a freestanding sign, no additional fees shall be charged for the accessory sign.

This Subsection A duplicates some of the provisions found in the definition of "accessory sign" in § 199-7.3. To avoid duplication, this subsection could be revised as follows:

*A. Accessory sign. Any accessory sign, **as defined in § 199-7.3**, is allowed with a permit. ~~[The sign shall be mounted on the same post or pylon as a freestanding sign and display a message that is standard to the industry, such as (but not limited to) vacancy/no vacancy, open/closed, dinner being served, credit card, AAA.]~~ The total area of all accessory signs associated with any freestanding sign shall not exceed six square feet. A permit granted for an accessory sign may include conditions necessary to maintain safety. When application for an accessory sign is made in conjunction with a freestanding sign, no additional fees shall be charged for the accessory sign.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-041

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.7 General standards.

Code Content:

[§ 199-7.7C] Gas stations - canopy signs. In addition to building signs and freestanding signs, a gas station may have a canopy sign on a gas station canopy, with a permit. Canopy signs shall not exceed 20 square feet per side and may be located on not more than two sides of the canopy. If a canopy is used as a price pod location, 10 square feet may be used for the logo.

To be consistent with the term defined in § 199-7.3, this Subsection C could be revised to change "price pod" to "pricing pod."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-042

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.7 General standards.

Code Content:

[§ 199-7.7D] Gas stations - pricing pods. A pricing pod displays the current price of fuels sold at a gas station on the same lot. Pricing pod signs are allowed with a permit.

The text of this Subsection D duplicates some of the information found in the definition of "gas station pricing pod" in § 199-7.3. To eliminate this duplication this Subsection D could be revised as follows:

*D. Gas stations - pricing pods. A **gas station** pricing pod, **as defined in § 199-7.3, is** ~~[displays the current price of fuels sold at a gas station on the same lot. Pricing pod signs are]~~ allowed with a permit.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-043

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.7 General standards.

Code Content:

[§ 199-7.7D(1)] Pricing pod signs for any gas station shall not have a combined area exceeding 20 square feet. A pricing pod sign shall be set back at least 10 feet from the lot line and may be in any one of two places:

This Subsection D(1) also duplicates information found in the definition in § 199-7.3. The Town could:

(1) Revise the definition as follows: *GAS STATION PRICING POD* - A sign which displays the current price of gasoline ~~[and which can be located on the canopy or on the freestanding sign]~~.

(2) Revise the definition as follows: *GAS STATION PRICING POD* - A sign which displays the current price of gasoline **in accordance with the standards in § 199-7.7D** ~~[and which can be located on the canopy or on the freestanding sign]~~.

(3) Revise this Subsection D(1) as follows:

(1) Pricing pod signs for any gas station shall not have a combined area exceeding 20 square feet. A pricing pod sign shall be set back at least 10 feet from the lot line ~~[and may be in any one of two places:~~

~~(a) On the same post or pylon as the freestanding sign.~~

~~(b) As a part of a gas station canopy sign.]~~

Pick one option from list below

- ☐ Revise as suggested in (1) above.
- ☐ Revise as suggested in (2) above.
- ☐ Revise as suggested in (3) above.
- ☒ Revise as follows:

1. Amend the definition of "Gas Station Pricing Pod" in § 7.3A(10) as follows:
"(10) Gas Station Pricing Pod - A sign which displays the current price of gasoline and which can be located on the canopy or on the freestanding sign on sale on that lot."
2. Amend the substantive requirements in § 7.7D(1) as follows:
"(D) Gas stations - Pricing Pods. A pricing pod displays the current price of fuels sold at a gas station on the same lot. Pricing pod signs are allowed with a permit.
(1) Pricing pod signs for any gas station shall not have a combined area exceeding 20 square feet. A pricing pod sign shall be set back at least 10 feet from the lot line and may be in any one of two places:
(a) On the same post or pylon as the freestanding sign.
(b) As a part of a gas station canopy sign.
(2) A pricing pod requires a permit for initial installation or for each change in location or size. Changes in pricing are allowed without a permit.
(3) A pricing sign that does not exceed 4 square feet (on each side) and that is located on the top of a gas pump is also allowed at a gas station on each pump, and without a permit in addition to other allowed signs.

- ☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-044

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.7 General standards.

Code Content:

[§ 199-7.7I] Landmark sign. A landmark sign is allowed with a permit in addition to any other signs to which a business may be entitled, and without regard to the present use of the premises. Any necessary restoration should follow the preservation guidelines outlined by the Lee Historical Commission and by its approval prior to a sign permit being issued.

For purposes of clarity, this Subsection I could be revised as follows:

*I. Landmark sign. A landmark sign is allowed with a permit in addition to any other signs to which a business may be entitled, and without regard to the present use of the premises. Any necessary restoration should follow the preservation guidelines outlined by the Lee Historical Commission, and ~~[by its approval]~~ **the landmark sign shall be approved by the Historical Commission** prior to a sign permit being issued.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-045

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.8 District regulations.

This section could be revised to add a reference to the Smart Growth Overlay District sign requirements in § 199-16.13D(7):

E. Smart Growth Overlay District (SGOD) requirements. See § 199-16.13D(7) of this chapter.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-046

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.8 District regulations.

Code Content:

[§ 199-7.8A(1)(c)[2]] The highest point of the sign can be no greater than 10 feet above ground and at least 10 feet from the public right-of-way.

For purposes of clarity, this subsection regarding farm and nursery signs could be revised as follows: *The highest point of the sign can be no greater than 10 feet above ground, and **the sign shall be** at least 10 feet from the public right-of-way.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-047

Chapter 199 Zoning

Subchapter 7 Signs

§ 199-7.8 District regulations.

Code Content:

[§ 199-7.8D(7)] Rear entrance signs. In addition to building signs allowed under Subsection B(1)(b), rear entrance signs are allowed without a permit. A rear entrance sign may not exceed eight square feet and shall be constructed on wood or material of similar or greater weight and density.

In the phrase highlighted above, it appears that "constructed on wood . . ." should be changed to "constructed of wood . . ."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-048

Chapter 199 Zoning

Subchapter 8 Off-Street Parking

Section 199-16.8 of this chapter provides parking and loading requirements for the Smart Growth Overlay District. The Town may wish to add a reference to those requirements in this parking subchapter:

§ 199-8.11. Supplemental parking and loading requirements for the Smart Growth Overlay District.
See § 199-16.8 of this chapter for parking and loading requirements applicable to the Smart Growth Overlay District (SGOD).

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-049

Chapter 199 Zoning

Subchapter 8 Off-Street Parking

§ 199-8.4 Minimum area required - Office Park/Light Industrial District.

Code Content:

[§ 199-8.4A] All uses, both permitted and those allowed by special permit, shall provide parking as follows:

For the sake of clarity, this Subsection A could be revised as follows: *All uses **in the Office Park/Light Industrial District** both permitted and those allowed by special permit, shall provide parking as follows: . . .*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-050

Chapter 199 Zoning

Subchapter 8 Off-Street Parking

§ 199-8.5 Supplemental parking standards for Planned Commercial Village Center District.

Code Content:

[§ 199-8.5A] The proposed center must comply with the parking and off-street loading requirements in § 199-8.1 to § 199-8.3 and § 199-8.10 and the following standards:

For the sake of clarity, this Subsection A could be revised as follows: ~~[The proposed center]~~ ***A planned commercial village center or planned unit office or research center in the PCVC District*** must comply with the parking and off-street loading requirements in § 199-8.1 to § 199-8.3 and § 199-8.10 and the following standards: . . .

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-051

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.2 Multiple dwelling developments.

Code Content:

[§ 199-9.2A(1)] The Board of Selectmen may grant, after a public hearing, under the provisions of MGL c. 40A, § 4, a special permit for the construction of multiple dwellings in the districts as specified in § 199-9.2K, subject to all applicable provisions of this chapter and the following special requirements.

The statutory citation highlighted above appears to be incorrect. This section addresses uniform districts. A more appropriate citation could be to:

- MGL c. 40A, § 5, regarding amendments to zoning bylaws; or
- MGL c. 40A, § 9, regarding special permits

Pick one option from list below

☒ Change citation to MGL c. 40A, § 5

☐ Change citation to MGL c. 40A, § 9

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-052

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.3 Bed-and-breakfast uses.

Code Content:

[§ 199-9.3D(2)(o)] All bed-and-breakfast facilities described in § 199-9.3B above shall be connected to the water systems of the Town of Lee. All bed-and-breakfast facilities described in § 199-9.3B above shall either be connected to the sewer systems of the Town of Lee or be served by a septic system. New bed-and-breakfast operations served by an existing septic system or existing bed-and-breakfast establishments proposing to expand facilities shall not be granted approval for operation until the Health Department confirms compliance with inspection and/or design requirements as set forth in 310 CMR 15.301, 302, 303, 352 and 414, State Environmental Code Title V, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

According to our research, the above-cited 310 CMR 15.352 does not exist. 310 CMR Subpart D, Inspection and Maintenance of Systems, includes the following sections:

15.300: Purpose and General Provisions

15.301: System Inspection

15.302: Criteria for Inspection

15.303: Systems Failing to Protect Public Health and Safety and the Environment

15.304: Large Systems Which Fail to Protect or Which Threaten Public Health and Safety and the Environment

15.305: Deadlines for Completion of Upgrades

15.340: Approval of System Inspectors

15.351: System Pumping and Routine Maintenance

15.353: Emergency Repair

15.354: Abandonment of Systems

Pick one option from list below

☒ Revise as follows:

... confirms compliance with inspection and/or design requirements as set forth in the State Environmental Code Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-053

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.4 Adult uses by special permit from Planning Board.

Code Content:

[§ 199-9.4B] Public hearing. Said permit will be considered only following a public hearing to be held within 65 days after an application is received by the Town Clerk and the Planning Board.

This public hearing requirement duplicates the general special permit public hearing requirement set forth in greater detail in § 199-13.4B. Is it necessary to reiterate that requirement here?

Pick one option from list below

☒ Delete Subsection B.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-054

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.4 Adult uses by special permit from Planning Board.

Code Content:

[§ 199-9.4D(2)(a)] Parking areas will be screened along the front and sides of the parking area with evergreens at a minimum height of six feet and spaced as defined in § 199-9.4D below.

Should the reference highlighted above be made more specific by referring to a specific subsection in this Subsection D? We note, however, that the remainder of Subsection D does not appear to include spacing requirements, unless it refers to the front yard dimensions in Subsection D(9).

See also this same citation in Subsection D(3).

Pick one option from list below

☐ Change reference to 199-9.4D(9).

☒ Revise as follows:

Parking areas will be screened along the front and sides of the parking area.

☐ Do not revise.

Question 199-055

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.4 Adult uses by special permit from Planning Board.

Code Content:

[§ 199-9.4E(1)(d)] Site plan as part of the application process must show all buildings, parking spaces, driveways, rights-of-way, service areas, along with screening or landscaping plans; and must include the distances from the nearest of each of the uses as listed in § 199-9.4C of this bylaw.

In terms of organization, it appears that this subsection would be more appropriately included as Subsection E(2).

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-056

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.4 Adult uses by special permit from Planning Board.

Code Content:

[§ 199-9.4E(1)(d)] Site plan as part of the application process must show all buildings, parking spaces, driveways, rights-of-way, service areas, along with screening or landscaping plans; and must include the distances from the nearest of each of the uses as listed in § 199-9.4C of this bylaw.

For the sake of clarity, this subsection could be revised as follows: ***The site plan submitted** as part of the application process must show all buildings, parking spaces, driveways, rights-of-way, service areas, along with screening or landscaping plans; and must include the distances from the nearest of each of the uses as listed in § 199-9.4C of this bylaw.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-057

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.7 Wireless communications.

Code Content:

[WIRELESS COMMUNICATION DEVICE] *Any antenna, appurtenance, wiring or equipment used on connection with the reception or transmission of electromagnetic radiation which is attached to a structure.*

It appears the phrase highlighted above should be revised to change "on connection with" to "in connection with."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-058

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[LARGE WIND ENERGY FACILITY] *A wind energy facility with a height greater than 200 feet.*

[SMALL WIND ENERGY FACILITY] *A wind energy facility with a height of less than 200 feet.*

The above definitions cover facilities both greater than and less than 200 feet in height, but not facilities that might be exactly 200 feet in height. The Town could:

(1) Revise the first definition as follows: *LARGE WIND ENERGY FACILITY - A wind energy facility with a height equal to or greater than 200 feet.*

OR

(2) Revise the second definition as follows: *SMALL WIND ENERGY FACILITY - A wind energy facility with a height [of] equal to or less than 200 feet.*

Pick one option from list below

☒ Revise as suggested in (1) above.

☐ Revise as suggested in (2) above.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-059

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[§ 199-9.9D(5)] Inspection reports. The operator(s) of a wind energy facility shall submit inspection reports to the Building Official every five years. The inspection report must be completed by a licensed professional structural engineer.

Should "Building Official" be changed to "Building Inspector" or "Building Commissioner"? See also Subsection D(6) and Subsection I(1) and (2).

Pick one option from list below

☒ Change "Building Official" to "Building Commissioner."

☐ Change "Building Official" to "Building Inspector."

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-060

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[§ 199-9.9F(10)] *Unauthorized access. All wind energy facilities shall construct security barriers to prevent unauthorized persons from gaining access to the facility.*

For the sake of clarity, this subsection could be revised as follows: *Unauthorized access. **The owners or operators of all** wind energy facilities shall construct security barriers to prevent unauthorized persons from gaining access to the facility.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-061

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[§ 199-9.9G] *Large wind energy site assessments.*

The word "facility" may be missing from this subsection title as follows: *Large wind energy **facility** site assessments.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-062

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[§ 199-9.9G(1)] Balloon/crane test. After the application is submitted, and not more than 14 days before the public hearing, the applicant shall arrange to fly a brightly colored four-foot diameter balloon at the site of the proposed wind energy facility at the maximum height of the wind energy facility. A balloon shall be flown for each proposed wind turbine and each balloon shall contain a beacon light similar in color and output to the beacon light to be required by the FAA. The balloons shall be flown for a period of time to be determined by the Planning Board. The date and location of the flight shall be advertised at least 14 days, but no more than 21 days, before the flights, and again in the public hearing advertisement in a newspaper with a general circulation in the Town. If visibility and weather conditions are inadequate for observers the Planning Board may require additional tests.

Since not all wind energy facilities will require FAA lighting, this subsection could be revised as follows: . . . *A balloon shall be flown for each proposed wind turbine and each balloon shall contain a beacon light similar in color and output to the beacon light to be required by the FAA, if any.* . . .

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-063

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[§ 199-9.9G(10)] Site plan. A site plan with a scale of one inch equals 40 feet, unless otherwise noted with contour intervals no greater than two feet showing the following:

For the sake of clarity, this subsection could be revised as follows: ***The applicant shall submit a*** *site plan with a scale of one inch equals . . .*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-064

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[§ 199-9.9G(15)] Waiver. Upon written request of the applicant, the Planning Board may waive any of the application requirements contained § 199-9.9K, as the Planning Board, at its discretion, deems appropriate.

The reference highlighted above is incorrect. Should it instead refer to the application requirements in Subsection G(9) and/or (9) and (10) of this section?

Pick one option from list below

- ☐ Revise reference to refer to Subsection G(9).
- ☐ Revise reference to refer to Subsection G(9) and (10).
- ☒ Revise as follows:

Waiver. The Planning Board may waive application requirements as the board, in its discretion, deems appropriate.

- ☐ Do not revise.

Question 199-065

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.9 Wind energy facilities.

Code Content:

[§ 199-9.9J(1)] The wind energy facility is not installed and operating within two years from the date of approval; or

State law special permit provisions in MGL c. 40A, § 9 were amended in 2016 to allow a three-year time period before special permits lapse. Should this subsection be similarly revised?

J. Lapse of approval. Any special permit approved to construct, operate or modify a wind energy facility pursuant to this bylaw shall automatically expire if:

(1) The wind energy facility is not installed and operating within [~~two~~] three years from the date of approval; or . . .

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-066

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.11 Marijuana establishments.

Code Content:

[LICENSE] *The certificate issued by the CCC that confirms that a ME has met all applicable requirements pursuant to St. 2012, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000. An ME may be eligible for a provisional or final license.*

This citation appears to be incorrect and probably should refer to St. **2016**, c. 334, which is found in MGL c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed.

Pick one option from list below

☐ Update citation as noted.

☒ Revise as follows:

[LICENSE] The certificate issued by the CCC that confirms that a ME has met all applicable requirements of state law and of this chapter.

☐ Do not revise.

Question 199-067

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.11 Marijuana establishments.

Code Content:

[§ 199-9.11C] *Designated locations for MEs. The locations designated by the Town of Lee where an ME may be sited are as follows:*

The permitted ME locations in Subsections (1) through (4) of this Subsection C could be moved to or referenced in the List of Permitted Uses in § 199-4.2 of this chapter.

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

Question 199-068

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.11 Marijuana establishments.

Code Content:

[§ 199-9.11H] Discontinuance of use. Any ME under this section shall be required to remove all material, marijuana products, equipment, signs, and other paraphernalia in compliance with regulations established by the CCC prior to expiration of its license or immediately following revocation or voiding of its licensure and/or registration. If the license holder discontinues use, the ME shall immediately notify the Lee Board of Selectmen, the Lee Police Chief and the Zoning Enforcement Officer.

Should "Zoning Enforcement Officer" in this Subsection H be changed to either "Building Inspector" or "Building Commissioner"?

Pick one option from list below

- ☒ Change "Zoning Enforcement Officer" to "Building Commissioner."
- ☐ Change "Zoning Enforcement Officer" to "Building Inspector."
- ☐ Revise as follows:

- ☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-069

Chapter 199 Zoning

Subchapter 9 Supplemental Use Regulations

§ 199-9.11 Marijuana establishments.

Code Content:

[§ 199-9.11J(1)] Business license required. At all times while a permit is in effect the licensee shall possess a valid business license as required by the Lee Town Code.

Should a specific Town Code reference be included in this subsection? We do not find any general business license requirements in the Town Code.

Pick one option from list below

☐ Revise as follows: *Business license required. At all times while a permit is in effect the licensee shall possess a valid business license [as required by the Lee Town Code].*

☐ Revise as follows:

Repeal § 9.11J(1).

☐ Do not revise.

Question 199-070

Chapter 199 Zoning

Subchapter 10 Supplemental District Regulations

§ 199-10.1 Office Park and Light Industrial District.

Code Content:

[§ 199-10.1A(3)] All outdoor storage shall be screened so that it is not visible from adjacent streets and drives or adjacent properties within 50 feet of the property line of the lot on which the storage occurs.

[§ 199-10.1B(3)(e)] Any outdoor area for storage or utilities shall be screened from view from neighboring properties and streets. Where there exists any potential safety hazard to children, physical screening shall prevent children from entering the premises.

Both of the above subsections address screening of outdoor storage. Should the provisions be combined into a single subsection? Should one of the subsections be deleted?

Pick one option from list below

☒ Combine provisions into a single Subsection B(3)(e).

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-071

Chapter 199 Zoning

Subchapter 10 Supplemental District Regulations

§ 199-10.1 Office Park and Light Industrial District.

Code Content:

[§ 199-10.1B(3)(b)] Natural vegetation shall be maintained within the fifty-foot buffer strip when abutting a residential district. In the absence of natural vegetation, the addition of dense, hardy evergreen plantings will be required. Vegetated buffer strips, landscaped or natural, shall be provided, 15 feet wide between lots and 30 feet wide adjacent to any public road. Where shared parking lots are involved, buffer strips may be reduced or waived.

[§ 199-10.1B(3)(d)] Wherever possible, an attempt shall be made to screen a use from view from any residence in an abutting residential district. This screening may be accomplished through use of dense, hardy evergreen plantings or by earthen berms, a wall or tight fence, complemented by evergreen plantings.

The above subsections both address landscaping and buffering requirements when an OPLI District abuts a residential district. Is it necessary to retain both subsections in this section? Should the requirements be combined into a single subsection?

Pick one option from list below

- ☐ Delete Subsection B(3)(d).
- ☒ Combine provisions into a single Subsection B(3)(b).
- ☐ Revise as follows:

- ☐ Do not revise.

Question 199-072

Chapter 199 Zoning

Subchapter 10 Supplemental District Regulations

§ 199-10.1 Office Park and Light Industrial District.

Code Content:

[§ 199-10.1B(5)(a)[1][c]] A directory sign shall not exceed a total of 64 square feet. This square footage does not include the area dedicated to the support system for the sign. The name of the office park/light industrial facility may also be included as a crown sign to a directory sign. The placement of the directory sign shall be a minimum of 100 feet from the edge of the road pavement.

For the sake of clarity, the Town may wish to define or describe "crown sign."

Pick one option from list below

☒ Revise as follows:

"A directory sign shall not exceed a total of 64 square feet, including the name of the park."
Also, delete second sentence.

☐ Do not revise.

Question 199-073

Chapter 199 Zoning

Subchapter 10 Supplemental District Regulations

§ 199-10.2 Planned Commercial Village Center.

Code Content:

[§ 199-10.2D(1)(c)] A berm sign identifying the center will consist of no more than 32 square feet, with a maximum height of 11 feet above a berm that will be no higher than four feet. The sign and berm, in aggregate, can be no higher than 15 feet above the ground. Said sign may be two-sided. Under no conditions will any lettering extend beyond the edges of the sign. Said sign will be designed in harmony with the buildings and landscaping of the PCVC.

For the sake of clarity, the Town could add a definition or description of "berm sign."

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

Question 199-074

Chapter 199 Zoning

Subchapter 10 Supplemental District Regulations

§ 199-10.2 Planned Commercial Village Center.

Code Content:

[§ 199-10.2E(1)(j)] Decorative designs and store names are permitted to be installed on the shopping center light poles and streetlights excluding those located on the main access road between Water Street and the traffic circle entry to the shopping center. Decorative designs, store names and off-premises advertising by nationally recognized brands and/or regional attractions are permitted on the banners. Two banners may be placed on each pole. The banners may be double-sided and will not exceed 35 square feet in total per side, per banner. One sign permit per type of banner is required.

[§ 199-10.2E(4)(f)] Billboards, streamers, pennants, ribbons, banners, spinners or other similar devices shall not be constructed, posted or erected in any zone.

This Subsection E appears to both permit and prohibit banners, as highlighted above.

(1) If banners are permitted as noted in Subsection E(1)(j), Subsection E(4)(f) could be revised to delete the word "banners."

(2) If banners are not permitted, Subsection E(1)(j) could be revised to change "banner" to another type of sign description that is in fact permitted in the district.

Pick one option from list below

☒ Revise as follows:

E(1)(j). "Banners are permitted on light poles and streetlights, excluding those located on the main access road between Water Street and the traffic circle entry. Banners may include decorative designs, store names and off premises advertising by nationally recognized brands and/or regional attractions. Two banners may be placed on each pole. Banners shall not exceed 35 square feet per side. One sign permit per type of banner is required."
E(4)(f). "Billboards, streamers, ribbons and spinners are not allowed."

☐ Do not revise.

Question 199-075

Chapter 199 Zoning

Subchapter 10 Supplemental District Regulations

§ 199-10.2 Planned Commercial Village Center.

Code Content:

[§ 199-10.2E(2)(b)] Directory sign boards and informational signs will be agreed to by the Planning Board. Issues such as size, shape, color, placement and all other relevant issues will be reviewed with the Police and Fire Departments, the Public Health and Public Works Boards and the Sign Officer. The shopping center's logo is permitted to be placed on informational signage for continuity and to promote the advertising theme of the shopping center. Directory sign boards may display on-site retailer advertising on one side, including off-premises advertising of nationally recognized brands and/or regional attractions. Directory board advertising signs shall not exceed 40 inches by 50 inches and shall only be allowed by permit.

The position of "Sign Officer" is referenced only in this subsection and in § 199-16.13D(7)(m)[2], regarding the Smart Growth Overlay District. Is this title correct?

Note that § 199-16.13D(7) also refers to the "Sign Enforcement Officer" and the "Sign Enforcement Official." Should the terms be made consistent?

Pick one option from list below

☒

Revise as follows:

Make all references to sign enforcement officials refer to "building commissioner."

☐

Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-076

Chapter 199 Zoning

Subchapter 11 Flexible Development

§ 199-11.2 Definitions.

Code Content:

[AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME] *Affordable to persons in the area under the applicable guidelines of the commonwealth's Department of Housing and Community Development or its successor agency earning less than 50% of the median income.*

[AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MODERATE INCOME] *Affordable to persons in the area under the applicable guidelines of the commonwealth's Department of Housing and Community Development or its successor agency earning more than 50% but less than 80% of the median income.*

Based on the ranges highlighted above, and typical "low-income" and "moderate-income" definitions, it appears that the "low-income" definition should be revised as follows to account for persons who might earn exactly 50% of median income:

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME - Affordable to persons in the area under the applicable guidelines of the commonwealth's Department of Housing and Community Development or its successor agency earning [~~less than~~] 50% or less of the median income.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-077

Chapter 199 Zoning

Subchapter 11 Flexible Development

§ 199-11.2 Definitions.

Code Content:

[AGE-RESTRICTED HOUSING] *Shall for the purposes of this bylaw shall be defined as those structures reserved for occupants who have reached the age of 55 years old.*

This definition could be streamlined as follows:

The following terms shall have the following definitions for the purposes of this section:

AGE-RESTRICTED HOUSING - [~~Shall for the purposes of this bylaw shall be defined as~~] Those structures reserved for occupants who have reached the age of 55 years old.

Pick one option from list below

☒ Revise as suggested.

☒ Revise as follows:

Also revise 11.1 lead-in to say "The purposes of this subchapter authorizing flexible development are as follows:"

Also revise 11.2 lead-in to say "The following definitions apply to this subchapter:"

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-078

Chapter 199 Zoning

Subchapter 11 Flexible Development

Code Content:

§ 199-11.2 Definitions.

[AGE-RESTRICTED HOUSING] *Shall for the purposes of this bylaw shall be defined as those structures reserved for occupants who have reached the age of 55 years old.*

§ 199-11.8 Density bonus.

[§ 199-11.8B] *Age-restricted housing. For every two dwelling units restricted to occupancy by persons over the age of 55, one dwelling unit may be added as a density bonus; provided, however, that the elderly density bonus shall not exceed 10% of the basic maximum number.*

The above text highlights a slight discrepancy in the "age-restricted" definition. The Town could:

(1) Revise the definition as follows: *AGE-RESTRICTED HOUSING - Shall for the purposes of this bylaw shall be defined as those structures reserved for occupants [~~who have reached~~] over the age of 55 years old.*

or

(2) Revise § 199-11.8B as follows: *Age-restricted housing. For every two dwelling units restricted to occupancy by persons [~~over~~] who have reached the age of 55, one dwelling unit may be added as a density bonus; provided, however, that the elderly density bonus shall not exceed 10% of the basic maximum number.*

Pick one option from list below

☐ Revise as suggested in (1) above.

☒ Revise as suggested in (2) above.

☐ Revise as follows:

☐ Do not revise.

Question 199-079

Chapter 199 Zoning

Subchapter 11 Flexible Development

§ 199-11.3 Applicability.

Code Content:

[§ 199-11.3] In accordance with the following provisions, a flexible development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town. Flexible development would be available in areas zoned R-20, R-30, RA-40 and CR.

This section states that flexible development is available in the R-20, R-30, RA-40 and CR Districts. However, the lists of permitted uses in § 199-4.2 of this chapter only include this use in the RA-40 District.

Pick one option from list below

☐ Add "flexible development" as a permitted use in the R-20, R-30 and CR District regulations in § 199-4.2.

☒ Revise as follows:

1. Revise last sentence of 11.3 to change "would be" to "is."
 2. Delete 4.2(B)(4), including (a), because this rule applies in four zones, but it's only mentioned for one zone in 4.2.
 - Note that "RA-40" is being changed generically to "RA."

☐ Do not revise.

Question 199-080

Chapter 199 Zoning

Subchapter 11 Flexible Development

§ 199-11.6 Modification of lot requirements.

Code Content:

[§ 199-11.6A] Lots to be modified shall not have frontage on a street other than a street created by the flexible development; however, this requirement may be waived where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

This Subsection A begins by referencing lot "frontage" and ends by referencing "reduced lots." Is this correct or is text missing from this subsection?

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-081

Chapter 199 Zoning

Subchapter 11 Flexible Development

§ 199-11.10 Types of buildings.

For purposes of clarity, this section could be revised as follows:

*The flexible development may consist of any combination of single-family, two-family, multiple single-family, multifamily residential structures and accessory buildings. A multifamily or multiple single-family structure shall not contain more than five dwelling units. ~~[In the case of]~~ Multifamily and multiple single-family structures of more than three dwelling units ~~[requires]~~ **require** an additional special permit from the Board of Selectmen. The architecture of all multifamily or multiple single-family buildings shall be residential in character and employ[ing] a variety of architectural designs. Residential structures should be oriented toward the street serving the premises and not the required parking area.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-082

Chapter 199 Zoning

Subchapter 12 Environmental and Performance Standards

§ 199-12.3 Noise.

The noise regulations in this section should be reviewed against the Noise Bylaw in Chapter 140, Noise, of the Town Code. Are the provisions consistent?

If the noise regulations supersede or adequately address the concerns of this section, it could be revised to simply refer to Chapter 140. For example: *Noise on any premises and/or from any use shall comply with the requirements of Chapter 140, Noise, of the Town Code.*

Pick one option from list below

☒ Replace this section with the text referring to Chapter 140 noted above.

☒ Revise as follows:

Refer to Town Counsel

☐ Do not revise.

Question 199-083

Chapter 199 Zoning

Subchapter 12 Environmental and Performance Standards

§ 199-12.14 Dish antennas.

Code Content:

[§ 199-12.14] Accessory dish antennas shall be located in the rear yard, shall be set back at least 10 feet from all property lines, principal buildings and accessory buildings and shall not have a diameter greater than 1/3 of the required rear yard. Satellite dish antennas with a diameter of four feet or less may be installed on rooftops as long as they are not obtrusive from the street.

For the sake of clarity, the last sentence of this section could be revised as follows: . . . Satellite dish antennas with a diameter of four feet or less may be installed on rooftops as long as they are not visually obtrusive as viewed from the street.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-084

Chapter 199 Zoning

Subchapter 13 Administration

§ 199-13.2 Board of Appeals.

Code Content:

[§ 199-13.2B(8)(a)] The decision of the Board of Appeals shall be made within 75 days after the date of the filing of an appeal, application or petition with the Town Clerk, except as provided for special permits in § 199-13.4 herein. Failure by the Board to act within said 75 days shall be deemed to be the grant of the appeal, application or petition sought.

See MGL c. 40A, § 15, which states that the "decision of the board shall be made within 100 days after the date of the filing of an appeal, application or petition, except in regard to special permits." Should this Subsection B(8)(a) be revised to change "75 days" to "100 days"?

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-085

Chapter 199 Zoning

Subchapter 13 Administration

§ 199-13.3 Site plan review.

Code Content:

[§ 199-13.3B(1)(d)] The generation of more than 2,000 gallons of sewer flow per day calculated in accordance with the standards established by 310 CMR 15.00 (Title V of the State Sanitary Code). The direct alteration of 25 or more acres of land for new nonresidential construction (other than utility lines).

Should the text highlighted above be included as a separate Subsection (e)?

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-086

Chapter 199 Zoning

Subchapter 13 Administration

§ 199-13.4 Special permits.

Code Content:

[§ 199-13.4G(2)] Special permits issued by a special permit granting authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five-member board and a unanimous vote of a three-member board.

This chapter provides for special permits granted by the Zoning Board of Appeals (5 members), Planning Board (5 members) and Board of Selectmen (3 members). Therefore, this subsection could be revised to more specifically apply to Lee as follows:

*(2) Special permits issued by ~~[a special permit granting authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five-member board and a unanimous vote of a three-member board]~~ **the Planning Board or Zoning Board of Appeals shall require a vote of at least four Board members. Special permits issued by the Board of Selectmen shall require a unanimous vote of the Board.***

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-087

Chapter 199 Zoning

Subchapter 14 Definitions

§ 199-14.1 Terms defined.

There are terms used in this chapter that could benefit from being defined in this section, such as:

- Automobile service station
- Automobile repair garage
- Conference center
- Elder care facility
- Gas station
- Home occupation
- Nursing home
- Private club
- Senior housing
- Shopping center, plaza or mall

The "Multicode" search feature in eCode360 is very useful for finding sample definitions from other Massachusetts municipalities. Simply select the codes to be searched and enter the following in the Search box: **TERM:***term you are searching for*

For example, to find a definition of "senior housing" enter the following in the Search box: **TERM:senior and housing**

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-088

Chapter 199 Zoning

Subchapter 14 Definitions

§ 199-14.1 Terms defined.

Code Content:

[DRIVE-THROUGH BANK] *A banking establishment that is oriented primarily to financial exchanges for customers while in motor vehicles.*

This "drive-through" definition applies specifically to banks, but could be made more generic to refer to other types of businesses that might have drive-through windows (e.g., restaurants, pharmacies, etc.). See, for example, § 199-16.5A(2)(b), which refers to "stores and establishments with drive-through windows":

#1: DRIVE-THROUGH - *An establishment in which part of the business transacted is conducted by a customer in or on a vehicle.*

#2: DRIVE-THROUGH FACILITY - *The use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be permitted only as an accessory use (i.e., in combination with another use such as a bank or financial institution or pharmacy). A drive-through facility does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or an automobile/gasoline service station.*

#3: DRIVE-THROUGH FACILITY - *Any use, whether referred to as drive-in, drive-up or drive-through, which provides services directly to customers in an automobile or other vehicle from any window, counter or other appurtenance from the principal or an accessory building.*

#4: DRIVE-THROUGH WINDOW - *An establishment utilizing, principally or accessory, an opening in a wall, including windows, designed and intended to be used to provide for sales to and/or services to patrons who remain in their motor vehicle. This term includes automated sales and services.*

#5: DRIVE-THROUGH WINDOW - *A service provided by a business that allows customers to purchase products without leaving their cars.*

Pick one option from list below

☒ **Revise as follows:**

#1.

☐ **Do not revise.**

Question 199-089

Chapter 199 Zoning

Subchapter 14 Definitions

§ 199-14.1 Terms defined.

Code Content:

[FAMILY] *Any number of individuals related by blood, marriage or adoption living together as a single housekeeping unit, provided that a group of not more than five persons keeping house together, but not necessarily related by blood or marriage, may be considered a family.*

The definition of "family" could be revised so as not to restrict the number of persons living together, provided that the unit is operating as a family unit. For example:

#1: FAMILY - Any number of individuals living and cooking together on the premises as a single housekeeping unit.

#2: FAMILY - One or more persons occupying a dwelling unit and living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

#3: FAMILY - One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit, who are living together as a bona fide, stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.

Pick one option from list below

☐ Revise as follows:

☒ Do not revise.

Question 199-090

Chapter 199 Zoning

Subchapter 14 Definitions

§ 199-14.1 Terms defined.

Code Content:

MOTOR VEHICLE *A vehicle constructed and designed for propulsion by power other than muscular power, including such vehicle when pulled or towed by another motor vehicle, except railroad and railway cars; vehicles operated by the system known as "trolley motor" or "trackless trolley" under MGL c. 163 or Section 10 of Chapter 544 of the Acts of 1947; vehicles running only upon rails or tracks; vehicles used for other purposes than the transportation of property and incapable of being driven at a speed exceeding 12 miles per hour and which are used exclusively for the building, repair and maintenance of highways or designed especially for use elsewhere than on the traveled part of ways; wheelchairs owned and operated by invalids; and vehicles which are operated or guided by a person on foot. In doubtful cases, the registrar may determine whether or not any particular vehicle is a motor vehicle as herein defined. If the registrar determines that it should be so classified, he or she may require that it be registered under MGL c. 90, but such determination shall not be admissible as evidence in any action at law arising out of the use or operation of such vehicle previous to such determination.*

This definition could be revised as follows, based on the definition found in MGL c. 90, § 1:

*MOTOR VEHICLE - A vehicle constructed and designed for propulsion by power other than muscular power, including such vehicle when pulled or towed by another motor vehicle, except railroad and railway cars; vehicles operated by the system known as "trolley motor" or "trackless trolley" under MGL c. 163 or Section 10 of Chapter 544 of the Acts of 1947; vehicles running only upon rails or tracks; vehicles used for other purposes than the transportation of property and incapable of being driven at a speed exceeding 12 miles per hour and which are used exclusively for the building, repair and maintenance of highways or designed especially for use elsewhere than on the traveled part of ways; wheelchairs owned and operated by invalids; and vehicles which are operated or guided by a person on foot. **The definition of "motor vehicle" shall not include motorized bicycles.** In doubtful cases, the **Registrar of Motor Vehicles** may determine whether or not any particular vehicle is a motor vehicle as herein defined. If the **Registrar** determines that it should be so classified, he or she may require that it be registered under MGL c. 90, but such determination shall not be admissible as evidence in any action at law arising out of the use or operation of such vehicle previous to such determination.*

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-091

Chapter 199 Zoning

Subchapter 14 Definitions

§ 199-14.1 Terms defined.

Code Content:

[NONCONFORMING USE] *A building structure or use of land existing at the time of this chapter which does not conform to the district in which it is located.*

This definition could be revised as follows to account for uses made nonconforming by amendments to this chapter (Note also the addition of a comma after "building."):

NONCONFORMING USE - A building, structure or use of land existing at the time of this chapter, or an amendment thereto, which does not conform to the district in which it is located.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-092

Chapter 199 Zoning

Subchapter 16 Smart Growth Overlay District

§ 199-16.2 Definitions.

Code Content:

[ACCESSORY SIGN] *Any sign which is mounted on the same post or pylon as the freestanding sign but is accessory to the freestanding sign and which displays a message that is standard to the industries, such as (but not limited to) vacancy/no vacancy, open/closed, dinner being served, credit card, AAA, etc.*

The several "sign" definitions in this section duplicate the definitions found in § 199-7.3 of this chapter. To eliminate this duplication the Town could revise the definitions to read, for example, as follows:

ACCESSORY SIGN - As defined in § 199-7.3 of this chapter.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-093

Chapter 199 Zoning

Subchapter 16 Smart Growth Overlay District

§ 199-16.6 Housing and housing affordability.

Code Content:

[§ 199-16.6I] Phasing. For any Project that is approved and developed in phases in accordance with § 199-16.9D, the percentage of Affordable Housing Units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under § 199-16.6.1. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under § 199-16.6.5 shall be applied proportionate to the Affordable Housing provided for in each respective phase.

It appears that the citation highlighted above should reference § 199-16.6A or "Subsection A of this section." And the § 199-16.6.5 reference should be similarly changed to § 199-16.6E or to "Subsection E of this section."

See also § 199-16.11D.

Pick one option from list below

- ☒ Change to § 199-6.6A and § 199-6.6E, respectively.
- ☐ Change to "Subsection A of this section" and "Subsection E of this section," respectively.
- ☐ Revise as follows:

- ☐ Do not revise.

Editorial and Legal Analysis — Town of Lee, MA

Question 199-094

Chapter 199 Zoning

Subchapter 16 Smart Growth Overlay District

§ 199-16.13 Design Standards.

Code Content:

[§ 199-16.13D(7)(d)] *Area of a sign.*

The sign area requirements of this subsection duplicate those found in § 199-7.4E. Rather than repeating the requirements, this subsection could be revised as follows:

(d) Area of a sign. See § 199-7.4E of this chapter.

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

Question 199-095

Chapter 199 Zoning

Subchapter 16 Smart Growth Overlay District

§ 199-16.13 Design Standards.

Code Content:

[§ 199-16.13D(7)(j)] *Penalties.*

If the general penalties generally applicable to violations of this bylaw in § 199-13.1 also apply to violations of this article, the Town may wish to delete this Subsection (j).

Pick one option from list below

☒ Delete this Subsection (j) as suggested.

☐ Revise as follows:

☐ Do not revise.

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Question 199-096

Chapter 199 Zoning

Subchapter 16 Smart Growth Overlay District

§ 199-16.13 Design Standards.

Code Content:

[§ 199-16.13E(1)(a)] Relationship to historic architecture and context. Any existing buildings in the SGOD at the time of adoption of the SGOD shall be retained unless it is satisfactorily demonstrated to the PAA that renovation and reuse are infeasible, unless otherwise determined by the National Park Service or Massachusetts Historic Commission. The renovation of existing buildings should retain recognizable features that distinguish the architectural styles and character of the industrial heritage of the site, while providing compatible and contemporary improvements associated with the adaptive reuse of these structures.

It appears that the text highlighted above should be revised to change "Historic Commission" to "Historical Commission."

Pick one option from list below

☒ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

