

2015

# Wales Maine Selected Ordinances

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# **TOWN OF WALES DEFINITIONS ORDINANCE**

**Final Draft: March 24, 2015**

**Adopted: June 13, 2015**

**Attest:**

*Patty Auge*  
**Patty Auge, Municipal clerk**

**Date:**

*6/13/15*

## **Article 1. Purpose, Authority, Administration, and Effective Date**

### **1.1 Purpose**

The purpose of this ordinance is to create/provide one document for definitions of language used in within Adopted Ordinances of the Town of Wales including, but not limited to, Town of Wales Subdivision Ordinance, Town of Wales Land Use Ordinance, Town of Wales Road, Town of Wales Shoreland Zoning Ordinance, Town of Wales Site Plan Ordinance, Town of Wales Telecommunications Ordinance, and Town of Wales Flood Plain Management Ordinance.

### **1.2 Authority and Administration**

This Ordinance shall be known and may be cited as "Definitions Ordinance of the Town of Wales" and shall be referred to herein as "this Ordinance". This document will replace the definitions section(s) of all Town Ordinances and will be a required distribution with any town Ordinance.

### **1.3 Effective Date**

The effective date of this Ordinance shall be the date of the 2011 Town Meeting of the Town of Wales held on June 11, 2011.

### **1.4 Repeal of Existing Definitions Ordinance of the Town of Wales**

Adoption of this ordinance shall repeal any and all previous definitions ordinances of the Town of Wales. This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.

## **Article 2. Language**

### **2.1 Construction of Language**

In the interpretation and enforcement of this Code, all words shall have the meaning implied by their context in the various ordinances or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Code and any map, illustration or table, the text shall control.

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The word "shall" and "will" are mandatory, the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel."

The word "structure" includes the word "building."

The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

The word "road" includes the word "street", as applied to any route for vehicular access other than a driveway.

The words "Town" or "municipality" means the Town of Wales, Maine.

The words "Town of Wales Adopted Ordinances" means all Ordinances in effect that have been Adopted by the Town of Wales, Maine.

### **Article 3. Definitions**

#### **3.1 Application of Definitions**

All definitions herein will have associated Ordinances appended to the definition; those with multiple associations will be so listed. It can be assumed that all Ordinance titles listed in the legend are prefaced or appended with "Town of Wales". If there is a difference in definition for different Ordinances, there will be multiple definitions within the single entry with appropriate designations for associated Ordinances. The abbreviated ordinance associations are as listed in the following legend:

Addressing	Town of Wales Addressing Ordinance
Land Use	Land Use Ordinance
Floodplain	Floodplain Management Ordinance
Mining	Town of Wales Mining Ordinance
Road	Road Ordinance
Shoreland	Shoreland Zoning Ordinance
Site Plan	Site Plan Review Ordinance
Subdivision	Subdivision Ordinance
Telecommunications	Wireless Telecommunications Facilities Siting Ordinance
Definitions	Definitions Ordinance

#### **3.2 Definitions**

**100-year flood:** See **Base Flood**. (Floodplain)

**Abutter:**

- 1) The owner of any property with at least one common boundary or point, or that lies across a road, driveway, or stream from the property in an application or appeal. (Land Use; Site Plan)
- 2) Any landowner within five hundred (500) feet of the property that the tower or facility will be located on. (Telecommunications)

**Access Point:** A point of entry/access from a town or public way to a piece of property, development, or subdivision. (Subdivision)

**Accessory Structure or Use:** A use or structure (detached) that is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage

attached to the principal structure by a roof or a common wall is considered part of the principal structure. (Site Plan; Land Use; Floodplain; Shoreland).

**Activity:** Any excavation or removal, handling or storage of sand, gravel, borrow, rock, clay, minerals, or topsoil to including but not limited to sand or gravel pits, clay pits, borrow pits, quarries, mines, and topsoil mining or removal. (Mining)

**Addressing Officer** – A representative designated by the town who is responsible for all issues involving the development and maintenance of address information for the Enhanced 9-1-1 addressing and routing databases. (Addressing , Definitions)

**Adjacent Grade** - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure. (Floodplain.)

**Administrative Appeal:** An appeal in which it is alleged that there is an error in any order, requirement, decision, or determination made by, or a failure to act by, the Code Enforcement Officer or Planning Board in the administration of the Town Ordinances. This definition does not allow for the appeal of a violation. (Land Use)

**Affected Land:** The land area from which the overburden will be or has been removed; land upon which stumps, spoil, or other solid waste will be or has been deposited; and any storage area that will be or has been used in connection with the development, except a natural buffer strip. (Mining)

**Affordable Housing:** A safe and sanitary dwelling for a household whose income does not exceed 80% of the median household income for the community. (Subdivision)

**Aggrieved Party:** 1) A person whose land is directly or indirectly affected by the granting or denial of a permit or variance under the Town Ordinances. 2) A person whose land abuts land for which a permit or variance has been granted. 3) Any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance. (Land Use; Site Plan; Shoreland)

**Agricultural Fairgrounds:** Incorporated or state-licensed fairgrounds. (Site Plan)

**Agriculture:** The production, keeping, or maintenance for sale or lease of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities. (Site Plan; Shoreland)

**Amusement Facility:** Any private, commercial premises that are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens or discs, or whether activated through remote control by the management. (Site Plan)

**Antenna:** Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals. (Telecommunications)

**Antenna Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height. (Telecommunications)

**Applicant:** For purposes of the Town Ordinances, applicant means the person applying for a subdivision and having title, right or interest in the parcel under question and includes, for purposes of Article 9.1.B, the parents, grandparents, in-laws, siblings and children of the person submitting the application. (Subdivision)

**Aquaculture:** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. (Site Plan; Shoreland)

**Area of Special Flood Hazard:** the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map cited in Article I of the Floodplain Management Ordinance. (Floodplain)

**Arterial Street:** A major thoroughfare that serves as a major traffic way for travel within and through the municipality. (Subdivision; Road)

**Automobile Repair Shop:** A business establishment engaged in general repair, engine rebuilding, and/or parts replacement of motor vehicles. (Site Plan)

**Automotive Body Shop:** A business establishment engaged in body, frame, or fender straightening and repair, or painting and undercoating of motor vehicles. (Site Plan)

**Automobile Junkyard/Graveyard:** A yard, field, or other area used to store three (3) or more unserviceable, discarded, worn-out, or junked motor vehicles, or parts of such vehicles, as defined in Title 29 Section 1, Subsection 7. "Automobile junkyard" does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto-body repair work to make repairs to render a motor vehicle serviceable. (Site Plan)

**Basal Area:** The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark. (Shoreland)

**Base Flood:** A flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood. (Floodplain; Shoreland)

**Basement:**

- 1) Any area of the building having its floor subgrade (below ground level) on all sides. (Floodplain)
- 2) Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level. (Shoreland)

**Bed and Breakfast:** Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public for less than one (1) week for compensation. This dwelling must also be the full-time, permanent residence of the owner. There must be no provisions for cooking in any individual guest room. (Site Plan)

**Boarding/Lodging Facility:** Any residential structure where lodging and/or meals are provided for compensation for a period of at least one (2) week and where a family residing in the building acts as proprietor or owner. There must be no provisions for cooking in any individual guest room. (Site Plan)

**Boat-Launching Facility:** A facility designed primarily for the launching and landing of watercraft and that may include an access ramp, docking area, and parking spaces for vehicles and trailers. (Site Plan; Shoreland)

**Brook:** See *Stream, River, or Brook*. (Subdivision)

**Bureau:** State of Maine Department of Conservation's Bureau of Forestry (Shoreland)

**Business and Professional Offices:** The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like, or in which a business conducts its administrative, financial, or clerical operations, including banks and other financial services but not retail sales or activities utilizing trucks as part of the business operation. (Site Plan)

**Business/Professional Uses:** Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services. (Site Plan)

**Campground:** Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including but not limited to tents, recreational vehicles, or other shelters. (Site Plan; Shoreland)

**Canopy:** The more or less continuous cover formed by tree crowns in a wooded area.

**Certificate of Compliance:** A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of the Town Ordinances. (Floodplain)

**Civic/Convention Center:** A building or complex of buildings that house town offices and services and that may include cultural, recreational, athletic, convention, and entertainment facilities owned and/or operated by a governmental agency. (Site Plan)

**Code Enforcement Officer** – A person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances. (Land Use; Site Plan; Floodplain)

**Co-location:** The use of a wireless telecommunications facility by more than one wireless telecommunications provider. (Telecommunications)

**Collector Street:** A street serving at least twenty (20) lots or dwelling units, or a street that serves as a feeder to arterial streets and collector of traffic from minor streets. (Subdivision; Road)

**Commercial Establishment:** Establishments that render goods and/or services primarily on a retail basis that are customarily carried on in a building specifically for that purpose, such as retail stores, service stations, restaurants, etc. (Site Plan)

**Commercial Recreation:** Any commercial enterprise that receives a fee in return for the provision of some recreational activity, including but not limited to campgrounds, racquet and tennis clubs, health facilities, amusement parks, golf courses, gymnasiums and swimming pools, etc., but not including amusement centers, as defined herein. (Site Plan)

**Commercial Street:** See *Industrial or Commercial Street*. (Subdivision; Road)

**Commercial Use:** The use of lands, buildings, or structures, other than a “home occupation” as defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units. (Site Plan; Shoreland)

**Community Center/Club:** A building that houses any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes and whose facilities, especially a clubhouse, are open to members and guests only and not the general

public. The persons using such facilities shall not be engaged in activities customarily carried on by a business or for pecuniary gain. (Site Plan)

**Common Driveway:** A vehicle access way serving three (3) or fewer dwelling units. (Subdivision; Land Use; Road)

**Complete Application:** An application for which the required fee and all information required by these regulations for a final plan have been submitted, or for which a vote of the Board has waived the submission of required information. The Board shall issue a notification to the applicant upon its determination that an application is complete. (Subdivision)

**Day Care/Nursery School:** A building or use of property operated for the care or instruction of more than three (3) children, exclusive of children who may be living in the home that is serving as the day-care or nursery-school facility. (Site Plan)

**DBH:** The diameter of a standing tree measured 4.5 feet from ground level. (Shoreland)

**Designated Scenic Resource:** A specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan or by a State or federal agency, that consists of:

- A) a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such a downtown skyline or mountain range, resulting in a panoramic view corridor; or
- B) lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.  
(Telecommunications)

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets. (Subdivision)

**Development:**

- (1) Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. (Floodplain, Land Use, Site Plan)
- (2) A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring. (Shoreland)

**Dimensional Requirements:** Numerical standards relating to spatial relationships, including but not limited to frontage, lot width, lot area, percentage of lot coverage, structure height, shore frontage, percentage of structure expansion, and setbacks. (Land Use; Site Plan; Shoreland)

**Direct Watershed:** That portion of the watershed that does not first drain through an upstream lake. (Subdivision)

**Disability:** Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services. (Shoreland)

**Ditch, Inlet:** A watercourse flowing into a culvert. (Land Use)



**Ditch, Outlet:** A watercourse following out of a culvert. (Land Use)

**Driveway:**

- 1) A vehicular access way serving 3 lots or fewer. A driveway is not considered a structure. (Land Use; Site Plan)
- 2) a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less. (Shoreland)

**Driveway Entrance:** The connection between a driveway and a town-maintained road. (Land Use)

**Dwelling Unit:** A room, or group of rooms, designed for permanent, seasonal, or temporary living quarters for only one (1) family, including provisions for eating, sleeping, and cooking. The term shall include mobile homes but shall not include travel trailers or other recreational vehicles. (Site Plan)

**Dwelling, Multi-Family:** A structure containing three (3) or four (4) dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units. (Site Plan)

**Dwelling, Single-Family:** Any structure containing one (1) dwelling unit for occupation by not more than one (1) family. Units may be attached. (Site Plan)

**Dwelling, Two-Family:** Any structure containing only two (2) dwelling units, for occupation by not more than two (2) families. (Site Plan)

**Dwelling:** Any structure or portion thereof designed or used for residential purposes. (Site Plan)

**Elevated Building:** A non-basement building

- A) built, in the case of a building in Zone A or AE, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- B) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.K..

(Floodplain)

**Elevation Certificate:** An official form (FEMA Form 81-31) that:

- A) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- B) is required for purchasing flood insurance.

(Floodplain)

**Emergency Operations:** Operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury. (Site Plan; Shoreland)

**Essential Services:** The construction, alteration, or maintenance of gas, electrical, or communication facilities; steam, fuel, electric-power or water transmission or distribution lines, towers, and related equipment; telephone cables or lines, poles, and related equipment; gas, oil, water, slurry, or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains,

pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings that are necessary for the furnishing of such services. (Land Use, Site Plan, Shoreland)

**Existing Public Street:** Roads that are maintained by the town of Wales and/or the state of Maine. (Subdivision; Road)

**Expansion:** The addition of antennas, towers, or other devices to an existing structure. (Telecommunications)

**Expansions of a Nonconforming Structure:** An increase in the floor area or volume of a nonconforming structure, including but not limited to dormers, additions, decks, garages, patios, porches, and greenhouses, that does not become more invasive into the setback are. (Land Use; Site Plan)

**Expansion of Operation:** Excavation operations that exceed the approved area or footprint. (Mining)

**Expansions of a Structure:** An increase in the floor area or volume of a structure, including but not limited to dormers, additions, bay windows, decks, garages, patios, porches, and greenhouses. (Land Use; Site Plan; Shoreland)

**Expansion of Use:** The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use. (Shoreland)

**FAA:** The Federal Aviation Administration, or its lawful successor. (Telecommunications)

**Family:** One or more persons occupying a premises and living as a single housekeeping unit. (Site Plan; Shoreland)

**FCC:** The Federal Communications Commission, or its lawful successor. (Telecommunications)

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and that, if approved, will be recorded at the Registry of Deeds. (Subdivision)

**Flood or Flooding:**

A) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

B) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition. (Floodplain)

**Flood Elevation Study:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations. (Floodplain)

**Flood Insurance Rate Map (FIRM):** An official map of a community, issued by the Federal Insurance Administration, where the boundaries of the base flood have been designated. (Floodplain)

**Flood Insurance Study:** See Flood Elevation Study.

**Floodplain or Flood-prone Area:** Any land area susceptible to being inundated by water from any source (see flooding). (Floodplain)

**Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations. (Floodplain)

**Floodplain Management Regulations:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction. (Floodplain)

**Floodproofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents. (Floodplain)

**Floodway:** see **Regulatory Floodway**. (Floodplain; Shoreland)

**Floor Area:** The sum of the horizontal area of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. (Land Use, Site Plan; Shoreland)

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller. (Shoreland)

**Forest Management Activities:** Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management-planning activities, timber-stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation, or maintenance of roads. (Site Plan; Shoreland)

**Foundation:** The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick, or similar material. (Site Plan; Shoreland)

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions. (Floodplain)

**Freshwater Wetland:** Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, that:

- A) are of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres;
- B) are inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and that under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- C) are not considered part of a great pond, coastal wetland, river, stream, or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

(Subdivision; Site Plan; Shoreland)

**Frontage, Lot:** The length of a lot bordering on a public or private road measured in a straight line between the intersections of the side property lines with the right-of-way line of the public or private road. (Land Use)

**Functionally Dependent Use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. (Floodplain)

**Functionally Water-Dependent Uses:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings; port facilities; shipyards and boat-building facilities; marinas; navigation aides; basins and channels; industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and that cannot reasonably be located or operated at an inland site; and uses that primarily provide general public access to coastal or inland waters. (Site Plan; Shoreland)

**Gasoline Service Station:** Any place of business at which gasoline, other motor fuels, or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises. (Site Plan)

**Governmental Use:** Any department, commission, independent agency, or instrumentality of the United States; of a state, county, incorporated or unincorporated municipality, township, authority, district; or of another governmental unit. (Site Plan)

**Great Pond:** Any inland body of water that in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased that has a surface area in excess of thirty (30) acres except for the purposes of the Town of Wales Adopted Ordinances, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. (Site Plan; Shoreland)

**Ground Cover:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Handling, Processing, or other Accessory Uses:** Any washing, screening, crushing, mixing or storage of sand, gravel, stone, rock, clay, topsoil, or any other material of any kind from either on or off site; to include: any washing or screening operations: concrete mix or asphalt batching plants; blasting or mining of material; storage of material from off site; disposal, placing, or storing of any materials that are not going to be used in any process or production in conjunction with the extraction activity; or ore concentration processes. (Mining)

**Height:** The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings. (Telecommunications)

**Height of a Structure:** The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. (Site Plan; Shoreland)

**High-Intensity Soil Survey:** A soil survey conducted by a certified soil scientist, meeting the standards of the National Cooperative Soil Survey, that identifies soil types down to one-tenth

(1/10) of an acre or less at a scale equivalent to that of the subdivision plan submitted. The mapping units shall be the soil series. Single soil-test pits and their evaluation shall not be considered to constitute high-intensity soil surveys. (Subdivision)

**Historic Structure or Archaeological Resources:** Resources/Structures that are:

- A) Listed individually in the National Register of Historic Places; (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- C) Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
- D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of the Interior through the Maine Historic Preservation Commission; or
- E) Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed on the National Register of Historic Places.

(Telecommunications; Floodplain)

**Historic District:** A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history. (Telecommunications)

**Historic Landmark:** Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places. (Telecommunications, Subdivision)

**Home Occupation:** An occupation or profession that is customarily conducted on or in a residential structure or property and that: 1) is clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) employs no more than two (2) persons other than family members residing in the home. (Site Plan; Shoreland)

**Hospital:** An institution providing, but not limited to, overnight health services, primarily for inpatients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central services facilities, and staff offices. (Site Plan)

**Hotel/Motel:** A commercial building or group of buildings with sleeping rooms without cooking facilities, built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers. (Site Plan)

**Increase in nonconformity of a structure:** Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures. (Shoreland)

**Individual Private Campsite:** An area of land that is not associated with a campground but that is developed for repeated camping by only one (1) group, not to exceed ten (10) individuals, and that involves site improvements that may include but not be limited to a gravel pads, parking areas, fireplaces, or tent platforms. (Site Plan; Shoreland)

**Industrial or Commercial Street:** A street serving industrial or commercial uses. (Subdivision)

**Industrial Park or Development:** A subdivision developed exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users. (Subdivision)

**Industrial (Use):** The assembling, fabrication, finishing manufacturing, packaging, or processing of goods, or the extraction of minerals. (Site Plan; Shoreland)

**Institutional (Use):**

- A) A building or use devoted to some public, governmental, educational, charitable, medical, or similar purpose. (Land Use)
- B) A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.. (Shoreland, Site Plan)

**Junkyard:** A yard, field, or other area used as a place of storage for: 1) discarded, worn-out, or junked plumbing, heating supplies, household appliances, and furniture; 2) discarded, scrap, or junked lumber; 3) old or scrap copper, brass, rope, rags, batteries, paper trash, rubber, debris, waste, and all scrap iron, steel, and other scrap ferrous or nonferrous material; and 4) garbage dumps, waste dumps, and sanitary fills. (Site Plan)

**Kennel:** A commercial establishment in which, for a fee, more than four (4) dogs or four (4) cats are sold, housed, bred, boarded, or trained. (Site Plan)

**Line of sight:** The direct view of the object from the designated scenic resource. (Telecommunications)

**Locally Established Datum:** An elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used. (Floodplain)

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided

that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.K. of the Town's Floodplain Ordinance. (Floodplain)

**Lot:** A parcel of land described on a deed, plan, or similar legal document. (Land Use)

**Lot Area (Size):** The area of land enclosed within the property lines of a lot, minus the following: land beneath the normal high-water line of a water body, land beneath the upland edge of a wetland; land beneath roads serving more than 2 lots; and land encumbered by an easement or a right-of-way. (Land Use; Site Plan; Shoreland)

**Lot Frontage:** See "Frontage, Lot." (Land Use)

**Lot Line:** See "Property Line, Rear," and "Property Line, Side." (Land Use)

**Lot of Record:** Land designated as a separate and distinct parcel in a legally recorded deed or plan filed in the Androscoggin County Registry of Deeds. (Land Use)

**Lot Size:** See "Lot Area." (Land Use)

**Lot Width:** The horizontal distance between the side property lines measured at the setback line. (Land Use)

**Marina:** A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities. (Site Plan; Shoreland)

**Market Value:** The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels. (Site Plan; Shoreland)

**Manufactured Home or Housing:**

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

2) A structural unit or units designated for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and is transported to a building site where it is used for housing and that may be purchased or sold by a dealer in the interim. For purposes of this section, two (2) types of manufactured housing are included. Those two (2) types are:

A. Those units constructed after June 15, 1976, commonly called "newer mobile homes," that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one (1) or more sections that in the traveling mode are fourteen (14) body feet or more in width and are seven hundred and fifty (750) or more square feet and that are built on a permanent chassis and are designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air-conditioning, or electrical systems contained in the unit.

1. This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974,, United States Code, Title 42, Section 5401, et. seq.
- B. Those units, commonly called “modular homes” that the manufacturer certifies are constructed in compliance with Title 10, Chapter 957 and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundation when connected to required utilities, including the plumbing, heating, air-conditioning, or electrical systems contained in the unit.  
(Subdivision; Land Use)

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Floodplain)

**Mean Sea Level:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. (Floodplain)

**Mineral Exploration:** Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources that create minimal disturbance to the land and that include reasonable measures to restore the land to its original condition. (Site Plan; Shoreland)

**Mineral Extraction:** Any operation within any twelve- (12-) month period that removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from the natural location and that transports the product removed away from the extraction site. (Site Plan; Shoreland)

**Minimum Lot Width:** The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines. (Site Plan; Shoreland)

**Minor Development:** All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers. (Floodplain)

**Minor Street:** A street serving less than twenty (20) lots or dwelling units. (Subdivision; Road)

**Mobile-Home Park:** A parcel of land under unified ownership for the placement of three (3) or more manufactured homes. (Subdivision)

**Mobile-Home-Park Lot:** The area of land on which an individual home is situated within a mobile-home park and that is reserved for use by the occupants of that home. A municipality shall require a lot to be designated on a mobile-home-park plan. (Subdivision)

**Multi-Unit Residential:** A residential structure containing three (3) or more residential dwelling units. (Subdivision; Site Plan; Shoreland)



**Natural-Resource-Based Industry:** Includes the extraction and processing of water, wood and lumber, minerals and soils, and the associated retail functions. Examples include wells and bottling plants, sawmills and lumberyards, and mining and soil-processing industries. (Site Plan)

**National Geodetic Vertical Datum (NGVD)** - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)". (Floodplain)

**Native:** Indigenous to the local forests. (Shoreland)

**Natural-Resource-Based Recreation:** Outdoor commercial recreational facilities that have a primary characteristic of requiring a sizable amount of land, including but not limited to ball fields, golf courses, driving ranges, and the associated retail functions must be incidental to the recreational use and may include the sale or rental of goods and services related to the recreation, as well as refreshment stands. (Site Plan)

**Net Residential Acreage:** The total acreage available for the subdivision and shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development. (Subdivision)

**Net Residential Density:** The average number of dwelling units per net residential acre. (Subdivision)

**New Construction:** Structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures. (Floodplain)

**Non-conforming Condition:** Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect. (Shoreland)

**Non-conforming Lot:** A single lot of record that, at the effective date of adoption or amendment to the Town of Wales Adopted Ordinances, does not meet the area, frontage, or width requirements stated in the Ordinances. (Land Use; Site Plan; Shoreland)

**Non-Conforming Structure:** A structure that does not meet any one (1) or more of the dimensional requirements of setback, height, or lot coverage but that is allowed solely because it was in lawful existence at the time the ordinance or subsequent amendments took effect. (Land Use; Site Plan; Shoreland)

**Non-Conforming Use:** Use of buildings, structures, premises, land, or parts thereof that is not allowed in the district in which it is situated but that is allowed to remain solely because it was in lawful existence at the time the ordinance or subsequent amendments took effect. (Site Plan; Shoreland)

**Normal High-Water Line:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the great pond during the period of normal high-water are considered part of the great pond. (Site Plan; Shoreland)

**North American Vertical Datum (NAVD):** The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to

replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**Nursing Home:** A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves. (Site Plan)

**Official Submittal Date:** The date upon which the Board issues a notification indicating that a complete application has been submitted. (Subdivision)

**One-Hundred (100-) Year Flood:** The flood having one (1-) percent chance of being equaled or exceeded in any given year. (Subdivision)

**Open Space Design:** See Open-Space Subdivision. (Land Use)

**Open-Space Subdivision:** A subdivision in which the lot sizes are reduced below those normally required, in return for the provision of permanent open space owned in common by lot/unit owners, the town, or a land-conservation organization. Clustering shall not be used to increase the overall net residential density of the development except as provided under Article 9.13.C.3.b.i. (Subdivision)

**Parabolic Antenna** (also known as a satellite dish antenna): An antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern. (Telecommunications)

**Parcel, or Tract, of Land:**

- 1) All contiguous lands in the same ownership, whether or not the tract is separated at any point by an intermittent or non-navigable stream; tidal waters where there is no flow at low tide; or a private road established by the abutting landowners provided that lands located on opposite sides of a public or private road are each considered a separate parcel, unless the road was established by the owner of the land on both sides of the road. (Land Use, Subdivision)

**Parks and Recreation:** Non-commercially operated recreation facilities open to the general public, including but not limited to playgrounds, parks, monuments, green strips, open space, min-parks, athletic fields, boat-launching, ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary facilities, rest rooms, bathhouses, and the maintenance of such land and facilities. The term does not include campgrounds, commercial-recreation facilities, or amusement facilities. (Site Plan)

**Person (or Party):** An individual, a corporation, a governmental agency, a municipality, a trust, an estate, a partnership, an association, two or more individuals having a joint or common interest, or any other legal entity. (Land Use; Site Plan; Shoreland)

**Piers, Docks, Wharves, Bridges, and Other Structures:** Any uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures that remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures that remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

(Site Plan; Shoreland)

**Preliminary Subdivision Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration. (Subdivision)

**Principal Structure:**

- 1) A structure in which the primary use of the lot is conducted. (Land Use; Site Plan)
- 2) A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises. (Shoreland)

**Principal Use:** A use other than one that is wholly incidental or accessory to another use on the same premises. (Site Plan; Telecommunications; Shoreland)

**Privately Owned Street:** A street that is not intended to be dedicated as a town way. (Subdivision; Road)

**Professional Uses:** The office of a member of a recognized profession maintained for the conduct of that profession. (Site Plan)

**Property Line:** A line dividing a parcel of land from another. (Land Use)

**Property Line, Rear:** The line opposite the line that forms the lot frontage or the shore frontage. (Land Use)

**Property Line, Side:** Any property line that is not a rear property line or that does not form the lot frontage or the shore frontage. (Land Use)

**Public Facility:** Any facility, including but not limited to buildings, property, recreation areas, and roads, that are owned, leased, or otherwise operated or funded by a governmental body or public entity. (Site Plan; Shoreland)

**Public Recreational Facility:** A regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners. (Telecommunications)

**Public Utility:** Any person, firm, corporation, town department, board, or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation, or water to the public. (Site Plan)

**Public/Private Schools:** Primary and secondary schools or parochial schools that satisfy either of the following requirements: 1) the school is not operated for a profit or as a gainful business; or 2) the school teaches courses of study that are sufficient to qualify attendance in compliance with State Compulsory Education Requirements. (Site Plan)

**Rear Property Line:** See "Property Line, Rear." (Land Use)

**Recent Flood-Plain Soils:** The following soil series as described and identified by the National Cooperative Soil Survey: Alluvial; Cornish; Charles; Fryeburg; Hadley; Limerick; Lovewell; Medomak; Ondawa; Podunk Rumney; Saco; Suncook; Sunday; Winooski. (Site Plan; Shoreland)

**Reclamation:** The restoration or continued maintenance of the area of land affected by mining under a reclamation plan. This may include but is not limited to, grading and shaping of the land, the creation of lakes or ponds, the planting of forests, the seeding of grasses, legumes, or crops for harvest, or the enhancement of wildlife and aquatic resources. (Mining)

**Reclamation Plan:** A plan which depicts how the project will be restored, or maintained, after excavation is complete. Such a plan usually includes final grading and re vegetation plans, of any given phase. (Mining)

**Recreational Facility:** A place designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities, excluding boat-launching facilities. (Site Plan; Shoreland)

**Recreational Vehicle:**

1. A vehicle or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one (1) or more persons, and that may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be registered with the State Division of Motor Vehicles. (Site Plan; Shoreland)
2. A vehicle which is:
  - a. built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
  - c. designed to be self-propelled or permanently towable by a motor vehicle; and
  - d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Floodplain)

**Recycling Operation:** A privately owned facility for the recycling of heavy goods and bulk metal and products. (Site Plan)

**Regulatory Floodway:**

- a. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
- b. In Zone A riverine areas, the floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain. (Floodplain; Shoreland)

**Replacement System:** A system intended to replace: 1) an existing system that is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or 2) any existing overboard wastewater discharge. (Site Plan; Shoreland)

**Residential Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as a permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. (Site Plan; Shoreland)

**Residual basal area:** The sum of the basal area of trees remaining on a harvested site. (Shoreland)

**Residual Stand:** A stand of trees remaining in the forest following timber harvesting and related activities. (Shoreland)

**Retail Business:** A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate customer for direct use or consumption and not for resale. (Site Plan)

**Recording Plan:** A copy of the final plan that is recorded at the Registry of Deeds and that need not show information not relevant to the transfer of an interest in the property, such as sewer- and water-line locations and sizes, culverts, and building lines. (Subdivision)

**Resubdivision:** The division of an existing subdivision or any change in the plan for an approved subdivision that affect the lot lines, including land transactions by the subdivider not indicated on the approved plan. (Subdivision)

**Right-of-Way:** An easement for vehicular and pedestrian access. (Land Use)

**Right-of-Way Line:** The outer limits of the traveled way of a driveway or road or the limits of the easement of a driveway or road, where defined. (Land Use)

**Riprap:** Rocks, irregularly shaped and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less. (Site Plan; Shoreland)

**Riverine** - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. (Floodplain)

**Road:**

- 1) Any public ways and private ways, including collector streets, minor streets, private streets, areas on activity plans designated as rights-of-way, and common driveways for vehicular access, designed and constructed in accordance with the Town of Wales Road Ordinance. (Subdivision; Land Use; Mining, Road Ord., Addressing)
- 2) A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined. (Shoreland)

**Service Drop:** Any utility-line extension that does not cross or run beneath any portion of a water body, provided that:

- A) in the case of electric service: a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and, b) the total length of the extension is less than one thousand (1,000) feet.
- B) in the case of telephone service: a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

(Site Plan; Shoreland)

**Setback:** The nearest horizontal distance from a property line or the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area. (Site Plan; Land Use; Mining, Shoreland)

**Shore Frontage:** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline. (Site Plan; Land Use; Shoreland)

**Shoreland Zone:** 1) The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond. 2) The land area located within 250 feet, horizontal distance, of the upland edge of a freshwater wetland. 3) The land area located within 75 feet, horizontal distance, of the normal high-water line of a stream. (Land Use; Site Plan; Shoreland)

**Shoreline:** The normal high-water line, or upland edge of a freshwater wetland. (Shoreland)

**Side Property Line:** See "Property Line, Side." (Land Use)

**Sight Distance:** The distance required to see an object from a driveway entrance with the eye and the object both at 3.5 feet above the ground and from a point at the driveway entrance 15 feet from the centerline of the traveled way of the town-maintained road. (Land Use; Road Ord.)

**Significant Scenic-View Locations:** Points where scenic views can be accessed, as identified in the Town of Wales Comprehensive Plan. (Subdivision)

**Significant River Segments:** See Appendix B or 38 MRSA section 437. (Shoreland)

**Site (Activity Site):** All of the land area disturbed or otherwise developed for the extraction, removal, processing, or storage of sand, gravel, clay, minerals, stone, rock, or topsoil; including any access roads and cleared areas adjacent to a pit or excavated area Normal High Water Mark of Inland Waters: That line of the shores and banks of nontidal water which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plant and plant groups: water lily, pond lily, pickerel weed, cattail, wild rice, sedges, rushes, and marsh grasses, and terrestrial vegetation included but is not limited to the following plants and plant groups, Upland grasses, aster, lady slipper, wintergreen, partridgeberry, sarsaparilla, pines, cedars, oaks, ash, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark shall be estimated from places where it can be determined by the above method. (Mining)

**Skid Trail:** A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation. (Shoreland)

**Slash:** The residue, e.g., treetops and branches, left on the ground after a timber harvest. (Shoreland)

**Special Flood Hazard Area:** See *Area of Special Flood Hazard*. (Floodplain)

**Square Footage:** See "Floor Area." (Land Use)

**Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building. (Floodplain)

**Stream:** A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. (Shoreland)

**Stream:** A free flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or, if such map is not available, a 15-minute series topographical map, to the point where the body of water becomes a river. (Site Plan)

**Stream, River, or Brook:** A channel between defined banks. A channel created by the action of surface water has two (2) or more of the following characteristics:

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute-series topographic map.
- B. It contains or is known to contain flowing water continuously for a period of at least three (3) months of the year in most years.
- C. The channel of the bed is primarily composed of mineral material such as sand and gravel, parent material, or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects, or mollusks in the water or, if no water is present, within the stream bed.
- E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

(Subdivision)

**Structure:**

- 1) Anything built, either temporarily or permanently, for the support, shelter, or enclosure of people, animals, goods, or property of any kind, together with anything constructed or erected, either temporarily or permanently, with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors and wells. The term includes structures temporarily or permanently located, such as mobile homes, modular homes, decks, patios, and satellite dishes. (Land Use; Site Plan; Shoreland)
- 2) For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure. (Floodplain)

**Subdivision:** As defined in Title 30-A, M.R.S.A., Section 4401. (Land Use; Sub-Div. Ord)

**Subdivision, Major:** Any subdivision containing more than five (5) lots, dwelling units, or units in a shopping center or similar commercial establishment, or any subdivision containing a proposed street. (Subdivision)

**Subdivision, Minor:** Any subdivision containing no more than five (5) lots, dwelling units, or units in a shopping center or similar commercial establishment, and in which no street is proposed to be constructed. (Subdivision)

**Substantial Construction (Start):** The completion of any of the improvement(s) to the total property or individual lots or infrastructure improvements that are equivalent to thirty (30) percent of the total developer's cost of such improvements. (Subdivision; Site Plan; Shoreland)

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Floodplain)

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

(Floodplain)

**Subsurface Sewage-Disposal System:** Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system. (Site Plan, Shoreland)

**Surface Water:** Any water flowing on the surface, either channelized or by sheet flow including, but not limited to, rivers, streams, brooks, ponds, lakes and any swamp, marsh, bog or other contiguous lowland where water is periodically ponded on the surface. (Mining)

**Sustained Slope:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area. (Site Plan; Shoreland)

**Targeted Market Coverage Area:** The area which is targeted to be served by this proposed telecommunications facility. (Telecommunications)

**Timber Harvesting:** The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*. (Site Plan; Shoreland)

**Timber Harvesting and related activities:** Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. (Shoreland)

**Tract, or Parcel, of Land:** See Parcel, or Tract, of Land.

**Traveled Way:** The actual portion of a driveway or road that is used for vehicular or pedestrian access. (Land Use)

**Tributary Stream:** A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. (Site Plan; Shoreland)

**Unit:** A room or group of rooms designed or equipped exclusively for a permanent, pedestrian access. (Land Use)

**Unit, Commercial:** A room or group of rooms designated or equipped exclusively for only one type of permanent, seasonal, or temporary commercial use. The term includes motor vehicles on which motor vehicle taxes are not current. (Land Use)

**Unit Residential:** A room or group of rooms designed or equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term includes mobile homes and includes recreational vehicles on which excise taxes are not current. (Land Use)

**Unreasonable Adverse Impact:** When the proposed project would produce an end result which is:

- A) excessively out-of-character with the designated scenic resources affected, including existing buildings structures and features within the designated scenic resource, and



B) would significantly diminish the scenic value of the designated scenic resource.  
(Telecommunications)

**Upland Edge (of a Wetland):** The boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller. (Site Plan; Shoreland)

**Vacant Lot:** A lot on which no structure exists. (Land Use)

**Variance:** A grant of relief by a community from the terms of a floodplain management regulation. (Floodplain)

**Variance Appeal:** An appeal for relief from dimensional requirements of the Land Use Ordinance. (Land Use)

**Vegetation:** All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and one-half (4½) feet above ground level. (Site Plan; Shoreland)

**Viewpoint:** A location which is identified either in the municipally adopted comprehensive plan or by a federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource. (Telecommunications)

**Violation:** The failure of a structure or development to comply with a community's floodplain management regulations. (Floodplain, Shoreland)

**Volume of a Structure:** The volume of all portions of a structure enclosed by a roof and fixed exterior walls, as measured from the exterior faces of these walls and roof. (Land Use; Site Plan; Shoreland)

**Water Body:** Any great pond or stream. (Land Use; Site Plan; Shoreland)

**Water Crossing:** Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fiords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities. (Site Plan; Shoreland)

**Wetland:** A freshwater wetland. (Site Plan; Shoreland)

**Wetlands Associated with Great Ponds:** Wetland contiguous with or adjacent to a great pond and that during normal high water are connected by surface water to the great pond. Also included are wetlands that are separated from the great pond by a berm, causeway, or familiar feature less than one hundred (100) feet in width and that have a surface elevation at or below the normal high-water line of the great pond. Wetlands associated with great ponds are considered to be part of that great pond. (Site Plan; Shoreland)

**Wholesale Business:** A business establishment engaged in the sale of goods or commodities in large quantities for individual consumption or trade. (Site Plan)

**Windfirm:** The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage. (Shoreland)

**Wireless Telecommunications Facility or Facility:** Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio

communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

**Woody Vegetation:** Live trees or woody, non-herbaceous shrubs. (Shoreland)

**Working Pit or Area:** Traction area including side slopes and adjoining areas with overburden removed, excluding roads. (Mining)

**Zoning Line:** A line separating the shoreland zone from other land in the town. (Land Use)

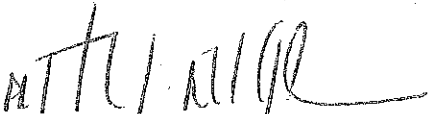
# **Town of Wales Addressing Ordinance**

**Draft Date: 03/24/15**

**Final Draft Date: March 24, 2015**

**Adopt Date: June 13, 2015**

**Attest:**



**Patty Auge, Municipal Clerk**

**Date:**



## **Article 1. Purposes**

The purpose of this ordinance is to enhance the easy and rapid location of structures by law enforcement, fire, rescue, and emergency medical services personnel in the municipality of Wales.

## **Article 2. Authority, Administration, Effective Date, Repeal of Existing Ordinance**

### **2.1 Authority**

- A. This ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.
- B. This ordinance shall be known and may be cited as the "Town of Wales Addressing Ordinance."

### **2.2 Administration**

- A. This ordinance shall be administered by the selectmen, the Addressing Officer, or designee who/which is/are authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria outlined in Article 3. The Addressing Officer can make changes to existing addresses to maintain proper addressing for an individual road. Property owners must change their address if it is found to be in error or not in compliance with this ordinance.
- B. It shall be the duty of the designated Addressing Officer to notify by mail each property owner and the U.S. Postal Service of their new address at least 60 (sixty) days prior to the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within 60 (sixty) days following notification. On new structures, numbering will be installed prior to final inspection or when the structure is first used or occupied, whichever comes first.
- C. Addressing Officer or designee shall be responsible for maintaining the following official data of record for this ordinance:
  - a. The ability to generate/provide a municipal map(s) for official use showing road names and numbers.
  - b. The ability to generate an alphabetical list of all property owners as identified by current tax records, by last name, showing the assigned numbers.
  - c. The ability to generate an alphabetical list of all roads with property owners listed in order of their assigned numbers.
- D. The selectmen shall designate an Addressing Officer, who is responsible for and authorized to provide all required addressing and database information to the state

agency responsible for the implementation of Enhanced 9-1-1 service. The selectmen may designate any town official or employee as the Addressing Officer.

### **2.3 Effective Date**

This ordinance shall become effective as of June 13, 2015.

### **2.4 Conflict with Other Ordinances**

This ordinance shall not be construed to repeal any existing bylaws or ordinances, other than those specifically identified, or to impair the provisions of private restrictions placed upon property, provided, however, that where this ordinance imposes greater restrictions, its provisions shall control.

### **2.5 Validity and Severability**

Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

## **Article 3. Criteria, Standards, and Compliance**

### **3.1 Naming System**

- A. All roads that serve two or more structures shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. A road name assigned by the municipality shall not constitute or imply acceptance of the road as a public way.
- B. The following criteria shall govern the naming system:
  - a. No two roads shall be given the same name (ex. Pine Road and Pine Lane).
  - b. No two roads shall have similar-sounding names (ex. Beech Lane and Peach Lane).
  - c. Where possible, each road shall have the same name throughout its entire length.
  - d. A road is a continuation of an existing road from another municipality; it may or may not use the existing name or numbering system.

### **3.2 Numbering System**

- A. Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, as the numbers ascend.
- B. All number origins shall begin from (lowest) West to (highest) East, (lowest) South to (highest) North, or that end of a road closest to the designated origin. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end. Existing non-compliant numbering origins shall be maintained where there are no

current discrepancies or issues on existing roads from the first adoption date, June 13, 2015, of this ordinance.

- C. The number assigned to each structure shall be that of the numbered interval falling closest to the driveway of said structure.
- D. Every structure with more than one principle use or occupancy, be it duplex or apartment, shall have one road number with sequential letters for each unit such as 235-A Maple Road.

### **3.3 Numbering Standards**

All owners of structures shall display and maintain in a conspicuous place assigned numbers in the following manner:

- A. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry unless the number is displayed at the road line in accordance with Section 3.3.B. Numbers must be visible from the roadway.
- B. Number at the Road Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure. Numbers must be visible from both sides of the sign and/or mailbox.
- C. Size, Color, and Location of Number. Numbers shall be of a color that contrasts with their background color and shall be a minimum of four (4) inches in height. Numbers shall be located to be visible from the road at all times of the year.
- D. Proper number. Every person whose duty is to display an assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

### **3.4 New Construction and Subdivisions**

- A. New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Addressing Officer. This shall be done at the time of the issuance of the building permit.
- B. New Subdivisions. Any prospective sub-divider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with Addressing Officer or designee, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of

the streets every 50 feet so as to aid in the assignment of numbers to structures subsequently constructed.

### **3.5 Compliance**

- A. All owners of structures shall, by the date stipulated in Section 2.3, display and maintain in a conspicuous place assigned numbers as outlined in Section 3.3 of this ordinance.
- B. Final inspection approval for new structures/construction shall not be issued if address numbering is not in compliance with Section 3.3 at the time of inspection.

### **Article 4. Enforcement**

Enforcement of this ordinance shall be the duty of the Addressing Officer, Code Enforcement Officer, Selectmen, or their designee. Upon notification of non-compliance with this ordinance, the property owner will be given 30 days to display the correct address as outlined in this ordinance. If the property owner fails to complete the required corrective action within 30 days the following action(s) will be taken:

- a. A penalty of \$5/day will be assessed for each day of non-compliance from 31 days up to 60 total days following the initial notification.
- b. A penalty of \$10/day will be assessed for each day of non-compliance from 61 days up to 90 total days following the initial notification.
- c. Legal action will be pursued by the Town of Wales.

Notification of each of these actions will be made by the Town of Wales to the property owner 10 days prior to the resulting implementation/assessment.

Draft date: 3-24-15

ljhb

# **TOWN OF WALES LAND USE ORDINANCE**

Final Draft Date: May 30, 2009

Note: This ordinance replaces the ordinance adopted June 11, 2005

Adopted: June \_\_\_\_, 2009



## **Article 1. Purposes**

The purpose of this ordinance is to protect the health, safety, and welfare of the citizens of the town of Wales and to protect the environment and natural resources of the town by allowing for development that must meet certain performance standards.

## **Article 2. Authority, Applicability, Administration, Effective Date, Repeal of Existing Ordinance**

### **2.1 Authority**

- A. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title - 1 - 30-A, M.R.S.A. § 3001.
- B. These standards shall be known and may be cited as “Land Use Ordinance of the Town of Wales, Maine” and shall be referred to herein as “this Ordinance.”

### **2.2 Applicability**

The provision of this ordinance shall apply to all land, structures, and new driveway entrances within the boundaries of the town of Wales that are not covered under the provisions of the “Shoreland Zoning Ordinance, Town of Wales.” No structure shall hereafter be constructed, relocated, placed, replaced, demolished, converted, or altered unless it is in conformance with the provisions of this Ordinance. No driveway entrance shall hereafter be constructed, relocated, placed, replaced, or altered unless it is in conformance with the provisions of this Ordinance.

### **2.3 Effective Date**

The effective date of this Ordinance shall be the date of the 2009 Town Meeting of the Town of Wales held on June , 2009.

### **2.4 Repeal of Prior Ordinances**

This Ordinance shall repeal the ordinance entitled “Land Use Ordinance of the Town of Wales, Maine” adopted June 11, 2005.

### **2.5 Relationship with Other Ordinances**

If any provisions of this Ordinance conflict with the provisions of the “Shoreland Zoning Ordinance, Town of Wales,” the provisions of the “Town of Wales Subdivision Ordinance,” or any other ordinances or regulations, then the stricter provisions shall apply.

### **2.6 Validity and Severability**

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section of this Ordinance.

## **Article 3. Establishment of Districts**

### **3.1 Zoning Map**

A digital map entitled “Town of Wales” is hereby adopted as part of this Ordinance and shall be referred to as the Official Zoning Map. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Selectmen and attested by the signature of the Town Clerk. The official Zoning Map shall be located in the office of the Town Clerk, and it shall be the final authority as to the current status of the zoning of the land and water areas, buildings, and other structures and uses in the town.

### **3.2 Zoning Districts**

The Town shall be divided into three primary Districts as shown on the Official Zoning Map. (Shoreland areas are described in the Town of Wales Shoreland Zoning Ordinance.) The three primary Districts shall be known as the:

Growth District

General Use District

Limited Rural District

### **3.3 District Boundaries**

- A. Uncertainty of Boundaries - Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map, the following rules shall apply:
1. Boundaries indicated as approximately following the center lines of streets, highways, or right-of-way shall be construed to follow such center lines;
  2. Boundaries indicated as approximately following well-established lot lines shall be construed as following such lot lines;
  3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
  4. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline;
  5. Boundaries indicated as being parallel to or extensions of features indicated in Paragraphs (1) through (4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Any conflict between the Official Zoning Map and a description by metes and bounds in a deed shall be resolved in favor of the description by metes and bounds.
  6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in circumstances where the items covered by Paragraphs (1) through (5) above are not clear, the Board of Appeals shall interpret the district boundaries.

B. Division of Lots by District Boundaries - Where a zoning district boundary line divides a lot or parcel of land in the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended into the more restricted portion of the lot by not more than twenty (20) feet, provided that the more restricted portion is not a Resource Protection District, and provided further, that minimum side setback and yard and rear setbacks and yard requirements for a non-residential use abutting a residential use shall be observed.

C. District Boundaries are defined as follows:

All references to tax map and lot number shall be to the Town of Wales tax maps dated April 1, 2004.

1. Sabattus Mountain Limited Rural District shall consist of the area identified as follows:

The Sabattus Mountain Limited Rural District shall include that area bounded and described as follows: Beginning at the southwest corner of Map R-2, Lot 28-5A and proceeding in a generally easterly direction along the northerly line of Map R-2, Lot 30 approximately 1160 feet to the northeast corner of Lot 30, thence in a generally southerly direction along the easterly line of Lot 30 and Lot 31 a distance of approximately 3000 feet to Lot 46, thence in a generally easterly direction along the northerly line of lot 46 approximately 460 feet to the north east corner of Lot 46, thence in a generally southerly direction along the easterly line of Lot 46 approximately 875 feet to a point, thence westerly along the line of Lot 46 approximately 550 feet to a point, thence southerly along the easterly line of Lot 46 approximately 650 feet to a point, thence south westerly along the line of Lot 47 approximately 1750 feet to the Wales/Sabattus town line, thence westerly along said town line approximately 150 feet to Map R-2, Lot 47, thence in a generally northerly direction approximately 2750 feet to the south east corner of Map R-2, Lot 35, thence in a north westerly direction along the easterly line of Lot 35 approximately 1350 feet to the north east corner of Lot 35, then in a north easterly direction approximately 1800 feet to the point of beginning.

2. Oak Hill Limited Rural District. The Oak Hill Limited Rural District shall include the following lots: Map R1, Lots 31, 32, 33, 34, 34, 35, 45, 47B, 47C, & 48, and Map R4, Lots 35 & 36.
3. Pond Road/Centre Road Growth District. The Pond Road/Centre Road Growth District shall include the following lots; Map R3, Lots 42, 45, 45A, 45B, 45-1, 45-2, 45-3, 45-4, 45-5, 45-6, 45-7, 46, 54, 59, 60A, 61 & 62.
4. Gardiner Road Growth District. The Gardiner Road Growth District shall include the following lots; Map R1, Lots 16, 16-1, 16-2, 16-3, 16-4, 16-5, 16-6, 16-7, 16-8, 16-9, 16-10, 16-11, 16-12, 16-13, 16-14, 17 and Map R4, Lots 44 & 44A.
5. General Use District

The General Use District includes all land areas in the Town of Wales not included in the Growth Districts or the Limited Rural Districts described above.

### 3.4 Allowed Uses By District

Allowed Uses By District			
	General		
Use	Use	Growth	Limited Rural
Agriculture	Y	Y	Y
Auto Graveyard, Junkyard	Y		
Bed & Breakfast	Y	Y	Y
Campground	Y	Y	
Cemeteries	Y	Y	Y
Clubs, lodges, Community Buildings	Y	Y	
Day Care Center	Y	Y	
Day Care Home	Y	Y	Y
Elderly Housing	Y	Y	Y
Essential Services <sup>1</sup>	Y	Y	Y
Forestry	Y	Y	Y <sup>2</sup>
Gas Station, Repair Garage	Y		
Home Occupation	Y	Y	Y
Highway and Mall Stores/Services	Y		
Institutional and Cultural Facilities		Y	
Manufacturing, Light Industrial	Y		
Mobile Home Park		Y	
Mobile Homes	Y	Y	Y
Motel, Hotel, Inn	Y		
Multi-Family		Y	
Neighborhood Stores & Services	Y	Y	
Nursing or Convalescent Home	Y	Y	
Open Space Uses	Y	Y	Y
Personal and Financial Services	Y		
Parks	Y	Y	
Professional Offices	Y		
Public Buildings, Churches, Etc.	Y	Y	
Recreation (Walking Trails)	Y		Y
Single Family Residential	Y	Y	Y
Two-Family Residential	Y	Y	Y

Uses Similar to Allowed Uses are allowed

Other Uses Allowed by Statute are allowed

Wireless Telecommunications Facilities/Towers (See Telecom. Siting Ord.)

<sup>1</sup> Essential Services shall be subject to approval under the Site Plan Review Ordinance and shall be exempt from Article 4 of this Land Use Ordinance.

<sup>2</sup> For the purposes of this ordinance forestry for the limited growth area is limited to selective cutting.

## **Article 4. Lot Standards**

### **4.1 Lot Size Standards for New Lots**

- A. No building permit shall be issued for any structure on any new lot that is created after June 27, 1996 unless such lot has at least 80,000 square feet and is able to contain within its boundaries a circle having a radius of 70 feet, unless such lot is part of an approved open space subdivision.
- B. No building permit shall be issued for any structure on any new lot that is created after June 11, 2005 in any district other than a Growth District unless the lot contains a contiguous building envelope of at least 40,000 square feet which does not include any wetlands.
- C. No building permit shall be issued for any structure on any new lot that is located in the shoreland zone, as defined, and that is created after the effective date of this Ordinance, unless such lot complies with the minimum lot requirements in the “Shoreland Zoning Ordinance, Town of Wales.”
- D. No building permit shall be issued for any structure on any new lot that is located in a mobile home park, as defined, and that is created after the effective date of this Ordinance, unless such lot complies with the minimum lot requirements in the “Town of Wales Subdivision Ordinance.”
- E. No building permit shall be issued for any multi-family structure on any new lot that is created after June 27, 1996 unless such lot has at least 80,000 square feet for the first dwelling unit and at least 20,000 square feet for each additional dwelling unit. For projects in the Growth Districts involving affordable elderly housing only, applicants can elect to calculate the land area required as 80,000 square feet for each 3 bedrooms in the development.

### **4.2 Frontage Requirements for New Lots**

- A. No building permit shall be issued for any structure on any new lot that is created after June 27, 1996 unless such lot has at least 200 feet of continuous frontage on a public or private road, unless such lot is part of an approved open space subdivision. The frontage measurement shall not include any area encumbered by easements or rights-of-way.
- B. No building permit shall be issued for any structure on any new lot that is created after June 27, 1996 that does not have frontage on a public or private road, unless the new lot is served by a 30-foot deeded right-of-way and designed as a common driveway in accordance with the Town of Wales Road Ordinance. Up to 3 dwelling units may be served by a common driveway.
- C. No building permit shall be issued for any structure on any new lot that is located in the shoreland zone, as defined, and that is created after the effective date of this Ordinance unless such lot complies with the minimum shore frontage requirements in the “Shoreland Zoning Ordinance, Town of Wales.”
- D. No building permit shall be issued for any structure on any new lot that is located in a mobile home park, as defined, and that is created after June 27, 1996, unless such lot complies with the minimum frontage requirements in the “Town of Wales Subdivision Ordinance.”

### **4.3 Setback Requirements for Structures on All Lots**

- A. All principal structures on any lot shall conform with the following setbacks:
  - 1. at least 25 feet from a right-of-way line of a public or private road;
  - 2. at least 25 feet from a side or rear property line;
  - 3. the setbacks required in Section 15B of the “Shoreland Zoning Ordinance, Town of Wales;”
- B. All accessory structures on any lot shall conform with the following setbacks:
  - 1. at least 25 feet from a right-of-way line of a public or private road;
  - 2. at least 10 feet from a side or rear property line;
  - 3. the setbacks required in Section 15B of the “Shoreland Zoning Ordinance, Town of Wales.”

## **Article 5: Additional Standards**

### **5.1 Accessory Structures**

An accessory structure that does not exceed 144 square feet in floor area and 10 feet in height does not need a building permit, as long as the structure complies with the setback requirements from a right-of-way line and the side or rear property lines.

### **5.2 Lots Divided by a Zoning Line**

When a new lot created after the effective date of this Ordinance is divided by a zoning line, the location of the proposed structure will determine whether the lot must comply with the provisions of this Ordinance, the provisions of the “Shoreland Zoning Ordinance, Town of Wales,” or the provisions of the “Subdivision Ordinance of the Town of Wales, Maine.” If the proposed structure is divided by a zoning line, then the stricter provisions will apply.

### **5.3 Driveway Entrances**

- A. The Road Commissioner is responsible for reviewing driveway entrances for any parcel of land on which agricultural or timber-harvesting uses will be conducted or on which will be built a new structure for a residential, commercial, or industrial unit.
- B. A driveway “entrance permit” issued by the town Road Commissioner is required for any new driveway, access way, or other road/street opening which provides access to and from a town road or a proposed town road prior to the issuance of a building permit. Other requirements, unless granted a waiver by the Road Commissioner, are as cited in the “Road Ordinance of the Town of Wales, Maine” and as follows:
  - 1. Sight distance in each direction is equal to or greater than 10 times the posted speed limit for the section of the road where the driveway entrance is located.
  - 2. If required in the driveway entrance permit, a plastic culvert, 15 inches or greater in diameter, with a minimum length of 30 feet and a maximum length of 40 feet, and a minimum of 18 inches of cover, is installed in accordance with

the Town of Wales Road Ordinance, and inspected by the Road Commissioner, his/her agent, or the Maine Department of Transportation as appropriate, in order to prevent the interruption of road drainage. The cost of said culvert installation and inspection shall be borne by the property owner or the developer.

3. Inlet and outlet ditches are constructed in such a manner as to prevent ponding of the road drainage.
- C. The Road Commissioner shall determine what standards must be met in order for a driveway entrance permit to be issued. The Road Commissioner may reduce, by no more than 30% the standards for sight distance, culvert diameter, minimum length of the culvert, or the amount of culvert cover. When the standards are reduced, the Road Commissioner may require, as applicable, the trimming of vegetation, the installation of “hidden drive” signage, the installation of a larger culvert, or additional ditching.
- D. The landowner is responsible for constructing the driveway entrance to the standards stated in Article 5.3.B and to the Road Commissioners satisfaction.
- E. The town will maintain the culverts at driveway entrances that comply with 5.3 A through D. above and be responsible for the cost of said maintenance. The town will only be responsible for culverts when a driveway entrance permit is obtained.
- F. No application for a building permit that requires access from a town road will be approved unless a driveway entrance permit has been obtained from the Road Commissioner.
- G. The location of any new structure shall not interfere with existing road drainage.
- H. No building permits shall be issued for lots within a subdivision of 3 or more units unless access to said lots is on interior subdivision roads.

#### **5.4 Mobile Homes**

No building permits shall be issued for the placement of a mobile home or a manufactured home that will be used as a residential unit unless all of the following requirements are met.

- A. The site complies with the Manufactured Home Installation Standard promulgated by the State of Maine, Department of Professional Regulation, Manufactured Housing Board, dated March 31, 1993, and as amended from time to time.
- B. The mobile home or the manufactured home is certified to be in compliance with standards adopted pursuant to Title 10, MRSA § 9041.
- C. No fuels or flammable materials shall be stored under mobile homes, except as allowed by state regulations.

#### **5.5 Pools**

All new in-ground pools shall be surrounded by a permanently installed fence and gate(s). The fence and gate(s) shall be no more than 2 inches from ground level and shall be a minimum height of 4 feet. The design of the fence and gate(s) shall allow for normal access only through the gate(s). The gate(s) shall be designed to open only outward away from the pool and shall be spring-operated to maintain the gate(s) in a closed and latched position.

## **5.6 Additional Principal Residential, Commercial, and Industrial Units**

- A. No more than one principal residential, commercial, or industrial unit is allowed on either a legally created non-conforming lot or on a lot that meets the minimum lot size and frontage requirements of this ordinance.
- B. If more than one principal residential, commercial, or industrial unit is constructed on a lot that meets or exceeds the minimum lot size and frontage requirements of this ordinance and the additional unit is in the same structure as the first unit, then the setback requirements in Article 4.3 of this Ordinance must be met and the following dimensional requirements shall be met for each additional unit.
  - 1. 20,000 square feet over and above the first unit's requirements;
  - 2. 50 feet of road frontage over and above the first unit's requirements.
- C. If more than one principal residential, commercial, or industrial unit is constructed on a lot that meets or exceeds the minimum lot size and frontage requirements of this ordinance and the additional unit is not in the same structure as the first unit, then the setback requirements in Article 4.3 of this Ordinance must be met and the following dimensional and other requirements shall be met for each additional unit.
  - 1. The lot size standards noted in Article 4.1 of this Ordinance.
  - 2. The frontage requirements noted in Article 4.2 of this Ordinance.
  - 3. A separate deed describing the parcel on which the additional unit will be constructed must be recorded in the Registry of Deeds before a building permit can be issued.

## **5.7 Foundation Standards for Residential Dwelling Units**

When a new concrete slab is to be used as a foundation for a residential dwelling unit, the concrete slab shall comply with the following construction standards.

- A. The minimum thickness of the concrete slab is 6 inches.
- B. Concrete shall have a minimum compressive strength of 3000 psi at 28 days.
- C. The concrete slab shall incorporate 6x6-6x6 W.W.F. and #5 deformed bar, continuous, as noted in Concrete Slab Detail IV-A in the Manufactured Home Installation Standard promulgated by the State of Maine, Department of Professional Regulation, Manufactured Housing Board, dated March 1, 1993, and as amended from time to time. W.W.F. is per ASTM A185, F=65 ksi.
- D. Compacted fill under the concrete slab shall be a minimum of 18 inches in depth and shall comply with the general specifications for site preparation and site preparation detail I-A, I-B, or I-C as noted in the above mentioned Manufactured Home Installation Standard.
- E. Fill and concrete slab shall not be placed on frozen ground.
- F. Anchoring for the dwelling unit into the concrete slab shall comply with current construction standards.



## 5.8 Miscellaneous Standards

- A. Whenever a new building is to be located adjacent or in close proximity to existing agricultural, forestry or commercial user which is not compatible with residential use, buffers consisting of natural vegetation, new vegetation, berms, fences or structures shall be developed and/or maintained to minimize potential conflict between the incompatible uses. When required, this will be a condition of the building permit.
- B. Phosphorous Export
  - 1. Phosphorous export from a proposed project shall be calculated according to the procedures defined in Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development (Maine DEP et. al., September 1989 with revision in 1992 and as may be amended). Upon request, copies of all worksheets and calculations shall be made available to the Board.
  - 2. Phosphorous-control measure shall meet the design criteria contained in Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development (Maine DEP et. al., September 1989 with revision in 1992 and as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimal road lengths and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds. Where buffers can be designed and maintained to remove 75% of the phosphorus in accordance with Table 6.1 of Stormwater Management for Maine: Best Management Practices, it will be assumed that the project meets this standard.
- C. Development in the Limited Rural District

All proposed development in a Limited Rural District shall be of the open space design to preserve agriculture, forestry, wildlife habitat and scenic resources. The maximum density shall be one dwelling unit or other principal use per 3 acres. A minimum of 50% of any parcel developed shall forever remain open space.

## Article 6: Nonconforming Provisions

### 6.1 General

Nonconforming lots and structures may be transferred, and the new owner may continue to use the nonconforming lot or structure, subject to the provisions of this Article.

Normal upkeep and maintenance of a nonconforming structure, including repairs and renovations that do not involve expansion of the nonconforming structure, are allowed.

### 6.2 Non-conforming Lots of Record

- A. Vacant Lots
  - 1. Nonconforming vacant lots of record that are part of a subdivision previously approved by the Wales Planning Board or Selectmen and recorded at the Androscoggin County Registry of Deeds at the time of the adoption of this

Ordinance, and that are not located in the shoreland zone, may be built upon provided that setback requirements are met and that all other requirements of this Ordinance and State law are met.

2. Any other legally created nonconforming lot of record may be built upon, provided that such lot of record is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size, lot width, or lot frontage can be met. Variance of setbacks or other requirements not involving area, width, or frontage can be obtained only by action of the Board of Appeals.
3. If two or more contiguous lots of record are in the same single or joint ownership on or after the effective date of this Ordinance, and if either or both of these lots do not individually meet the dimensional requirements of this Ordinance, and either of the lots are vacant or contain only principal or accessory structure, then the lots shall be combined to the extent necessary to meet all dimensional standards, except where rights have been vested.

**B. Built Lots**

1. A structure on a conforming or nonconforming lot of record that was built prior to the adoption of this Ordinance may be subject to the restrictions in Article 6.3.
2. If two or more contiguous lots of record are in the same single or joint ownership on or after the effective date of this Ordinance, and if either or both of these lots do not individually meet the dimensional requirements of this Ordinance, and if a principal structure exists on each lot, then the nonconforming lots of record may be conveyed separately or together in accordance with the State Minimum Lot Size Law and the State Plumbing Code.

### **6.3 Nonconforming Structures**

A nonconforming structure may be added to or expanded after a permit has been obtained from the Code Enforcement Officer as long as such expansion does not extend the nonconformity any farther toward the setback line (front, side, rear, shore) beyond the most nonconforming point of the existing structure.

### **6.4 Nonconforming Provisions for the Shoreland Zone**

All lots of record and structures located in the shoreland zone shall comply with the nonconforming provisions of the “Shoreland Zoning Ordinance, Town of Wales”.

## **Article 7: Administration**

### **7.1 Code Enforcement Officer**

This ordinance shall be administered by a Code Enforcement Officer (CEO) who shall be appointed or reappointed annually by the Selectmen. The CEO shall inspect all lots and structures for compliance with, and for the enforcement of, the provisions of this Ordinance. The CEO, in the performance of his/her duties, shall have the right to enter any property at reasonable

hours or to enter any structure with the consent of the owner, occupant, or agent to inspect the property for compliance with this Ordinance.

## **7.2 Permits**

A building permit shall be obtained from the CEO, except as allowed under Article 5.1, prior to any construction, relocation, placement, replacement, demolition, conversion, or alteration that changes the square footage or volume of any structure or part thereof. A permit for a driveway entrance shall be obtained from the Road Commissioner or the Maine Department of Transportation as appropriate, as outlined in Article 5.3, prior to obtaining a building permit from the CEO.

## **7.3 Application for Permit**

A permit required under the provisions of this Ordinance and permits required from the Planning Board (PB) and the CEO under the provisions of the “Shoreland Zoning Ordinance, Town of Wales,” shall be submitted to the CEO on application forms provided by the CEO. Exterior or interior plumbing permits required by State Plumbing Code and, where applicable, proof of payment of sales tax or current property taxes for mobile homes as required by State Law shall be submitted with the application.

## **7.4 Permit Fees**

The Selectmen, after holding a public hearing, shall establish a schedule of reasonable fees for the administration of this Ordinance, including but not limited to building permit fees, driveway entrance permit fees, CEO permit fees, PB application fees, and Board of Appeals application fees.

## **7.5 Permit Application Procedure**

Within 7 days after receipt of an application for a building permit, the CEO shall determine if the application is complete. Completeness of the application shall consist of the payment of the building permit fee, exterior and interior plumbing permits as needed, proof of payment of sales tax or current property taxes as needed, a letter of authorization as needed, and the information requested on the building permit application. Failure to submit the necessary information in order for the CEO to understand what the applicant wishes to do will automatically result in a decision, by the CEO, of incompleteness of the application.

If the CEO determines that the application is incomplete, then the CEO shall notify the applicant in writing within 7 days of the CEO’s determination. The CEO shall note the information that is required in order for the application to be deemed complete. The CEO’s decision that the application is incomplete can be appealed to the Board of Appeals.

## **7.6 Action on a Complete Application**

Once an application has been found to be complete by the CEO, the CEO shall have 14 days in which to refer the application for a building permit to the PB where required under the provisions of the “Shoreland Zoning Ordinance, Town of Wales”, to approve the application for a building permit; to approve the application for a building permit with conditions; or to deny the

application for a building permit. The CEO's decision under the provision of Article 6.6 can be appealed to the Board of Appeals.

### **7.7 Applications Referred to the Planning Board**

Within 45 days of receipt of a completed application from the CEO, the PB shall approve the application for a building permit, approve the application for a building permit with conditions, or deny the application for a building permit. The decision of the PB under the provisions of Article 7.7 can be appealed to the Board of Appeals.

### **7.8 Term of Permit**

Any activity authorized under the issuance of a building permit shall be completed within 12 months of the issuance of the permit. If the activity authorized under the building permit has not been substantially completed, then the authorized activity must cease, and a new building permit must be applied for.

## **Article 8: Appeals**

### **8.1 Responsibility of the Board of Appeals**

The Board of Appeals (BOA) shall have the responsibility to hear and act upon requests for variance and administrative appeals, as defined, in accordance with State Law and this Ordinance.

### **8.2 Appeal Procedure**

- A. A variance appeal may be received by the BOA at any time. An administrative appeal shall be received by the BOA within 30 days of the date of the decision that is being appealed, except that the BOA, upon a showing of good cause, may waive the 30-day requirement.
- B. A variance or administrative appeal shall be filed with the BOA on appeal forms provided by the BOA.
- C. Upon being notified of an appeal, the CEO and the PB, where applicable, shall provide the BOA with copies of all documents pertaining to the decision that is being appealed. The BOA may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct any cross-examination that is required for a full and true disclosure of facts.
- D. The burden of proof shall be upon the person making the appeal.
- E. The BOA shall hold a public meeting on the appeal within 35 days of the receipt of an appeal request. The BOA shall notify abutters, by certified mail, at least 10 days before the date of the public meeting.

### **8.3 Conditions of a Variance Appeal**

- A. Variance may be granted only from dimensional requirements, including but not limited to frontage, lot width, percentage of lot coverage, percentage of structure expansion, and setback requirements.
- B. Variances may be granted only if the BOA finds that all provisions of this Ordinance would be met except for the specific provision that is being appealed and that the strict application of the provisions of this Ordinance would result in undue hardship.

Undue hardship means:

- 1. that the land in question cannot yield a reasonable return;
  - 2. that the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
  - 3. that the granting of a variance will not alter the essential character of the locality; and
  - 4. that the hardship is not the result of action taken by the applicant or prior owner.
- C. Variances issued by the BOA shall be as strict as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible. The BOA may impose conditions on a variance as the BOA deems necessary. The party receiving the variance shall comply with any conditions imposed.
- D. Variances granted by the BOA shall be filed by the party receiving the variance in the Androscoggin Country Registry of Deeds within 90 days of the granting of the variance by the BOA. A variance not recorded within the 90-day period shall not be extended by the BOA and shall become void.

### **8.4 Decisions by the Board of Appeals**

- A. A majority of the members of the BOA shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- B. The concurring vote of a majority of the members of the BOA present and voting must be necessary to make a decision.
- C. The BOA shall decide appeals within 35 days after the close of the public meeting.
- D. The BOA shall render its decision in writing, and this decision will become a part of the record. The decision shall include a statement of the findings of fact and of conclusions, with the reasons for these conclusions. In cases where the BOA decision is remanded back to the CEO or to the PB, the decision will include an appropriate order.

### **8.5 Reconsideration**

The BOA may reconsider any decision within 30 days of its prior decision. The BOA may conduct an additional hearing and receive additional evidence and testimony, subject to the provision of Article 7.2.C.

## **8.6 Appeal to Superior Court**

Any part aggrieved by a decision of the BOA may appeal to Superior Court in accordance with State Laws within 45 days of the original decision of the BOA.

# **Article 9: Enforcement**

## **9.1 Violations and Nuisances**

Any violation of this Ordinance shall be deemed a nuisance.

## **9.2 Enforcement Action by the Code Enforcement Officer**

- A. It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of the Ordinance. If the CEO finds that any provision of this Ordinance is being violated, the CEO shall notify in writing the person responsible for the violation as well as the owner of the property on which the violation occurred. The notice shall indicate the provision(s) of this Ordinance that is/are being violated, the corrective actions to be taken within a certain time period, and the possibility of fines if the corrective actions are not taken within the time period. The corrective actions could include the discontinuance of the illegal use of land and structure, the discontinuance of work being conducted, the removal of illegal structures, and/or the abatement of nuisance conditions. A decision by the CEO that any provision of this Ordinance is being violated is not appealable to the BOA.
- B. The CEO, in the performance of his/her duties, shall have the right to enter any property at reasonable hours or to enter any building with the consent of the owner, occupant, or agent to inspect the property or building for compliance with this Ordinance.

## **9.3 Legal Actions**

When the actions described in article 9.2 do not result in cessation, correction, or abatement of the violation and nuisance, the Board of Selectmen, upon notice from the CEO, may institute any and all actions and proceedings either legal or equitable, including seeking injunctions of violations and the imposition of fines that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Wales. The Board of Selectmen may enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure to remain, unless there is clear and convincing evidence that the illegal structure was constructed as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner of the property acted in bad faith, or unless the removal of the structure will result in a threat or hazard to public health and safety or will result in substantial damage.

#### **9.4 Fines**

Any part, including but not limited to a landowner, a landowner's agent, or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, MRSA, Section 4452.

### **Article 10: Definitions**

Unless specifically defined in the Town of Wales Definitions Ordinance, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application.

# **Town of Wales Mining Ordinance**

Final Draft: April 7, 2011

**Adopted:** June 11, 2011



## **ARTICLE I – TITLE & PURPOSE**

### **1.1 Purpose**

The purpose of this Ordinance is to put into law minimum removal and reclamation standards; and municipal procedures to regulate the removal, processing and storage of topsoil, loam, mineral based borrow and fill material, peat, stone, rock, flat rock, clay, sand, gravel, minerals, or other similar materials. These standards and procedures are intended to protect the public health, safety, and general welfare; and to minimize the adverse impact of extraction to the Town, abutting property owners, citizens of the Town, and wildlife and natural resources by:

- A) Preserving and protecting surface and groundwater quality and quantity for current and future use of the town and/or its residents.
- B) Preserving the value of property and its future ability to be an asset to the town and its residents.

### **1.2 Title**

This Ordinance shall be known and may be cited as the Town of Wales Mining Ordinance and will be referred to herein as “this Ordinance.”

## **ARTICLE II – AUTHORITY, APPLICABILITY & ADMINISTRATION**

### **2.1 Authority**

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article VIII-A of the Constitution of the State of Maine and under the authority granted to the Town by the statutes of the State of Maine, Title 30-A M.R.S.A., Section 3001.

### **2.2 Administration**

The provisions of this Ordinance shall be administered by the Town of Wales Planning Board and enforced by the Town of Wales Code Enforcement Officer (CEO) and Selectmen.

### **2.3 Effective Date**

This Ordinance shall be effective upon its adoption by vote of the eligible voters of the Town of Wales, Maine in Town Meeting.

### **2.4 Applicability**

- A. This Ordinance applies to soil, mineral and rock extraction, handling, storage and processing activities as defined as Mineral Extraction in the Town of Wales Definition Ordinance that occur within the boundaries of the Town of Wales, Maine, except as provided in Article III of this Ordinance. Mineral Extraction Activities are herein after referred to as activities or the activity, and sites on which they occur are referred to as the site, sites, or activity sites. This Ordinance applies to activities which are:

- 1. 5 acres or less;

2. Active but not permitted by DEP.
3. New or proposed: New is defined as activity occurring in areas where activities have not previously occurred.
4. Recurring: Activities in areas in which activities had ceased, or contiguous land in the same ownership, or under common scheme of development. Any application submitted to the Planning Board for any portion of the affected area shall be classified for size and treated as if it included all the previously exempt, un-reclaimed, inactive area.
5. Expansions of activity plans previously permitted by the Planning Board, except as provided in Article III of this Ordinance.
6. Handling, storage, processing, or other accessory uses.

## **2.5 Severability**

Should any section of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other section or provision of this Ordinance.

## **2.6 Conflict with other Ordinances**

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings or structures, than any other rule, regulation, bylaw, permit or provision of law, the provisions of this Ordinance shall prevail.

# **ARTICLE III – EXEMPTIONS**

## **3.1 This ordinance shall not apply to the following:**

- A. Commercial activities that affect less than 1,000 cubic yards of material in 12 consecutive months
- B. Storage of winter abrasives (sand/salt) used for the maintenance of private or public roads. This applies to the stockpile or storage area itself and not any associated mineral extraction activity or area.
- C. Removal or filling of material for all improvements incidental to construction, alteration or repair of a structure, town or state roads, or in the landscaping incidental thereto.
- D. Construction of farm and fire ponds and normal agricultural operations.
- E. Inactive areas: Inactive is defined as mining extraction that has ceased for 48 consecutive months prior to the passage of this Ordinance, in any areas where mining extraction activity had previously occurred. As long as no mining extraction activity recurs in the affected area, or on contiguous land under a common scheme of development, the inactive area shall remain exempt from this ordinance.
- G. Removal of stone or rock walls or foundation walls.

- H. Stripping of topsoil (loam) not part of a mineral extraction operation on an area of 2 acres or less, at one time, to a depth of no greater than 1 foot provided the area so stripped is reclaimed and supports a sufficient vegetative cover to reduce runoff and erosion in the same growing season as removal.
- I. Extraction of material used for personal purposes. Not to exceed 2,000 cubic. yards
- J. Excavation of material to remain on site for personal purposes.

[NOTE: Non compliance shall trigger an application or amendment (to your activity) in order to comply with this ordinance.]

## **ARTICLE IV – MINERAL EXTRACTION ACTIVITY REVIEW**

### **4.1 Application**

Prior to the establishment, continuation or expansion of an activity, an applicant shall apply for a permit from the Town. The application shall contain the following information:

- A. Name, address and telephone number of the applicant, and the name, address and telephone number of the owner of the property, if different from the applicant.
- B. Verification of the right to title or interest the applicant has in the property; and a copy of the deed(s) of the property together with copies of all covenants, deed restriction easements, rights of way, or other encumbrances, including but not limited to liens and mortgages currently affecting the property.
- C. A Site Plan that shall include the following:
  - 1. The date the plan was prepared with the name, address and telephone number of the person or company that prepared such.
  - 2. Scale is to be no more than 100 feet per inch. All dimensions to be marked in feet or decimals of a foot, north arrow shown, and paper size 24" by 36".
  - 3. Contour lines showing elevations in relation to mean sea level at appropriate intervals and existing and proposed final contours as well as interim contours for projects having sufficient duration that the Planning Board deems such interim contours are necessary. Contour intervals shall be a maximum of 5 feet.
  - 4. Boundaries of the tract of land showing lot lines, lots within 1,000 feet, as defined by the Land Use Ordinance and illustrated on the Town of Wales Tax Assessor's Maps, the names of all such property owners, total acreage of the parcel(s) Town of Wales Tax Assessor's map and lot number(s). The Planning Board may require a boundary survey of the property at the expense of the applicant, by a licensed surveyor if the boundaries are in question.
  - 5. Location of existing and proposed activities and structures on the property.
  - 6. Approximate location of residences on properties within 1,000 feet of the proposed activity.

7. Location and identification of existing public and private streets, roadways and rights-of-way on or abutting the property.
  8. Location of proposed access road to the activity from public roadways.
  9. Location of all setbacks, buffers, and conservation areas, and protected natural resources.
  10. Location and arrangement of proposed parking and loading areas and their appurtenant drives and maneuvering areas.
  11. Location of existing and proposed utilities and easements, such as sanitary sewage, water supply, and electricity on the property.
  12. Location, intensity, type, size and direction of all outdoor lighting.
  13. Location and size of signs and all permanent outdoor fixtures such as fences, gates, utility poles.
  14. Location and type of existing and proposed berms, fences, hedges, and tree lines.
  15. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc. If any portion of the activity is in a flood-prone area, the boundaries of any flood hazard areas and the 100- year flood elevation shall be delineated on the plan.
  16. Location of existing wells : within 500 feet of the proposed activity and all wells on the parcel itself.
  17. Location of proposed or existing fuel handling/storage, washdown and hazardous material storage areas.
- D. Name and contact information of the proposed manager of operations.
- E. An estimate of the average daily traffic during periods of operation projected to be generated by the activity and a traffic impact narrative, if required, as stated in Article V of this ordinance.
- F. A narrative description of the surface and ground water impacts, including protection plans and the identification of any significant mapped aquifers.
- G. Information and a map showing Soils Conditions on the site of the proposed activity. For subsurface sewage disposal proposed, the information shall include evidence of soil suitability according to the standards established in Article V of this Ordinance. The Site Plan shall show the location of soil test areas.
- H. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the Maine Erosion & Sedimentation Control Handbook for Construction: Best Management Practices published by MDEP March 2004 or latest revision.
- I. A “Preservation of Natural and Historic Features,” plan and map if required by Article V of this Ordinance.
- J. A reclamation plan including: the final grades, a re-vegetation plan, any phasing of the plan and a detailed cost estimate for complete reclamation of the site.

- K. A narrative description of the impact on the wildlife habitat, and the location of any deer yard or other significant wildlife habitat designated by Maine Dept. of Inland Fisheries and Wildlife, including any proposed mitigation, within 500 feet of the activity.
- L. A narrative description of the present use of the parcel and property within 500 feet of the activity.
- M. Estimated longevity of the operation, including phasing.
- N. Proposed hours and days of operation.
- O. Types and amounts of equipment to be used in the operation.
- P. Proof of financial capacity, and/or capacity to obtain a Performance Guarantee as specified in Article VI, payable to the Town of Wales.
- Q. A Spill Prevention, Control & Containment (SPCC) Plan. (See Article V §2-C).
- R. Blasting Plan, if any.
- S. Plan for screening/buffering the excavation activity from abutters and any public roads.
- T. All submissions made or required to be made to any federal or state agency concerning the property.

#### **4.2 Alternate Submissions**

Activities that already have a valid DEP permit or a complete pending DEP application may submit the DEP application to the Planning Board subject to the Planning Board request for additional information on submissions above, not covered by the DEP application.

#### **4.3 Waivers of submissions**

The planning board may grant waivers from specific application submission requirements, provided the applicant can demonstrate all of the following;

- A. A waiver would not be contrary to the public interest or intent of this ordinance;
- B. A literal enforcement of submission requirements would result in unnecessary or undue hardship;
- C. The intent of the item being waived can be met in some other manner as determined by the planning board; and
- D. There will be no adverse impacts resulting from the waiver.

#### **4.4 Application Procedures**

The owner or operator of any active un-permitted mineral extraction activity shall within 90 days from the effective date of this ordinance submit an application pursuant to this ordinance. Any owner or operator of an active operation that has not applied for a permit within 90 days from the effective date of this ordinance or received an extension for good cause from the Planning Board shall be in violation of this ordinance. All costs related to the application and ordinance compliance will be paid by the applicant.

A. Application Submission:

1. Applications for mineral extraction activity permits shall be submitted to the Town Clerk or CEO who shall issue to the applicant a dated receipt. Within 45 days from the date of receipt, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application. A determination by the Planning Board that the application is complete in no way commits or binds the Planning Board as to the adequacy of the application to meet the criteria of this Ordinance.
2. The application shall be accompanied by an application fee as established by the selectmen, payable to the Town of Wales. The Board may require the owner/operator or his authorized agent to deposit in escrow with the town an amount of money sufficient to cover the costs for any professional review of the application that the Board may feel is reasonably necessary to protect the general welfare of the town. This escrow payment shall be made before the Board engages any outside party to undertake this review and to make recommendations to the Board. Any part of the escrow payment in excess of the final costs for the review shall be returned to the owner or his agent. . If a public hearing is deemed necessary by the Planning Board, an additional fee shall be required to cover the costs of advertising, postal notification and dissemination of information.

B. Public Hearing

If a Public Hearing is deemed necessary, the planning board will hold the Public Hearing within 45 days of finding the application complete. Notice of the public hearing shall be advertised at least 10 days in advance in a local newspaper and posted in other places used for public notices. The notice shall contain a clear and concise statement of the matter to be addressed. At least 10 days before the public hearing, the applicant or his/her designee, shall notify by mail the owners of properties within 1,000 feet of any boundary of the property for which application is being made. The owners of properties shall be considered to be persons listed on Town tax maps and lists.

C. Planning Board Decision on the Application

- 1 The Planning Board shall, within 95 days of having received a complete application, or within such other time limit as may be mutually agreed to by said Planning Board and applicant, issue a decision approving, approving with conditions or denying the proposed activity. In all instances, the burden of proof shall be upon the applicant. The Planning Board shall make a written finding regarding the criteria and standards contained in this ordinance and conditions of any permit.
2. Upon approval of the activity a majority of the Board shall sign all copies of the final site plan. The original shall be recorded by the applicant with the Androscoggin County Registry of Deeds. One copy shall be retained by the applicant, one copy shall be retained by the Planning Board, one copy shall be filed with the Tax Assessor, and one copy shall be filed with the Code Enforcement Officer. The Planning Board shall maintain a permanent record of their action on the activity. Any plan not recorded within 90 days after approval, with the Androscoggin County Registry of Deeds shall be null and void.

3. Approval by the Planning Board of an activity plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Wales, Maine of any road, easement, or other open space shown on such plan.

D. Annual Compliance Inspections

1. The annual compliance inspection fee shall be as determined by the town of Wales selectman in the Town of Wales fee schedule.
2. The annual compliance Inspection (ACI) shall be conducted by the CEO prior to the anniversary date of the permit. The CEO shall issue a Report of Inspection Compliance (RIC), provided he/she determines that the permit holder has not deviated from the approved plan. If the CEO determines that the permit holder has deviated from the approved plan, the CEO shall issue a Report of Inspection Non-compliance (RIN). Reports shall be written and provided to the Planning Board, the Selectmen, and permit holder. After receipt of the RIN, the Planning Board, after notice and hearing, pursuant to Article IV §5-B, and a determination after hearing that a deviation from the approved plan has occurred, shall request that the CEO issue a STOP WORK ORDER, EXCEPT FOR REMEDIAL ACTION, until such time as compliance is achieved, or a time determined by the Planning Board lapses, which ever occurs first. The CEO shall thereafter re-inspect the site to determine if compliance has been achieved. If he determines compliance has been achieved, he shall issue a RIC, as above. If he determines that compliance has not been achieved, he shall issue a Second Step Report of Non-compliance (SSRN). The permit holder shall again pay the fees, as required by this subsection for this second compliance inspection. The Planning Board, after receipt of the SSRN, shall provide notice and hearing pursuant to Article IV §5-B, to determine whether the permit holder is in compliance with his approved permit; and if not, the Planning Board shall revoke the permit, and request that the Selectmen take remedial action, as is permitted by town ordinance or State law. The applicant can terminate the process above at any time by demonstrating compliance with his approved permit at a subsequent compliance inspection, which he requests, and payment of inspection fees, followed by the issuance of a RIC by the CEO.

- E. Operation Conditions and Limitations: Before any activity begins, the applicant shall apply for and receive all applicable permits as may be required by Town, state or federal regulations, laws or ordinances. Any violation of other permits necessary for operation shall be considered a violation of this ordinance.
- F. Expiration of Approval: Activity permits shall expire three years from the date of issuance unless the activity is started.
- G. Plan Revisions after Approval: Plan revisions after approval shall be made as further provided for in Article 7.3 of this Ordinance.

- H. Expert Witnesses and Opinions: In the event that the Planning Board requires expert opinions, advice or testimony during the course of reviewing the application, it will use due diligence to obtain and utilize free services from governmental or non-profit sources. Should the Planning Board be unable to obtain and utilize such services, it may require the applicant to pay for such services, after giving notice to the applicant of the name of the expert, the area of qualification of the expert, the purpose for which the expert is required, and the approximate cost of the expert. The applicant shall be provided with an opportunity to meet with the Planning Board to arrange a schedule for payment of the costs. All costs for which notice is not given by the Planning Board shall be non-reimbursable to the Planning Board.
- I. Transfer of Activity Permit: The permit holder shall not sell, lease, assign, or otherwise transfer the permit, or cause or allow any other action where the purpose or consequence is to transfer any of the obligations of the permit holder as incorporated in the permit, except following the approval of the Planning Board. The Planning Board may approve the transfer of the permit if it can be demonstrated that:
1. The terms and conditions of the permit and all applicable laws can and will be met.
  2. The proposed transferee has the financial capacity and technical ability and intent to satisfy the terms of the permit.
  3. The transfer of the permit or activities it allows will not cause or contribute to a violation of the law. In determining whether transfer of the permit will cause or contribute to a violation of the law, the Planning Board shall consider any prior violation, suspension, or revocation of a permit issued to the proposed transferee; and any other environmental enforcement history of the proposed transferee. The Planning Board may require the proposed transferee to present evidence of changed conditions or circumstances sufficient, in the judgment of the Planning Board, to warrant transfer of the permit, notwithstanding any prior violation, suspension, or revocation. The applicant shall provide the Planning Board as part of the request, the information (unless otherwise specified by the Planning Board) on the proposed transferee as required in Article 4.1 of this Ordinance. Proposed changes to the terms of the permit, including financial responsibility requirements, shall be considered a request for permit modification and processed accordingly. At least 10 days before the board meeting to review the transfer request (or public hearing if deemed necessary by the board), the applicant or his/her designee, shall notify by mail the owners of properties within 1,000 feet of any boundary of the property for which the permit transfer is being requested. The owners of properties shall be considered to be persons listed on Town tax maps and lists.



## **4.5 Appeals and Variances**

### **A. Administrative Appeals**

1. Any person aggrieved by an action of the Planning Board pursuant to this Ordinance may file an application for appeal in writing within 30 days of the granting or denial of approval from the Planning Board. The notice of appeal shall state with specificity the exact portions of the Planning Board's Decision that are being appealed, and the legal grounds for appeal. The appellant shall file this appeal with the Chairman of the Board of Appeals, who shall issue a dated receipt and who shall, within 7 days of the date of receipt, notify the applicant in writing that either the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application.
2. The fee to accompany applications for appeal shall be as set in the fee schedule by the Board of Selectmen, lawful currency of the United States of America. All checks, money orders or bank drafts shall be made payable to the Town of Wales, Maine. The applicant shall be required to cover the costs of newspaper advertising, postal notification and dissemination of information for the appeals hearing.
3. The Board of Appeals shall, upon complete Notice of Appeal of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board in the administration of this Ordinance within 30 days of such application. The Appeals Board shall cause notice of the date, time and place of said hearing, the location of the proposed mineral extraction activity and the issues raised in the appeal, to be given in writing to the appellant and published in a newspaper of general circulation in the Town of Wales, Maine at least two times. The date of the first such publication shall be at least 7 days prior to the hearing. The Board of Appeals shall also cause written notice by mail or hand delivery of the hearing be given to the permit holder, the Selectmen, the Planning Board, the Code Enforcement Officer, and all property owners within 1,000 feet of the boundaries of the proposed mineral extraction activity at least 14 days prior to the date of the hearing. The Board of Appeals shall post notices in such public places as it would place notice of a Town Meeting.
4. If such application for appeal is not made within the stated time, the prior decision of the Planning Board shall be final.
5. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board only upon a finding of fact that the decision of the Planning Board is clearly contrary to specific provisions of this Ordinance. The Board of Appeals shall render a decision in writing to the appellant and/or applicant, Planning Board Chairman, Code Enforcement Officer, and the Selectmen within 40 days of the appeal hearing.

## B. Variances

1. The Board of Appeals may, upon written application and hearing as outlined in Article VI §4-B of this Ordinance grant a variance from the strict application of the dimensional requirements of this Ordinance, including lot sizes, setbacks, site distances, lot coverage by structures, sign requirements, and parking requirements only if the requirement of this Ordinance would result in undue hardship to the applicant, as defined in Article IV §5-B(2), below, of this Ordinance.
2. In order to find an undue hardship the Board of Appeals must find all of the following to grant a variance:
  - a) That the land in question cannot yield a reasonable return unless a variance is granted; and
  - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
  - c) That the granting of the variance will not alter the essential character of the locality; and
  - d) That the hardship is not the result of action taken by the applicant or a prior owner.
3. Following the public hearing, as outlined in Article IV§4-B of this ordinance, the Board of Appeals shall render a decision to grant or deny a variance in writing to the applicant, the Planning Board, and selectmen, within 40 days of the appeal hearing.

## C. Appeal to Superior Court

Any aggrieved party having proper standing may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Androscoggin County, within 45 days of a written decision in accordance with Maine State Law.

# ARTICLE V – MINIMUM DESIGN & PERFORMANCE STANDARDS

## 5.1 General Requirements

- A. Mineral extraction activities shall conform to all applicable State laws and local ordinances or regulations.
- B. The owner and/or operator of a mineral extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructures, structures and their sites.
- C. Mineral extraction activities in the Shoreland Zone shall be in accordance with the Shoreland Zoning Ordinance or this Ordinance whichever is stricter.
- D. The Planning Board shall consider the financial and technical ability of the applicant to complete all proposed activities in approval of this permit. The Planning Board may deny, modify, or revoke its approval if the applicant or agent is not in compliance with other Town or State permits for Mineral Extraction Activity.
- F. In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Ordinance and subsequent approval are met.

## **5.2 Performance Standards.**

### **A. Erosion Sedimentation Control and Storm water Management.**

1. All projects.
  - a) Sediment may not leave the parcel or enter a Protected Natural Resource.
  - b) Topsoil stockpile must be stabilized and inspected as specified in Article V§2-B(1).
2. Internally Drained projects.
  - a) Land shall be restored and stabilized according to the Reclamation Plan.
3. Externally Drained Projects. – Waivers may be applied for, if waiver is approved, the following applies. :
  - a) If surface water flows out of and away from the proposed site during and after the site is excavated, the following should be provided to assure proper erosion control and prevent siltation of downstream waters. Temporary erosion control measures shall be included in the project design, such as hay bale barriers, silt fencing, and riprap and other approved control measures. Plans shall show the location and installation details to include a description of the timing of installation, inspection and maintenance of erosion control measures.
  - b.) Additional information including:
    - i. A plan and narrative detailing specific erosion control measures; and
    - ii. A site plan showing the pre-construction and post-construction contours, and if applicable, phased contours. The plan must show on and off site watershed boundaries and hydrologic surface water flow lines.
  - c) Sedimentation pond location and design, if any, shall be designed to the 25 year storm event and based on the U.S.D.A. Soil Conservation Service methodology contained in TR-55. The location and construction details of the pond shall be shown on the site plans

### **B. Reclamation Plan: The affected land must be restored to a condition or physical state that is both similar to and compatible with that which existed prior to any development, or encourages the productive use of the land. A reclamation plan is required for ALL activities according to the following specifications:**

1. Soil Stockpiling. Soil which is stripped or removed must be stockpiled for use in reclaiming disturbed land, unless it is demonstrated to the Planning Board that it is not needed for reclamation purposes. Soil stockpiles must be seeded, mulched, or otherwise stabilized. At least 4 inches of any previously stripped topsoil will be used for final cover.
2. Regrading. Upon completion of the excavation, the side slopes must be regraded to a slope no steeper than 2.5 horizontal to 1 vertical, except that a steeper slope may be allowed, if a slope stability analysis is submitted showing that there will be no major failure or sloughing of slopes.
3. Vegetative cover. Vegetative cover must be established on all affected land. Topsoil must be placed, seeded, and mulched within 30 days of final grading.

- a) Vegetative material used in reclamation must consist of grasses, legumes, herbaceous, or woody plants or a mixture thereof. Plant material must be planted during the first growing season following the reclamation phase. Selection and use of vegetative cover must take into account soil and site characteristics such as drainage, pH, nutrient availability, and climate.
- b) The vegetative cover is acceptable if within one growing season of seeding
  - i. the planting of trees and shrubs results in a permanent stand, or regeneration and succession rate, sufficient to assure a 50% survival rate; and
  - ii. the planting results in 90% ground coverage.
- 4. Structures and roads. All structures and access, haul, or other support roads must be reclaimed once no longer used, unless reserved for future productive use of the land, as described in the reclamation plan.
- 5. Phased Reclamation. The site must be reclaimed in phases so that:
  - a) The working pit does not exceed 3 acres at any time.
  - b) For guidance in planning and implementation of reclamation, see Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices (March 2003), Section I-1 Pit Reclamation.

Note: Any inactive area, may be considered for Tax assessing purposes as active, if the area has not been reclaimed according to the standards of the ordinance. Currently, reclaimed land has a lower assessed value.

#### C. Petroleum Usage

- 1. Spill prevention, control, and counter measures are applicable to all size projects.
- 2. Petroleum Products Storage
  - a) If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a Spill Prevention Control, and Counter measures (SPCC) Plan shall be submitted. A SPCC Plan should be developed in accordance with DEP regulations, *Section 5A of Chapter 378 Performance Standards for the Storage of Petroleum Products (CMR 378)*, and shall be submitted with the application and kept with the permit in the Town's records.
  - b) Any petroleum products, highly flammable or explosive liquids, solids or gasses to be stored on site, shall be located in bulk, above ground, anchored tanks or containers, having a roofed, secondary containment system, adequate to contain 110% of the full contents of such container, for control of spills and leaks, and must be located at least 75 feet from any lot line, Town road or interior road.
  - c) The use of underground tanks is strictly prohibited.
- 3. Machinery Maintenance
  - a) Crankcase oil, hydraulic fluids, and similar products shall be properly disposed of per state requirements

- b) Routine maintenance operations, such as refueling or oil changes, may be allowed for fixed equipment such as screeners, crushers and wash facilities, if allowed in the district the operation will be located in, provided that a secondary containment system in accordance with the SPCC Plan, adequate to contain 110% of the full contents of said equipment is installed.
- 4. Any discharge or leak of petroleum product over a gallon shall be immediately reported to the Code Enforcement Officer and the Department of Environmental Protection. All discharges or leaks of any size shall be cleaned up promptly according to Best Management Practices.

D. Buffers and Setbacks Buffers and setbacks shall be shown on the site plans as follows:

- 1. Property Boundaries: To minimize visual impacts and provide for wildlife, a 75 foot buffer shall be maintained from property boundaries. This buffer may be reduced to 25 feet with written permission of an abutting landowner provided::
  - a) Written permission is obtained from the abutter and recorded at the registry of deeds, and
  - b) Erosion & storm water control standards on both properties are met.
  - c) Planning board must approve requests for reduced setbacks
- 2. Existing Structures: A 300 foot buffer from the closest edge of an existing residence or business, or farm building used for livestock shall be maintained with all projects. This buffer may be reduced with written permission of the owner of the structure, provided:
  - a) Written permission is obtained from the abutter and recorded at the registry of deeds, and
  - b) Erosion & storm water control standards on both properties are met.
  - c) Planning board must approve requests for reduced setbacks
- 3. Protected Natural Resources: Unless covered in Article V §1-D above the following shall apply:
 

Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A, Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
- 4. Public Roads. A 150 foot buffer from the closest edge of the shoulder of a public road shall be maintained with all projects. A 50 feet wide undisturbed natural vegetated area, closest to the road, shall be maintained within the buffer, except for any access road entrance.

E. Road Design, Circulation and Traffic

1. A) Activity site shall be limited to 2 access/egress points.
- b) Any entrances and roads shall conform to the standards set forth in the Town of Wales Road Ordinance and meet any additional requirements set forth in this ordinance or as required by Town of Wales Road Commissioner, his/her designee, or the Maine Department of Transportation.-
- c) Access/egress road(s) leading to or from the extraction site to paved public ways shall be treated with suitable materials to reduce dust and mud; and paved or otherwise hard surfaced for a distance of at least 200 feet from the paved public road.
2. Traffic impacts to be considered:
  - a) Where activity site traffic proposes to use town maintained roads, the activity scope must be suitable and appropriate to the projected daily traffic impacts as determined by the Wales Road Commissioner.
  - b) The road giving access to the Mineral Extraction Activity and neighboring roads which can be expected to carry traffic to and from the Mineral Extraction Activity shall
    - i. have sufficient traffic carrying capacity as determined by the road commissioner and
    - ii. Have adequate base and pavement to support the loads generated by activity.
  - c) If roads are found to be inadequate, the applicant may be required to improve the road to accommodate the amount and types of traffic generated by the proposed activity.. In making this determination the following should be considered:
    - i. No activity shall increase the volume to capacity ratio of any town road above 80%; (this is an application requirement) nor reduce the road's Level of Service to "D" or below.
    - ii. Improvements shall comply with the town of Wales road ordinance. The town may require an engineering impact study or road condition survey at the expense of the applicant.
3. Routing: Routing of traffic to and from the activity shall safeguard against hazards to pedestrians and avoid traffic congestion, or adverse impacts to town roads

F. Ground Water Impacts:

1. Assessment Submitted. The Activity will not cause an adverse impact to ground water quality and quantity
2. Groundwater buffer: To provide an adequate buffer for ground water and allow for filtration of impurities from infiltrated water in time for proper clean-up of spills, extraction shall not be any closer than 5 feet above the maximum seasonal high water level, as documented in the application The town may require, at the applicants expense, installation of (a) known benchmark(s) and monitoring of groundwater levels and quality to assure there are no adverse impacts to any water supplies or wells off-site.

3. Water Supply buffer: A 300 foot separation must be maintained between the limit of excavation and any pre development private drinking water supply. A 1,000 foot separation must be maintained between the limit of excavation and any well or spring which qualifies as a public drinking water supply. The town may require larger buffers from water supplies, if they find that a hazard is shown to exist due to the Activity.
4. Water Use: An activity must not withdraw more than 5,000 gallons of ground water per day, unless a hydro geologic study, provided by the applicant, showing that the source is sustainable is submitted by a geologist, licensed in the state of Maine.
5. Standards for Acceptable Ground Water Impacts
  - a) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
  - b) No mineral extraction activity shall increase any contaminant concentration in the ground water to more than one half of the Federal Primary Drinking Water Standards at the property boundary. No mineral extraction activity shall increase any contaminant concentration in the ground water to more than the Federal Secondary Drinking Water Standards at the property boundary.
  - c) If ground water contains contaminants in excess of the primary standards, and the activity is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated, if necessary.
- G. Preservation of Natural and Historic Features; The scenic, historic or environmentally sensitive areas or any areas identified in the Comprehensive Plan or by the Maine Natural Areas Program as rare and exemplary areas shall be preserved.
- H. Sanitary Standards
  1. Sewage Disposal: All water carried sewage shall be disposed of by sewage systems meeting the requirements of the State of Maine Plumbing Code.
  2. Solid Waste Disposal: No solid waste, including stumps and grubblings, shall be placed stored or disposed of in the activity site unless it meets the requirements of the rules and regulations of the Maine Department of Environmental Protection. The storage, collection and disposal of refuse at the activity site shall not create health hazards, rodent or insect breeding areas, accident or fire hazards, air pollution, or surface or ground water pollution.
- I. Signs: Any signs must comply with the standards of other applicable ordinances.
- J. Noise: The applicant shall demonstrate that noise from the operation does not exceed 75 dbA at the property line, except for emergency or safety equipment such as back up beepers. Normal operation times shall be specified, so as not to constitute a nuisance to residents in the area , including but not limited to daily starting and ending times, and operations on weekends.
- K. Hours of Operation: The hours of operation for any and all activities shall not be earlier than 7:00 AM and not later than 7:00 PM, Monday through Saturday. Depending on the location of the site the hours of operation may be revised by the planning board.

### **5.3 Performance Standards - Rock Mining/Extraction Operations**

Because of the intensity of the type of operation, in addition to the performance listed in Section 2 of this ordinance, rock mining operations shall conform to the following:

- A. The maximum limit of material that may be extracted per year is 5,000 cubic yards.
- B. There shall be a maximum of two acres of open operation at any time, regardless of the size of the project. A surveyed profile of the material on site to be excavated must be developed and submitted with the permit application and the amount extracted per year confirmed by the annual inspection of the CEO.
  - 1. The area must be reclaimed before next two acres can be started.
  - 2. Excavation may be done in 1 acre or other increments to ensure continuity of operation.
- C. Excavation shall be no deeper than 6' below grade. It shall be necessary to establish the benchmark grade level prior to the granting of the permit. Rock Mining Operations shall be exempt from the Maximum Seasonal High Water Level required by Article VI, §2(F)(2).
- D. High velocity blasting requires blast mats or similar measures to attenuate noise, dust, and debris.

## **ARTICLE VI – PERFORMANCE GUARANTEES**

### **6.1 Types of Guarantees**

With submittal of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total costs of all required reclamation, taking into account the time-span of the phasing, or reclamation schedule and the inflation rate for costs:

- A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account; or
- B. An irrevocable letter of credit from a financial institution establishing funding for the construction or reclamation of the activity site, from which the Town may draw if reclamation or construction is inadequate, approved by the Selectmen;
- C. The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of a Licensed Professional Engineer, Town Road Commissioner, Town Selectmen, and/or Town Attorney at the cost of the applicant if applicable.

### **6.2 Contents of Guarantee**

The performance guarantee shall contain a reclamation schedule, cost estimates for each major phase of reclamation taking into account inflation, provisions for inspections of each phase of reclamation, provisions for the release of part or all of the performance guarantee to the permit holder, and a date after which the permit holder will be in default and the Town shall have access to the funds to finish reclamation.

### **6.3 Escrow Account**



For any account opened by the permit holder, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

#### **6.4 Letter of Credit**

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the complete reclamation of the activity site and may not be used for any other project or loan.

#### **6.5 Phasing of Development**

The Board may approve phased performance guarantees, when an activity is approved in separate and distinct phase development.

#### **6.6 Performance Guarantee Review**

Any proof of financial capacity shall be reviewed no later than 30 days before the expiration of the guarantee, and adjusted if necessary. The applicant may also request adjustments in the guarantee.

#### **6.7 Release of Guarantee**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, upon the report of a Licensed professional Engineer and concurrence of the CEO, road commissioner and Board of selectman, that the reclamation meets or exceeds the design requirements for that portion of the reclamation for which the release is requested.

#### **6.8 Default**

If upon inspection, CEO or other inspecting official finds that any of the required reclamation has not been performed in accordance with the approved plans and specifications, he/she shall so report in writing to the Municipal Officers, the Board, and the permit holder and guarantor. The permit holder shall have 30 days unless otherwise specified by the CEO, to remedy any insufficiency noted. Thereafter, Municipal Officers shall take any steps necessary to enforce the guarantee and remedy the insufficiencies.

#### **6.9 Improvement Guarantees**

Performance guarantees may be required for all offsite improvements required by this Ordinance, when the Board finds that the scale of the improvements warrants.

### **ARTICLE VII – ENFORCEMENT AND INSPECTIONS**

#### **7.1 Reclamation Certification**

Upon completion of reclamation or a reclamation phase, the landowner/applicant shall, at his/her own expense, have a Professional Registered Engineer provide to the CEO a written certification that the reclamation is in compliance with the approved plans. The CEO shall report the findings to the planning board at the next regularly scheduled board meeting.

## **7.2 Violations**

- A. No mineral extraction activity plan shall be recorded in the Registry of Deeds until a Final Plan has been approved and signed by the Planning Board in accordance with this Ordinance.
- B. No person, corporation or other legal entity may sell or offer to sell any materials in a mineral extraction activity site which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- C. No public utility shall serve any mineral extraction activity site for which a final Plan has not been approved by the Planning Board and recorded in the Registry of Deeds.
- D. No development of the infrastructure of a mineral extraction activity site may begin until Final Plan approval by the Planning Board and recording in the Registry of Deeds. Development includes the grading and construction of roads, utility installations, and construction of buildings or structures.
- E. The Wales Planning Board may, after notice and hearing, withhold approval or revoke any previous approvals, given to any applicant, owner or operator who is found in violation of this ordinance, until the violations are corrected.
- F. Any operation that is in violation of other approvals (such as DEP Intent to Comply or DEP permits) covering the same operation shall be deemed in violation of approvals granted under this ordinance.

## **7.3 Mineral Extraction Plan Amendments After Approval**

No changes, erasures, or modifications shall be made in a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of an amendment to an existing activity, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original activity, or unless the change constitutes a new activity. If an amended Final Plan is recorded without complying with this requirement, it shall be null and void. The Planning Board may record a revocation of a previous recorded document in the Registry of Deeds.

#### **7.4 Enforcement**

- A. The Code Enforcement Officer of the Town of Wales, Maine, shall enforce this Ordinance and is authorized to institute legal proceedings with the approval of the Town Selectmen to enjoin violations of this Ordinance. In the absence of a CEO, enforcement actions would fall to the Selectmen of the Town of Wales.
- B. If the Code Enforcement Officer finds violation of any provision of this ordinance or failure to comply with any order, permit, approval, condition or other final decision or action of the Planning Board that constitutes a substantial and immediate danger to the health, safety or welfare of any person(s), or property or environment of the Town of Wales, Maine, said Town may initiate immediate injunction proceedings to abate or correct such violations.
- C. In any action to enforce any provision of this ordinance where the Town of Wales, Maine prevails, said Town shall be awarded reasonable attorney fees, expert witness fees, and costs unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees, and costs provided by court rule.

#### **7.5 Penalties**

- A. Any person, firm or corporation, being the owner or having control or use of any activity in violation of any of the provisions of this Ordinance or terms or conditions of any order, permit or approval or final decision of the Planning Board shall be subject to a civil penalty due and payable to the Town of Wales, Maine as determined by the Selectmen and posted in the Town of Wales Fee Schedule for each day said violation exists after notification of violation.
- B. Payment of any penalty shall be made in cash or by certified check drawn on a recognized financial institution, made payable to the Town of Wales, Maine in an amount equal to the full amount of the penalty unless otherwise determined by order of the court.
- C. If the maximum penalty amount of Article VII §5-A of this ordinance is held void or invalid it is the intent of the Town of Wales, Maine that provisions of Title 30-A, M.R.S.A. Section 4452 be given full force and effect and that the maximum penalty amounts authorized by such provision apply to violations of any order, permit, approval or final decision of the Planning Board, or any provision of this ordinance.

### **ARTICLE VIII – AMENDMENT OF THIS ORDINANCE**

#### **8.1 Initiation of Amendment**

An amendment to this Ordinance may be initiated by:

- A. The Planning Board provided that a majority of the Board has so voted; or
- B. Request of the Selectmen to the Planning Board; or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Wales, Maine numbering at least ten percent (10%) of the number who voted in the last gubernatorial election.

## **8.2 Adoption of Amendment**

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within forty five days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and to the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Wales, Maine at a Town Meeting, a majority vote being required for adoption.

## **ARTICLE IX – OTHER PROVISIONS**

### **9.1 Adjoining mineral extraction activity under common scheme of development**

Adjoining activity under common scheme of development separated by less than 500 feet of unaffected land shall be required to fulfill all the requirements as established in this ordinance for the total size of the extraction area, including the adjoining site. The CEO shall have the right of entry onto any activity site at reasonable times and with reasonable notice.

## **ARTICLE XI – DEFINITIONS**

### **10.1 Definitions**

Unless specifically defined in the Town of Wales Definitions Ordinance, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application.

# **Town of Wales**

## **Ordinance for Adult Entertainment Businesses**

Final Draft: March 12, 2012  
Adopted: June , 2012

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## **SECTION I. Authority and Applicability**

This ordinance is adopted pursuant to the enabling provisions of Article VIII, part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30-A MRSA Section 3001 et seq.). Persons or entities wishing to establish a sexually oriented business within the Town of Wales shall first obtain a permit from the town and shall be subject to the provisions of this ordinance.

## **SECTION II. Purpose**

It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of adult themed material.

## **SECTION III. Definitions**

The following terms as used in and for the purpose of this Ordinance have the meanings ascribed to them herein:

1. "Adult use establishment" means an adult amusement store, adult entertainment cabarets, adult motion picture theaters, or adult relaxation spas, all as defined below; or any commercial establishment that permits any person on the premises, including an employee, entertainer or patron, to expose that person's specified anatomical areas or perform specified sexual activities as defined below.
2. "Adult amusement store" means an establishment having as a substantial or significant portion of its sales or stock in trade, sexual devices or printed material including pictures and photographs or films for sale or viewing on premises that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises or any other factors showing that the establishment's primary purpose is to sell such material.
3. "Adult motion picture theatre" means an enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.
4. "Adult Entertainment cabaret" means a public or private establishment which by the nature of its existence seeks to support a commercial interest by:
  - a. featuring topless dancers, strippers, wait staff, male or female impersonators, or erotic dancers;

- b. featuring entertainers who display “specified anatomical areas”;
  - c. featuring entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, “specified sexual activities”; or
  - d. offering sadomasochistic acts of bondage and discipline to patrons
5. “Adult relaxation spa” means an establishment that provides steam bath, sauna, bathing, hot tub, or “rub down” or other pseudo massage services at which a person performs any activity that applies any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction, massage, or a manipulation of the external parts of the human body with hands or other parts of such person or with the aide of any instrument or device, if such person performs such activity or services while that person’s specified anatomical areas are exposed to another individual, or if such person performs such activity to another individual whose specified anatomical areas are exposed or touched.
  6. “Sexually oriented business,” means sexually oriented businesses, including but are not limited to, Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, Adult relaxation spas or Adult spas or any commercial establishment that permits any person on the premises, including an employee, entertainer or patron, to expose that person’s specified anatomical areas or perform specified sexual activities.
  7. “Erotic dance,” means a form of dance, which seeks, through one or more dancers, to arouse or excite the sexual desire of a patron or patrons.
  8. “Residence,” means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or mobile home.
  9. “Sadomasochistic acts” or “bondage and discipline” means respectively, flagellation, torture or punishment by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained while so clothed or by a person so clothed.
  10. “Sexual device,” means a device or object the primary purpose of which is to provide direct sexual stimulation to male or female genitals or anus.
  11. “Specified criminal activity” means a criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure, indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:
    - a. less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;
    - b. less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;
    - c. less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within



any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.

12. "Specified sexual activities" means:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse, any sexual act or sexual contact as defined by Maine law, or sodomy;
- c. Fondling or other touching of human genitals, pubic region, buttock or breast.

13. "Specified anatomical areas" means

- a. Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttocks or (c) female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

#### **SECTION IV. Prohibited Sites, Site Requirements**

1. A sexually oriented business may not be sited within 2,500 feet of the lot lines of any of the following:

- a. a church, synagogue or other house of religious worship;
- b. a public or private elementary or secondary school;
- c. a residence;
- d. a day care facility;
- e. a public building, public park or public recreational facility;
- f. a previously established sexually oriented business.

The distance cited in this section shall be measured between any structure used as a sexually oriented business and the lot line of the site of the use listed in (i) through (vi) above at their closest points.

2. A sexually oriented business must have a separate driveway entrance, parking area and signage at least 1000 feet from any driveway entrance or signage of any of the following:

- a. a church, synagogue or other house of religious worship;
- b. a public or private elementary or secondary school;
- c. a residence;
- d. a day care facility;
- e. a public building, public park or public recreational facility;
- f. a previously established sexually oriented business.

3. A sexually oriented business must have a continuous 6 foot high solid fence around any buildings or parking areas.

4. A lawfully existing sexually oriented business, at the time of renewal of a not yet expired valid license, shall not be in violation of the site requirements of this Section by the subsequent location of a residence, day care center, school, house of worship, or public park or recreation area, at a site that would otherwise conflict with the site requirements of this Section.

## **SECTION V. Interior Layout of Sexually Oriented Business**

1. Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for any private viewing of any adult entertainment shall comply with the following requirements:
  - a. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business, and shall be unobstructed by any door, lock or other control-type devices.
  - b. Construction. Every booth, room or cubicle shall meet the following construction requirements:
    - i. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
    - ii. Each booth, room or cubicle must have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle.
    - iii. All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light-colored, non-absorbent, smooth textured and easily cleanable.
    - iv. The floor must be light-colored, non-absorbent, smooth textured and easily cleanable.
    - v. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.
  - c. Occupants. No more than one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.
2. Any adult motion picture theater shall comply with the following requirements
  - a. Aisle lights and overhead lights in the theater shall be kept on during business hours and shall illuminate to a minimum of ten-foot candles except when motion pictures are being shown;
  - b. No standing shall be allowed in the theater;
  - c. Signs shall be posted warning patrons that sexual activity is prohibited in the theater, and informing them of the presence of surveillance cameras; and
  - d. Theater employees shall regularly patrol the theater during business hours and eject persons found to be engaged in sexual intercourse, a sexual act, sexual contact or any criminal activity. Incidents of sexual intercourse, sexual acts, sexual contact or criminal activity in the theater shall be immediately reported to a law enforcement officer.
3. In addition to being in compliance with Maine State Statutes on building codes and occupancy, rest rooms must be individual rooms and/or contain stalls with walls that are solid and without any openings and extended from the floor to a height of not less than six feet, and shall not contain facilities for more than one person at a time. No more than one person may be in the rest room or individual stall with the door closed at any time.

## **SECTION VI. . Prohibited Activities**

1. All acts of public indecency, as defined in 17-A M.R.S.A. §854, are prohibited in sexually oriented businesses.
2. Dancers, performers, employees, owners or officers of a sexually oriented business shall not fondle or caress any patron or client, and patrons and clients shall not fondle or caress dancers, performers, employees, owners or officers of the sexually oriented business.
3. Dancers, performers, employees, owners or officers of a sexually oriented business shall not commit or perform, or offer or agree to commit or perform, any specified sexual activity either alone or with each other or any patron or client of the sexually oriented business; and
4. Patrons and clients of sexually oriented businesses shall not commit or perform, or offer or agree to commit or perform, any specified sexual activity either alone or with any dancer, performer, employee, owner, officer, patron or client of the sexually oriented business.

## **SECTION VII. Dancers and Other Performers**

A sexually oriented business must observe the following restrictions on dancers and other performers:

1. All dancing or other performances must occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.
2. No dancing or other performance shall occur closer than ten feet from any patron, and no patron shall be allowed to be closer than ten feet from any dancer or other performer.

## **SECTION VIII. License Required – Application Process**

A person wishing to operate a sexually oriented business shall obtain an annual municipal license prior to opening the person's establishment.

1. Application. An applicant for a sexually oriented business license shall:
  - a. Be in compliance with the Town of Wales Land Use Ordinance and obtain Site Review Application approval from the Town of Wales Planning Board.
  - b. Complete and file an application prescribed by the Board of Selectmen;
  - c. Deposit a license fee as established by the selectmen in the Town of Wales Fee Schedule and a minimum of \$500 to establish an escrow account to cover the processing fee(s) in advance with the Town Clerk;
  - d. Submit the completed application to the Town Clerk, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors and 2 positive forms of identification of which one is to be a photo ID for each applicant;
  - e. File a sworn affidavit, which states the name of all owners, officers, managers or partners of the applicant, and their places of residence and phone numbers at the time of the application and for the immediately preceding three (3) years;
  - f. File the release authorized by Title 16 M.R.S.A. §620(6) (Criminal History Record Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;
  - g. Submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;

- h. State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers;
  - i. Submit evidence of compliance with Section 4 (Prohibited Sites, Site Requirements) of this Article and evidence that there is no basis for denial of a license to applicant under the standards listed in Section 4 ( Prohibited Sites, Site Requirements) of this Article.
2. Investigation of applicant, officers, and inspection of premises.
    - a. The Town Clerk, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town officials referenced in paragraphs “b” through “e” below. The Town Clerk shall also immediately consult with the chairman of the Board of Selectmen and then arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 2500 feet of the proposed location of the structure, at least ten days prior to the public hearing before the Board of Selectmen. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the escrow account created to cover the processing fees. After receipt of required reports from Town officials, the Town Clerk shall forward the application and other documents to the Board of Selectmen for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Town Clerk and a decision shall be made within three (3) business days thereafter.
    - b. The Health Officer, within fifteen days of notice, shall inspect the location or proposed location to determine whether the applicable laws relating to health and safety have been satisfied and then report finding in writing to the Town Clerk.
    - c. The Fire Chief, within fifteen days of notice, shall inspect the location or proposed location of the business to determine if applicable State and fire and safety regulations have been satisfied and then report findings in writing to the Town Clerk.
    - d. A constable, law enforcement officer, or other state authority (i.e. State Bureau of Identification or licensed private investigator) shall initiate an applicant background investigation as directed by the town selectmen including the criminal history record information required under Section VIII (1)(f) and then report findings in writing to the Town Clerk. This must also be initiated upon receipt of a notice of change of owners, officers, managers or partners of the applicant.
    - e. The Code Enforcement Officer, within fifteen days of notice, shall verify that the proposed premises of the establishment will comply with Section 4 (Prohibited Sites, Site Requirements) of Article II and with all other applicable State and town laws and land use codes of the Town and then report findings in writing to the Town Clerk.
  3. Issuance of License. The Board of Selectmen, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Article. The license shall be issued upon determination by the Board of Selectmen based upon the record, including evidence and testimony at the public hearing, that the application meets the requirements of this Article. The license may not be transferred or assigned and any change of owners, officers, managers or partners must be reported to the Wales Town Clerk.
  4. Standards for Denial. An application for a sexually oriented business license shall be denied by the Board of Selectmen in the following circumstances
    - a. The applicant is a corporation that is not authorized to do business in the State of Maine;
    - b. The applicant is an individual who is less than 18 years of age;
    - c. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the

Town Clerk or Board of Selectmen that is reasonably necessary to determine whether the license is issuable;

- d. The applicant, if an individual, or any person having an ownership or management interest, if a corporation, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
- e. The applicant, if an individual, or any person having an ownership or management interest, if a corporation, has had a license granted pursuant to this Article or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
- f. The applicant, if an individual, or any person having an ownership or management interest, if a corporation, has committed any Specified Criminal Activity as defined herein.
- g. The site on which the sexually oriented business is proposed is a prohibited site under Section 4 (Prohibited Sites, Site Requirements), Article II; or
- h. The application in any other way fails to meet the requirements of this Ordinance.

## **SECTION IX. Standards for Suspension; Revocation**

A sexually oriented business license may be suspended or revoked by the Board of Selectmen after notice and hearing upon a finding that the licensee has violated any provision of this Ordinance.

## **SECTION X. Age Restriction**

No sexually oriented business may permit any person under the age of 18 years on the premises at which the sexually oriented business is located.

## **SECTION XI. Display of License; Prices charged and names of owners or officers to be prominently displayed**

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licensees must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices and charges for all food, beverages, goods, wares, merchandise or services offered by the business.

## **SECTION XII. Enforcement**

- 1. This ordinance shall be enforced by the Androscoggin Sheriff's Department, the Maine State Police, and/or the Town of Wales Code Enforcement Officer.
- 2. To ensure that the health and welfare of the public is protected, the premises will be inspected prior to the issuance of the license, within fifteen (15) days of the annual license renewal, and may be inspected anytime thereafter by the code enforcement officer, health officer, or law enforcement officer(s) during regular business hours and without notice.

### **SECTION XIII. Severability**

Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

3/12/12 – Final Draft

**ROAD ORDINANCE**

**OF THE**

**TOWN OF WALES, MAINE**

**Final Draft: April 8, 2013**  
**Adopted: June 8, 2013**

# **ARTICLE 1. PURPOSE, AUTHORITY, ADMINISTRATION, EFFECTIVE DATE, REPEAL OF EXISTING ORDINANCE**

## **1.1 PURPOSE**

The purpose of this ordinance is to establish minimum standards by which roads in the town are to be constructed. These standards are required to protect the safety, health, and welfare of the people of the town of Wales.

## **1.2 AUTHORITY**

- A. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., §3001.
- B. This ordinance shall be known and may be cited as “Road Ordinance of the Town of Wales, Maine.”

## **1.3 ADMINISTRATION AND ENFORCEMENT**

The Planning Board of the town of Wales (hereinafter called the Board) and the Town of Wales Road Commissioner shall administer and enforce this ordinance.

## **1.4 APPLICABILITY**

These standards shall apply to all roads, as defined, within the town of Wales.

## **1.5 EFFECTIVE DATE**

The effective date of this ordinance shall be June 8, 2013, the date of the 2013 Wales Town Meeting.

## **1.6 REPEAL OF PRIOR ORDINANCES**

This Ordinance shall repeal the ordinance entitled “Town of Wales Road Ordinance” adopted June 11, 2005 and any amendments made to that ordinance.

## **1.7 AMENDMENTS**

This ordinance may be amended by a majority vote of the registered voters of the town of Wales at a regular or special town meeting.

## **1.8 SEVERABILITY**

The invalidity of any provision of this ordinance shall not invalidate any other provision.



## ARTICLE 2. DESIGN STANDARDS

### 2.1 ROAD DESIGN STANDARDS

- A. The type of road is as defined in the Town of Wales Definitions Ordinance. Roads shall meet the standards as listed in Table 1, Road Design Standards, and shall be in accordance with the Typical Cross Section appended to this ordinance:

*Table 1: Road Design Standards*

Item	Collector	Town Way	Private	Common Driveway
Right-of-Way Width (Minimum)	60'	60'	60'	60'
Pavement/Travel Way Width	20'	20'	20'	16'
Minimum Grade	0.5%	0.5%	0.5%	0.5%
Maximum Grade	8.0%	12.0%	12.0%	10.0%
Within 50' of Intersections	3.0%	3.0%	3.0%	3.0%
Minimum Angle of Intersection	as close to 90° as possible (no less than 60°)			
Width of Shoulder (Each Side)	3'	2'	2'	1'
Minimum Centerline Radius	200'	200'	200'	200'
Minimum Tangent Between Reverse Curves	200'	100'	100'	100'
Sub-base (meeting MDOT 703.06 Type D) *	18"	15"	12"	12"
Base (meeting MDOT 703.06 Type A) *	6"	6"	6"	Not Required
Base Pavement (Bituminous; After Compaction) * †	2-3"	2-3"	Not Required	Not Required
Wearing Course (Bituminous; After Compaction) * †	1¼"	1¼"	Not Required	Not Required
Minimum Crown	¼"/ft.	¼"/ft.	5/8"/ft.	5/8"/ft.
Minimum Radius of Right-of-Way at Intersection	10'			
Minimum Radius of Pavement at Intersection – 90°	25'	25'	25'	25'
Minimum Distance Between Intersections	300'	200'	200'	200'
Minimum Culvert Size ±	15"	12"	12"	12"
Minimum Cover Over Culverts	18"			

\* Maine Department of Transportation specifications will be used to establish material quality specifications. These material thicknesses presume a suitable native soil below subgrade. Fine-grained soils having a California Bearing Ratio of less than fifteen (15) percent will generally require additional sub-base material.

† Thickness would be based on type of projected traffic/use and will be discussed with the Road Commissioner and based on the following pavement guidelines: Surface Pavement (Wearing Course) use 9.5mm pavement 1-1 ¼" in thickness; Intermediate Pavement (if used) 12.5mm pavement 1 ½–2" in thickness; Base Pavement use 2 ¼–3" in thickness (Max. Depth Base layer 3"). On all use a 50 gyration super pave mix.

± See 2.1, D

- B. Dead end streets shall be avoided whenever possible. When a dead end street is required by the constraints of the parcel, or when phasing of a subdivision results in a temporary dead end street, a turn-around for use of emergency and other vehicles shall be provided and the following minimum specifications be adhered to
  - 1. for a cul-de-sac the radius of the right-of-way shall be 65' while that of the travel way shall be 50' max with a 30' min (See Appendix A.)
  - 2. a hammerhead shall have a travel way width as per the class of road and a minimum length of each "leg" of 40'.
- C. All base and sub-base materials will be placed at the optimum moisture content to achieve the desired compaction. The maximum compacted thickness of any layer shall not exceed 12". Compact all base and sub-base material to at least 90% of the maximum density as determined in accordance with ASTM D698. Determine in place density using ASTM D1556 or D2022 or other method approved by the Board. The Board shall determine the frequency of in place testing required.
- D. All new culvert installations and replacements will utilize plastic culverts with a minimum 12" diameter and with a minimum length of 30 feet and a maximum length of 40 feet. A waiver may be obtained by the Road Commissioner where the installation of a 12" or larger culvert is not possible. While the minimum cover for culverts is as referenced in Table 1 by road type, 24" will be the accepted standard whenever possible. In extenuating circumstances, where even the referenced minimum is unattainable, a waiver may be granted by the Road Commissioner.

## 2.2 GRADE CHANGES

- A. For all road classifications, grade changes shall be accomplished by parabolic vertical curves of such design that a minimum sight distance of two hundred (200) feet is maintained. In no case shall vertical curves have lengths less than  $K * A$ , where A is the algebraic difference of the grades in percent, and K is defined in Table 2, Grade Changes, below.

Table 2: Grade Changes

Design Speed (MPH)	"K" for Crest Curves	"K" for Sag Curves
25	25	33
30	28	35
40	50	50
50	80	70
60	150	100

- B. All streets shall have adequate stormwater drainage facilities to prevent pavement flooding and side-slope erosion.
- C. Side slopes shall have a maximum grade of thirty-three (33) percent.

## 2.3 SIGHT DISTANCE

Sight distance shall be measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of the shoulder line with the height of the eye three and a half (3 1/2 ) feet above the pavement and the height of object four and a half (4 1/2) feet. The minimum sight distance shall be based on MDOT standards as listed in Table 3, MDOT Safe Stopping Distance.

Table 3: MDOT Safe Stopping Distance

<b>MDOT SAFE STOPPING DISTANCE TABLE</b>	
<b>MPH</b>	<b>Distance in feet</b>
30	250
35	305
40	360
45	425
50	495

## 2.4 SIGNAGE

- A. All roads shall be provided with traffic-control signs at the expense of the applicant/developer. Signs establishing speed limits, stopping lines, yield locations, and other similar instructions shall be in conformance with the current MUTCD standards. Street- and road-name signs shall be MUTCD standards and retro reflective and be provided by the applicant and installed as directed by the Board of Selectmen/Road Commissioner.
- B. All applicable signage shall be installed prior to acceptance by the town.

## 2.5 OPENINGS/ENTRANCES TO EXISTING OR PLANNED PUBLIC WAYS

All proposed permanent roads shall be designed and constructed in accordance with this ordinance. An "Entrance Permit" or "Driveway Permit" from the Road Commissioner, or his/her authorized agent shall be required for any new road, driveway, access way, curb cut or other road/street opening, the purpose of which is to provide access to and from a town road or a proposed town road. The Road Commissioner, or his/her agent, shall specify culvert size, specify any special installation requirements, and locate points of safe access for the opening. The installation and cost of such opening (entrance) shall be the responsibility of the owner of the property to which access is provided. It is the responsibility of the owner to ensure that the entrance meets the standards established by the Town of Wales (based on MDOT standards) for the installation along with any additional requirements specified on the permit by the Road Commissioner. The Road Commissioner will inspect installations requiring culverts to ensure that the installation meets the permitted requirements. Installations not meeting the requirements must be brought into compliance before building permits or other construction will be permitted.

## 2.6 UNDERGROUND INSTALLATION OF UTILITIES

Any underground installation of utilities within five (5) years of building and paving or repaving of a town road shall be outside of the paved area whenever feasible. Where pavement cuts are made the entire rebuilding may be requested of the responsible party and a sharing of the costs negotiated. Plans will be reviewed and approved by the Road Commissioner. As in all underground installations, dig safe and ok-to-dig will be contacted and documented.

## **ARTICLE 3. GENERAL**

### **3.1 COMMON DRIVEWAYS AND NON-CONFORMING COMMON DRIVEWAYS, PRIVATE ROADS AND WAYS**

- A.** New Common Driveways: All lots, including the original lot, shall have a note attached to the deed recorded at the registry of deeds stating that it is the 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> lot on that common drive. It will further state that should a 4<sup>th</sup> lot be created that will use that drive as it's point of access that the common driveway shall be upgraded to have the necessary improvements to meet private road standards completed as outlined in the design section (Article 2) of this ordinance before a building permit will be issued.
- B.** Existing non-conforming common drives and the lots accessed by those drives shall be grandfathered. However, a note will be recorded with the registry of deeds noting the lot number with reference to the common driveway and the provision that any additional division will require the improvements to bring it into compliance with the provisions of this ordinance.
- C.** Existing non-conforming private roads and ways shall be grandfathered. However, any additional development shall require the improvements to the private road or way to the property line(s) of said development.

### **3.2 ACCEPTANCE REQUIREMENTS**

- A.** Any registered voter in the town of Wales may petition the town for acceptance of any road in the Growth Areas meeting the design standards for collector and town ways. Private roads in the Growth Areas that meet the applicable criteria may be considered for acceptance after they have been paved according to the town way road standard. Each petition shall be accompanied by a written certification signed by a State of Maine registered Professional Engineer at the expense of the applicant, certifying that the proposed street(s) meet or exceed the design and construction requirements of this Ordinance. "As Built" Plans shall be submitted to the Road Commissioner. Roads that do not meet the applicable criteria shall not be considered for acceptance.
- B.** An article to accept any road meeting the design standards may be included in the warrant for a regular town meeting, to be voted upon by the voters at said meeting.
- C.** A petition for inclusion in the warrant shall include all necessary deeds providing clear title to the town of Wales for the entire width and length of the right-of-way, as well as any necessary easements for drainage and slopes, such title to be effective immediately upon acceptance by the town.
- D.** The petitioner agrees to guarantee for two years following acceptance that the road was built in accordance with the construction standards of this ordinance and, after receiving written notice from the Planning Board, agrees to reimburse the Town for repairs resulting from any design or construction defects beyond the normal wear and tear from ordinary use. Layout plans, deeds shall be submitted and the Town can request independent testing be done at the owners expense. If any legal action is brought against the petitioner in the name of the Town in order to collect the costs for repairing the road, and the Town prevails, then the applicant shall be liable and responsible for the Town's legal fees and court costs and any other costs involved in bringing such suit or action.

### **3.3 SUBMISSIONS**

An application for a road shall include the information required on the application form, and the road shall comply with the standards in Article 2, unless the information or standards are waived by the Board.

### **3.4 INSPECTIONS DURING CONSTRUCTION**

The Road Commissioner, his agent, or an individual assigned by the Planning Board or the Board of Selectmen shall make periodic inspections of streets and roads during construction to insure that they are constructed in conformance with the standards of this ordinance. He/she shall report to the Planning Board on construction progress when requested

## **ARTICLE 4. WAIVERS AND APPEALS**

### **4.1 WAIVERS**

Where the Board makes written findings of fact that the developer will suffer an undue economic or other hardship if the requirements of this ordinance are strictly applied, it may waive the necessity for strict compliance with the requirements of this ordinance in order to provide relief from the hardship in question and to permit a more practical and economical development, provided, however, that the public health, safety, and welfare will not be compromised, and further provided that the waivers in questions will not have the effect of nullifying the intent of this ordinance or the Town of Wales Comprehensive Plan. The Board shall not waive any requirements of this ordinance for those roads proposed to be accepted by the town of Wales.

### **4.2 APPEALS**

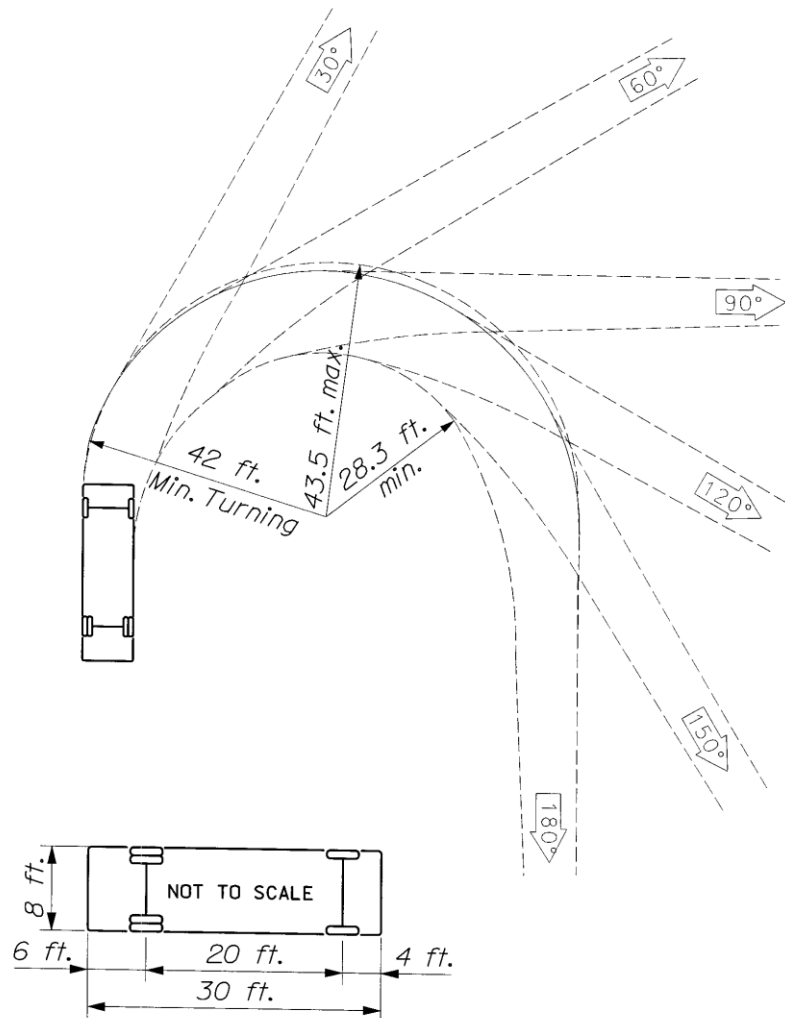
Appeals from any decision of the Board may be taken to the Board of Appeals by any aggrieved party within sixty (60) days of the decision of the Board.

## **ARTICLE 5. DEFINITIONS**

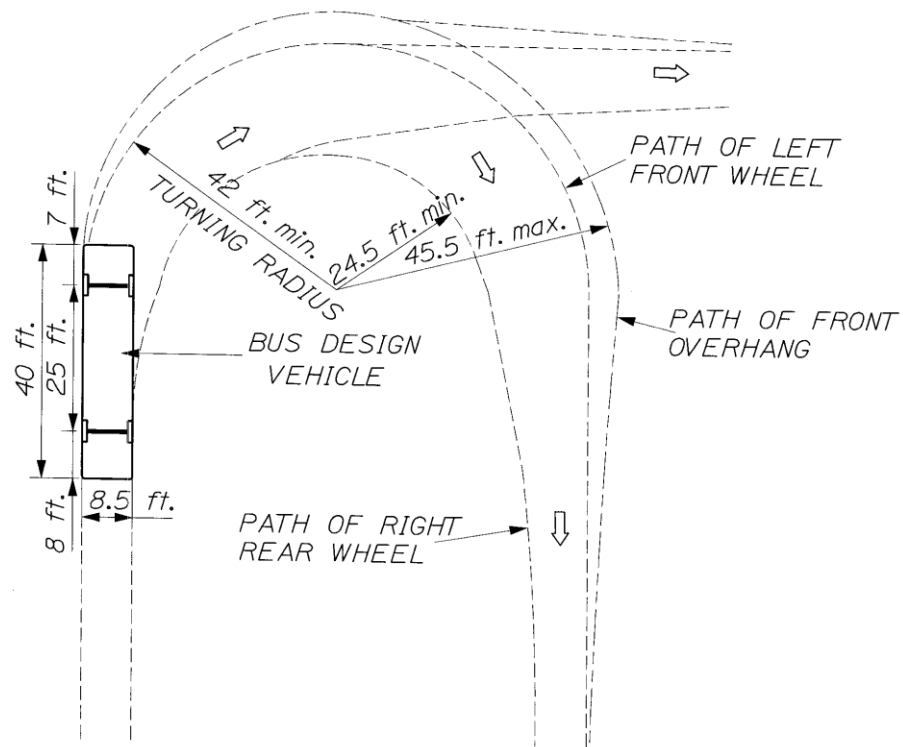
In general, words and terms used in this ordinance shall have their customary dictionary meanings. Certain words and terms used herein shall be as defined in the Town of Wales Definition Ordinance.

Adopted: June \_\_, 2013

**Road Ordinance of the Town of Wales**  
**Appendix A:**



MINIMUM TURNING PATH FOR  
SU (SINGLE UNIT) TRUCK DESIGN VEHICLE  
*Exhibit 5*



# MINIMUM TURNING PATH FOR CITY TRANSIT BUS DESIGN VEHICLE

Exhibit 4

<http://www.maine.gov/mdot/technicalpubs/hdg.htm>

# Town of Wales Shoreland Zoning Ordinance

Final Draft: April 12, 2009

Note: This ordinance replaces the ordinance adopted June 13, 2009.

Adopted: June 12, 2010



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## Shoreland Zoning Ordinance for the Town of Wales

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
  - normal high-water line of any great pond, or
  - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

### 4. **Effective Date and Repeal of Formerly Adopted Ordinance.**

- A. This Ordinance, which was adopted by the municipal legislative body on June 12, 2010 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance, or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

- B. **Repeal of Municipal Timber Harvesting Regulation.** The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
- Section 15(O) in its entirety; and
- Section 17. Definitions, the definitions of "forest management activities" and "residual basal area" from the Town of Wales Definitions Ordinance.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Districts and Zoning Map**
  - A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
    - (1) Resource Protection
    - (2) Limited Residential
    - (3) Limited Commercial
    - (4) General Development I
    - (5) General Development II
    - (6) Stream Protection
  - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
  - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
  - D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and

the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

**11. Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

**12. Non-conformance.**

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

**B. General**

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

**C. Non-conforming Structures**

- (1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
  - (a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
  - (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three

(3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section

12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

- (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and functionally water-dependent uses.

#### **D. Non-conforming Uses**

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12 (C) (4) above.

#### **E. Non-conforming Lots**

- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on or prior to June 13, 1992 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

### **13. Establishment of Districts**

**A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development I Districts need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value



waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond, and have a surface elevation at or below the water level of the great pond during the period of normal high water. “Wetlands associated with great ponds” are considered to be part of that great pond.

- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

**B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts.

**C. Limited Commercial District.** The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

**D. General Development I District.** The General Development District I includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
  - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
  - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
  - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

- E. General Development II District.** The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

In areas adjacent to great ponds, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds.

- F. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

- 14. Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection  
LR - Limited Residential  
SP - Stream Protection

GD - General Development I and General Development II  
LC - Limited Commercial

**TABLE 1. LAND USES IN THE SHORELAND ZONE**  
**LAND USES**  
**DISTRICT**

	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO <sup>1</sup>	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
10. Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes
15. Principal structures and uses					
A. One and two family residential, including driveways	PB <sup>4</sup>	PB <sup>9</sup>	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no <sup>10</sup>	no <sup>10</sup>	PB	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	PB	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB <sup>4</sup>	PB	CEO	CEO	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>
b. Permanent	PB	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>12</sup>	yes <sup>12</sup>	yes <sup>12</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
D. Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no <sup>7</sup>	PB	PB	PB
26. Road construction	PB	no <sup>8</sup>	PB	PB	PB
27. Parking facilities	no	no <sup>7</sup>	PB	PB	PB
28. Marinas	PB	no	PB	PB	PB
29. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes
30. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO
31. Signs	yes	yes	yes	yes	yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

<sup>1</sup>In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

<sup>2</sup>Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup>In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup>Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>6</sup>See further restrictions in Section 15( L)(2).

<sup>7</sup>Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

<sup>8</sup>Except as provided in Section 15(H)(3).

<sup>9</sup>Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

<sup>10</sup>Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>11</sup>Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>12</sup>Permit not required but must file a written "notice of intent to construct" with CEO.

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure	60,000	300
(c) Public and Private Recreational Facilities	40,000	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		
(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		
(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.		

**B. Principal and Accessory Structures**

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils. Accessory structures may be placed in accordance with the Town of Wales Floodplain Management Ordinance and need not meet the elevation requirement of this paragraph.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District not adjacent to great ponds, where lot coverage shall not exceed seventy (70) percent.
- (5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.**

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

**D. Campgrounds.** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

**E. Individual-Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the

State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**F. Commercial and Industrial Uses.** The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds and streams which flow to great ponds:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

**G. Parking Areas**

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(b) Internal travel aisles: Approximately twenty (20) feet wide.

**H. Roads and Driveways.** The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15 (Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote



infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

**I. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- (1) Signs and billboards relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

#### **J. Storm Water Runoff**

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

#### **K. Septic Waste Disposal**

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

#### **L. Essential Services**

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to an allowed use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

**M. Mineral Exploration and Extraction.** Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - (b) The final graded slope shall be two and one-half to one (2½:1) slope or flatter.
  - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

## **N. Agriculture**

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary

streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance of other water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

## **O. Timber Harvesting**

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
  - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
    - (1) The ground is frozen;
    - (2) There is no resultant soil disturbance;
    - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
    - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
    - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
  - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
  - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
    - (i) Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
    - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water

line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

- (b) Timber harvesting operations exceeding the 40% limitation in Section 15 (O)(2)(a) above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
  - (i) Surface waters are frozen; and
  - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance,. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

**P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P (1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
  - (b) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15 (P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond or a stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50 foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at

least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15 (P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond , and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared, This provision shall not apply to the General Development District.

- (4) Legally existing non-conforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15 (P).

#### **Q. Erosion and Sedimentation Control**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

**R. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.



- S. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- T. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## **16. Administration**

### **A. Administering Bodies and Agents**

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of M.R.S.A 30-A section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

**B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
  - (a) The replacement culvert is not more than 25 % longer than the culvert being replaced;
  - (b) The replacement culvert is not longer than 75 feet; and
  - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **C. Permit Application**

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.

- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

**D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with flood plain development and use; and
- (8) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, regulation or statute administered by the municipality.

**E. Special Exceptions.** In addition to the criteria specified in Section 16 (D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) All buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.
- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

**F. F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

## H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

- (a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
- (b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) Variance Appeals. Variances may be granted only under the following conditions:

- (a) Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- (c) The Board shall not grant a variance unless it finds that:
  - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
  - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
    - a. That the land in question cannot yield a reasonable return unless a variance is granted;
    - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - c. That the granting of a variance will not alter the essential character of the locality; and
    - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses that dwelling.

The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### (3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

### (4) Appeal Procedure

#### (a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

- a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
- b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The person filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

(5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

(6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## **I. Enforcement**

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

(b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

(3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

**17. Definitions.** Unless specifically defined in the Town of Wales Definitions Ordinance, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application.

# **FLOODPLAIN MANAGEMENT ORDINANCE**

## **FOR THE**

### **TOWN OF WALES, MAINE**

---

ENACTED: \_\_\_\_\_  
Date

EFFECTIVE: July 8, 2013  
Date

CERTIFIED BY: \_\_\_\_\_  
Signature

CERTIFIED BY: \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Affix Seal

Final Draft: 4/8/2013



# FLOODPLAIN MANAGEMENT ORDINANCE

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## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Wales, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Wales, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Wales, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Wales has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Wales having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Wales, Maine.

The areas of special flood hazard, Zones A and AE for the Town of Wales, Androscoggin County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Androscoggin County" dated July 8, 2013 with accompanying "Flood Insurance Rate Map" dated July 8, 2013 with panels: 230, 235, 236, 237, 238, 239, 245, 275 derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Androscoggin County," are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Wales, Maine.

## **ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones AE, from data contained in the "Flood Insurance Study – Androscoggin County, Maine," as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and VIII.D.;
      - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  3. a certified statement that bridges will meet the standards of Article VI.M.;
  4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$25.00 for all minor development and \$35.00 for all new construction or substantial improvements shall be paid to the Wales Town Clerk or Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Wales, Maine," as described in Article I;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
  - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
  - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
  - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
    1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
    2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
    3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
  - G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

## ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

**A. All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

**B. Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

**C. Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

**D. On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

**E. Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

**F. Residential** - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.

**G. Non Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

- a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or
- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

**H. Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zone AE shall:
- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
  - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
    - (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and

- b. meet the anchoring requirements of Article VI.H.1.c.

**I. Recreational Vehicles** - Recreational Vehicles located within:

- 1. Zones A and AE shall either:
  - a. be on the site for fewer than 180 consecutive days,
  - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
  - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

**J. Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones A and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

- 1. be 500 square feet or less and have a value less than \$3000;
- 2. have unfinished interiors and not be used for human habitation;
- 3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
- 4. be located outside the floodway;
- 5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- 6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

**K. Floodways** -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that



the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37).
3. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

**L. Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and AE that meet the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

**M. Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water and seaward of mean high tide, if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

## **ARTICLE VII - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant's written notification; and,
2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE IX - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Wales may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - c. that the granting of a variance will not alter the essential character of the locality; and,
    - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
  2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
  2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

**G. Appeal Procedure for Administrative and Variance Appeals**

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

**ARTICLE X - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XI - VALIDITY AND SEVERABILITY**

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

## **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

## **ARTICLE XIII - DEFINITIONS**

Unless specifically defined in the Town of Wales Definitions Ordinance, words and phrases used in this ordinance shall have the same meaning as they have at common law and to give this ordinance it's most reasonable application.

## **ARTICLE XIV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (c) Rev. 11/09

Prepared 1/11/13 by MFP/jpp

Final Draft: April 8, 2013

Enacted June 8, 2013

**SITE PLAN REVIEW ORDINANCE  
TOWN OF WALES**

**Adopted: June 11, 2005**

## **Article 1. Purposes**

The purpose of this ordinance is to provide for a site plan review of proposed developments that are of a scale that they may affect the physical and visual environment, the provision of public services, and/or the value and rights of neighboring properties; and thereby to protect the health, safety, and welfare of the residents of Wales. Its intent is to allow development controlled through a fair process without being detrimental to the public and the environment.

## **Article 2. Authority, Applicability, Administration, Submission Requirements**

### **2.1 Authority**

- A. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title - 1 - 30-A, M.R.S.A. § 3001.
- B. These standards shall be known and may be cited as “Site Plan Review Ordinance of the Town of Wales, Maine.”

### **2.3 Applicability**

- A. This ordinance shall apply to:
  - 1. New proposals to use land or structures for commercial, industrial, business, professional, governmental, institutional, public-utility, recreational, and multi-family uses and uses not specifically listed in Section 3.C. that occupy an impervious surface area of five thousand (5,000) square feet or more. Impervious surfaces include but are not limited to the following: roofs, walks, patios, drives, parking lots, and storage yards of concreted, asphalt, gravel, packed earth, or similar materials that shed water rather than absorbs it.
  - 2. Any expansion of a lawful existing use or structure that occurs after the effective date of this ordinance and as referenced in Section 3.A., if the expansion occupies a total impervious ground surface area of five thousand (5,000) square feet or more.
- B. Lawful existing uses or structures in Section 3.A are exempt from review except when changes in use or any changes in the physical premises or expansions are involved, or if discontinued for a period of twelve (12) months or more.
- C. This ordinance shall not apply to:
  - 1. Single-family or two-family residential structures.
  - 2. Home occupations
  - 3. Agricultural land and structures
  - 4. Agricultural fairgrounds.

### **2.4 Repeal of Existing Site Plan Review Ordinance**

Adoption of this ordinance shall repeal any and all previous Site Plan Review ordinances and regulations of the Town of Wales. This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.



## 2.5 Administration

- A. The following procedures and requirements shall apply to all applications for site plan review:
1. **Pre-Application Meeting:** Applicants are encouraged to schedule a meeting with the Planning Board (PB) prior to a formal submission for review, to discuss their plans and gain an understanding of the review procedures, requirements, and standards. The PB may waive, in writing, specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project. The pre-application meeting does not amount to a determination that the applicant's proposal is complete, nor does it mean that the applicant's proposal is pending for purposes of 1 MRSA §302.
  2. **Application Submission:** All applications for site plan review shall be submitted in writing to the Code Enforcement Officer (CEO) on the forms provided by the town for this purpose. The application shall be made by the owner of the property and /or business or his/her authorized agent as designated, or by any party with a valid legal interest in the property. The application shall be accompanied by all submissions listed in Section 6 herein and by an application fee as determined by the selectmen in the town's posted fee schedule. The CEO shall, within thirty (30) days of receipt of an application, make a preliminary determination for completeness for PB review.
  3. **Planning Board Agenda:** The application for site plan review, together with the documentation required in these regulations, shall be placed on the PB's agenda for consideration within thirty (30) days of the CEO's preliminary determination.
    - a. Any application that the CEO initially determines to be incomplete shall not be placed on the agenda but shall be returned to the applicant by the CEO with notification of the specific additional information required. When this additional information has been supplied, the CEO shall place the application on the PB's agenda.
    - b. The PB shall make a final determination of the completeness of the application. Within ninety (90) days of the receipt of a completed application as determined by the PB, or within another time limit that is mutually agreed to by the PB and the applicant, the PB shall act to approve, approve with conditions, or disapprove the site plan as submitted or amended. Any project that requires federal and/or state agency approvals shall not receive final PB approval until all necessary federal and/or state permits are obtained.
    - c. If the PB votes to disapprove an application, the owner or his authorized agent shall be notified in writing, and the specific reasons for disapproval shall be noted.
    - d. If the PB votes to approve the site plan application, the CEO shall issue a building permit, provided that all other requirements of this ordinance and any other pertinent ordinance(s) are met.
  4. **Site Visit and/or Public Hearing:** Prior to taking final action on any site plan review application, the PB may conduct a site visit and/or hold a public hearing to afford the public the opportunity to comment on the application. Minutes of the PB's action shall be recorded in writing.

5. **Notification of Abutters:** The CEO shall notify, by regular first-class mail, abutting property owners of a pending application for site plan review. This notice shall indicate the time, date, and place of the PB's consideration of the application. Failure of an abutter to receive notice does not invalidate the PB's action on an application.
6. **Building Permit:** No pre-construction, earth-moving, or construction activities shall commence until a building permit has been issued according to an approved site plan permit.
7. **Escrow Account for Professional Review:** The PB may require the applicant to deposit in escrow with the town an amount of money sufficient to cover the costs for any professional review of the site plan documents that the PB may feel is reasonably necessary to adequately review the application for a determination of compliance with the standards in Section 6. This escrow payment shall be made before the PB engages any outside party to undertake this review. Any part of this escrow payment in excess of the final costs for the review shall be returned to the applicant.
8. **Financial Guarantee:** Prior to final approval of any plan, the PB may require the posting of a bond or escrow agreement in such amount as is approved by the PB as being reasonable necessary to ensure completion of all improvements required as conditions of approval of such plan, in such form as approved by the PB and town selectmen. The CEO shall have access to the site at all reasonable times to review the progress of the work and shall have the authority to review all records and documents related to the project.
9. **Change in Ownership or Use:** If there is any change in ownership or change in an existing use of a structure or on a location that has been previously approved by the PB with a site plan review permit, the owner is required to apply for a separate site plan review permit to be reviewed in the manner described in this ordinance.
10. **Expiration of Approvals:** All site plan approvals shall expire within one (1) year of the date of issuance unless work thereunder is commenced.

## **2.6 Submission Requirements**

- A. A completed application for site plan review shall consist of five (5) copies of required plans no smaller than eleven inches by seventeen inches (11'-17") and no larger than twenty-four inches by thirty-six inches (24" x 36"), and five (5) sets of documents and other attachments on standard eight and one-half by eleven inch (8½' x 11") paper. Plans shall be drawn at a scale of one inch to fifty feet (1"=50') unless another scale is approved by the PB.
- B. These standards shall be known and may be cited as "Site Plan Review Ordinance of the Town of Wales, Maine."
  1. Plans shall include a title block in the lower right corner, containing the name and address of the applicant and the property owner; the name of the proposed development; the name and address of the preparer of the plan, with a professional seal, if applicable; the date of preparation of the plan; and the date(s) of any subsequent revision(s). A location map shall show the tax-map reference and the location of the property within

the town at a scale of one inch to two thousand feet (1"=2000'). A signature block shall be included for final approval.

2. The total floor area, ground coverage, and location of each existing and proposed building, structure, or addition.
3. A perimeter survey of the parcel made and certified by a professional land surveyor licensing in Maine, relating to reference points, with metes and bounds, and showing true north point; graphic scale; corners of parcel; date of survey; total acreage; encumbrances; easements of record; names of abutters; and any reports issued in regard to the survey.
4. The location of all freshwater wetlands and a functional assessment of value with four-(4-) positional accuracy of +/- one (1) meter prepared by a qualified experienced individual.
5. All existing and proposed setback dimensions.
6. All applicable zoning district boundaries.
7. The location of natural physical features such a ledge outcrops, steep slopes, open fields, and forested areas.
8. The size, location, direction, and foot-candle power of all major outdoor lighting apparatuses and signs.
9. The type, size, location, and noise levels, in decibels, of all machinery likely to generate appreciable noise at the lot lines.
10. The location, type, and size of all existing and proposed catch basins, storm-drainage facilities, streams, watercourses, ponds, and sand and gravel aquifers, and all utilities, both above and below ground.
11. An on-site soils investigation report by a site evaluator licensed by the Maine Department of Human Services. The report shall identify the types of soil, the location of test pits, and the proposed location and design for the subsurface sewage disposal system.
12. The location of any on- or off-site wells and water-supply systems serving the site for normal use and fire protection.
13. A letter from the Maine Natural Areas Program indicating the presence or absence of critical natural areas, plant or animal species, or habitats identified as endangered, rare, or threatened.
14. The amount and type of any raw, finished, or waste materials to be stored outside of roofed buildings, including the physical and chemical properties of these materials and the proposed location of outside storage, if appropriate.
15. Plans for disposal of any solid or liquid wastes and any stored materials of a hazardous nature, as defined in 38 MRSA.
16. All existing contours and proposed finished grad elevations of the entire site and the system of drainage proposed to be constructed. Contour intervals shall be two (2) feet unless otherwise specified by the PB.

17. The location, type, and size of all curbs, sidewalks, driveways, fences, retaining walls, parking-space areas, and the layouts thereof, together with their dimensions.
  18. All landscaped areas and fencing, and the size and type of plant material proposed to be retained or planted.
  19. An erosion- and sediment-control plan prepared by a Registered Professional Engineer.
  20. A storm water-management plan prepared by a Registered Professional Engineer. If the project must comply with the state's Storm water Management Law, documentation of compliance therewith shall be submitted in lieu of this section and the standards in Section 6.
  21. All existing or proposed rights-of-way, easements, and other recorded and unrecorded legal restrictions that may affect the premises in question.
  22. The location, names, and width of all existing and proposed roads abutting the premises in question.
  23. A driveway-entrance permit on routes under the jurisdiction of the Maine Department of Transportation.
  24. The property lines of all properties abutting the proposed development, including those properties across the road, together with the names and addresses of the owners as disclosed on the tax maps on file in the town offices as of the date of the application for site plan review.
  25. Evidence of the applicant's legal interest in the property.
  26. Evidence of the applicant's financial capacity to carry out the project, based on a detailed cost breakdown of the proposed development.
  27. Copies of all federal and state agency approvals or letters documenting their non-jurisdiction.
- C. The PB may request more detailed studies of the project's impacts on groundwater, traffic, public facilities, or other environmental factors when a potential for adverse impact is evident.

### **Article 3. Criteria and Standards**

- A. The following criteria and standards shall be utilized by the PB in reviewing applications for site plan review. These standards are intended to provide a guide for the applicant in the development of the site, its use, and the building plans for it, as well as a method of review for the PF. These standards are not intended to discourage creativity, invention, and innovation. They shall be regarded as flexible requirements and shall be applied reasonably and fairly, taking into account any extenuating circumstances or special features of the property or its neighborhood. With this concept in mind, the PB may waive some or all of the following standards.

1. **Preservation of Landscape:** The landscape shall be preserved in its natural state, insofar as practicable, by the minimization of tree and soil removal, the retaining of existing vegetation where desirable, and the design of grade changes that are in character with the general appearance of neighboring areas.
2. **Traffic:** The proposed development shall provide for safe access to and from public and private roads and be in accordance with the Town of Wales Road Ordinance. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, and schools and other traffic generators. “Curb cuts” shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the town road system and shall assure safe interior circulation within its site by allowing for the separation of pedestrian and vehicular traffic and for adequate parking and loading areas. A driveway-entrance permit must be obtained and submitted to the PB prior to final PB approval. The town’s fire department and designated law-enforcement agency shall be officially consulted on all development plans reviewed under this ordinance.
3. **Noise:** Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.
4. **Dust, Fumes, Vapors, and Gases:** Emission of dust, dirt, fly ash, fumes, vapors, or gases that could damage human health, animals, vegetation, or property at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited. All such activities shall also comply with applicable federal and state regulations.
5. **Odor:** No land use or establishment shall be permitted to produce unreasonably offensive or harmful odors perceptible beyond its lot lines, either at ground level or habitable elevation.
6. **Exterior Lighting:** The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours, if such use is contemplated. All exterior lighting will be designed and shielded to avoid undue glare, adverse impact on neighboring properties and right-of-way, and excessive lighting of the night sky.
7. **Surface Storm water Runoff:** Surface water run-off shall be minimized and detained on-site, to the extent practicable. If it is not possible to detain water on-site, downstream improvements in the watershed may be required of the developer to prevent adverse impacts caused by the project. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible. Design period is for two- (2-), ten- (10-), twenty-five (25-), and one-hundred- (100-) year storm. Refer to *Stormwater Management for Maine: Best Management Practices* by Maine Department of Environmental Protection, 1995 or as revised.
8. **Erosion Control:** Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by the employment of “best management” practices as recommended in *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water

Conservation District and the Maine Department of Environmental Protection, 1991 or latest revision to date.

9. **Explosive Materials:** No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are located in anchored tanks at least seventy-five (75) feet from any lot line, town way, or interior roadway, or at least forty (40) feet from any lot line for underground tanks. All relevant federal and state regulations shall also be met.
10. **Water Quality:** All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials shall be located on impervious pavement and shall be completely enclosed by an impervious dike that shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a fifty- (50-) year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for “home heating oil” (including K-1) and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement in situations where neither a high seasonal water table (within fifteen [15] inches of the surface) nor rapidly permeable sandy soils are involved.
11. **Groundwater:** No development shall adversely impact groundwater to render it unfit for human consumption in either quality or quantity.
12. **Water Supply:** The development will be provided with a system of water supply that provides each use with an adequate supply of drinking water.
13. **Sewage Disposal:** The development will be provided with a method of disposing of sewage that is in compliance with the State Plumbing Code.
14. **Financial Capacity:** The application shall provide documentation of adequate financial capacity to complete the project as approved with any conditions.
15. **Refuse Disposal:** The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The PB shall consider the impact of particular industrial or chemical wastes or by-products and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations. The PB may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.
16. **Environmentally Sensitive Areas:** Wetlands, steep slopes, flood plains, and unique natural features shall be maintained and preserved to the maximum extent.
17. **Plant and Animal Habitat Protection:** No development shall intentionally destroy or eradicate critical natural areas, plant or animal species, or habitats identified as endangered, rare, or threatened by the Maine Natural Areas Program.
18. **Landscaping:** Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring uses.

- 19. Buffering:** The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.

#### **Article 4. Conditions of Approval**

The PB may impose conditions on any site plan approval where the PB finds that such conditions are necessary to ensure that the development will comply with the criteria and standards of Article 3 of this ordinance. All elements and features of the plan and all representations made by the applicant concerning the development and use of the property that appear in the record of the PB proceedings are conditions of approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the PB.

#### **Article 5. Appeals and Variances**

To appeal a decision of the PB, an aggrieved party must file the appeal with the Board of Appeals within thirty (30) days of the date that the PB issues a written decision. If such an appeal application is not filed within the stated time, the prior decision of the PB shall be final. Following a hearing, the Board of Appeals may reverse the decision of the PB only upon a finding in fact or in law that the decision is clearly contrary to specific provisions of this ordinance. The Board of Appeals may affirm, modify, or remand the application to the PB for further proceeding.

The Board of Appeals shall follow the appeal procedure currently in place and detailed in the Shoreland Zoning Ordinance of the town of Wales.

#### **Article 6. Enforcement**

- A. It shall be the duty of the CEO to enforce the provisions of this ordinance and to enforce the conditions of any permit or approval granted under this ordinance. If any provision of this ordinance is being violated, the CEO shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of work being done; removal of illegal buildings or structures; and abatement of violations. A copy of such notices shall be maintained as a permanent record.
- B. When the above action does not result in the correction or abatement of the violation or nuisance condition, the selectmen are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations; the imposition of fines; and entering into consent agreements that may be

appropriate or necessary to enforce the provisions of this ordinance in the name of the municipality.

- C. The penalties for violation of this ordinance shall be as prescribed in 30-A MRSA §4452.

## **Article 7. General**

- A. **Amendments:** This ordinance may be amended by a majority vote of the town meeting. Amendments may be initiated by a majority vote of the PB, by request of Selectmen to the PB, or on petition of a number of voters equal to or greater than ten (10) percent of the votes cast in the last gubernatorial election in the town. The PB shall conduct a public hearing on any proposed amendment.
- B. **Validity and Severability:** Should any article or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other article or provision of this ordinance.
- C. **Conflict with Other Ordinances:** Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements shall apply.

## **Article 8. Definitions**

Unless specifically defined in the Town of Wales Definitions Ordinance, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application.

Adopted:



# **TOWN OF WALES SUBDIVISION ORDINANCE**

Final Draft: April 12, 2010

Adopted: June 12, 2010

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## **Article 1. Purposes**

The purposes of this ordinance are to assure the comfort, convenience, safety, health, and welfare of the people of the town of Wales; to protect the environment; and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the town of Wales, Maine, the Planning Board shall consider the following criteria and, before granting approval, shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the requirements set forth in the state subdivision law.

## **Article 2. Authority, Administration, Effective Date, Repeal of Existing Ordinance**

### **2.1 Authority**

- A. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. § 3001.
- B. This ordinance shall be known and may be cited as “Subdivision Ordinance of the Town of Wales, Maine.”

### **2.2 Administration**

- A. The Planning Board of the town of Wales (hereinafter called the Board) shall administer this ordinance.
- B. The provisions of this ordinance shall pertain to all land proposed for subdivision, as defined by Title 30-A, M.R.S.A. § 4401, within the town of Wales.

### **2.3 Effective Date**

The effective date of this ordinance is the 2010 annual Wales Town Meeting held June 12, 2010.

### **2.4 Repeal of Existing Subdivision Ordinance**

Adoption of this ordinance shall repeal any and all previous subdivision ordinances and regulations of the Town of Wales. This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.

### **2.5 Conflict with Other Ordinances**

This ordinance shall not be construed to repeal any existing bylaws or ordinances, other than those specifically identified, or to impair the provisions of private restrictions placed upon property, provided, however, that where this ordinance imposes greater restrictions, its provisions shall control.

## **2.6 Validity and Severability**

Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

## **Article 3. Administrative Procedure**

### **3.1 Joint Meetings**

If any portion of the proposed subdivision crosses the boundary of an adjacent municipality, the Board shall meet jointly with that municipality's planning board to discuss the application.

## **Article 4. Pre-application for Minor and Major Subdivisions**

### **4.1 Submission**

The pre-application sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan, which may be a freehand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the tax assessor's map(s) of the property proposed for subdivision. The sketch plan shall be accompanied by a copy of the portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten (10) acres in size. When the proposed subdivision will encompass more than ten (10) acres or five (5) lots, whichever is less, the applicant shall submit sketch plans of both a traditional subdivision layout and of an open-space subdivision layout. The sketch plan(s) shall be accompanied by a written narrative of the advantages and disadvantages of both subdivision designs in relation to the particular site. The Board shall, within thirty (30) days of receiving a sketch plan, inform the applicant of its opinion as to the more appropriate design, based in part upon consideration of the comprehensive plan recommendations.

### **4.2 Contour Interval and On-Site Inspection**

Within thirty (30) days of receipt of a pre-application sketch plan, the Board shall determine and inform the applicant in writing of the required contour interval on the preliminary plan, or on the final plan in the case of a minor subdivision, and shall hold an on-site inspection of the property.

### **4.3 Ownership Interest**

The applicant shall furnish to the Board written evidence showing his interest (option, contract for sale, deed etc.) in the property to be subdivided.

#### **4.4 Proposed Road Name and Numbering System**

The applicant shall submit to the Board the name proposed for any new public or privately owned road and a numbering system that complies with the E-911 Addressing Ordinance, Town of Wales.

### **Article 5. Minor Subdivisions**

#### **5.1 General**

In any case, whether due to the complexity of the subdivision proposal or because of circumstances indicating that some aspect of the proposal is likely to present a substantial risk to public health, safety, or welfare, the Board may require the applicant to submit any additional information deemed necessary in order to assure that a hazardous condition will not be present.

#### **5.2 Procedure**

- A. Within six (6) months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a final plan to the CEO at least twenty-one (21) days prior to a scheduled meeting of the Board. Failure to submit an application within six (6) months of the on-site inspection shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan and shall include any recommendations made by the Board. The CEO shall provide the subdivider with a dated receipt of a final plan application at the time of submission of the final plan application and the application fee.
- B. All applications for final plan approval for a minor subdivision shall be accompanied by an application fee as established by the selectmen, payable to the Town of Wales. The Board may require the owner or his authorized agent to deposit in escrow with the town an amount of money sufficient to cover the costs for any professional review of the subdivision that the Board may feel is reasonably necessary to protect the general welfare of the town. This escrow payment shall be made before the Board engages any outside party to undertake this review and to make recommendations to the Board. Any part of the escrow payment in excess of the final costs for the review shall be returned to the owner or his agent.
- C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the final plan.
- D. Upon receipt of an application for approval of a final plan, the Board, applicant or his/her designee shall notify in writing all owners of property abutting the proposed subdivision and any other appropriate parties as per Title 30-A § 4403.3.A.
- E. Within thirty (30) days of the CEO issuing a dated receipt of a final plan application form and fee, the Board shall notify the applicant in writing as to whether or not the application is complete and as to what, if any, additional submissions are required for a complete application and shall determine whether to hold a public hearing on the final plan application. The CEO shall notify the selectmen about the pending application and shall request comments or suggestions.

- F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days after determining that the application is complete and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. Notice of the public hearing shall be mailed by the town of Wales to all abutters of the proposed subdivision seven (7) days prior to the hearing.
- G. Within thirty (30) days from the public hearing or, if no hearing is held, within sixty (60) days of determining it has a complete application, or within another time limit as may be otherwise mutually agreed upon by the Board and the subdivider, the Board shall make findings of fact and conclusions relative to the standards contained in Title 30-A, M.R.S.A. §4404 and in this ordinance. If the Board finds that all standards of the statute and of this ordinance have been met, the Board shall approve the final plan. If the Board finds that any of the standards of the statute and of this ordinance have not been met, the Board shall either deny the final plan or approve the final plan with conditions to ensure that all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

### **5.3 Submissions**

- A. The subdivision plan for a minor subdivision shall consist of two (2) reproducible, stable-based, transparent originals, embossed with the seal of the professional who prepared the plan. One shall be recorded at the Registry of Deeds; the other shall be filed at the municipal office; and six (6) copies of one (1) or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch shall be provided to the Board. The submissions and required fees shall be submitted to the CEO as outlined in Section 5.2.A. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (200) feet to the inch, provided that all necessary detail can be easily read. Plans shall be no larger than twenty-four (24) by thirty-six (36) inches in size and shall have a margin of one-half ( $\frac{1}{2}$ ) inch along all sides. Space shall be provided for endorsement by the Board. Six (6) copies of all information accompanying the plan shall be submitted. In addition, one (1) copy of the plan(s), which may be reduced to a size of eight and one-half ( $8\frac{1}{2}$ ) by eleven (11) inches, and all accompanying information shall be submitted so that copies can be forwarded by the CEO to the selectmen for their comments and suggestions.

The application for approval of a minor subdivision shall include the following information:

1. The proposed name of the subdivision or its identifying title, and the name of the municipality in which it is located, along with the tax assessor's map number(s) and lot number(s).
2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

3. A copy of the deed from which the survey was based and proof of right, title, and interest. A copy of all covenants, deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
4. A copy of any proposed covenants, deed restrictions, easements, rights-of-way, or other encumbrances intended to cover all or part of the lots in the subdivision.
5. An indication of the type of sewage system to be used in the subdivision. When sewage is to be accomplished by subsurface wastewater-disposal systems, test pit analyses prepared by a licensed site evaluator and in compliance with current Maine Subsurface Wastewater Disposal Rules shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
6. An indication of the type of water-supply system(s) to be used in the subdivision.
  - a) When water is to be supplied by private wells, evidence of adequate groundwater supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
  - b) A letter from the Fire Chief indicating that there is adequate water for fire fighting or the Fire Chief's approval of a fire fighting water solution as outlined below:
    - 1) Cistern: A cistern system that meets the specifications outlined by the Fire Chief's recommendation based on the size of the subdivision (minimum capacity 10,000 gallons).
    - 2) Alternative proposals for water supply solutions as approved by the Fire Chief and the Planning Board, notwithstanding the appropriate safety precautions as approved by the Board, the Board of Selectmen, and the Fire Chief or his/her designee.
7. The date the plan was prepared; magnetic north point; the graphic map scale; the names and addresses of the record owner, the subdivider, and the individual or company who prepared the plan; and the names and addresses of adjoining property owners. The plan(s) shall be embossed with the seal of the professional engineer, surveyor, or planner, or all of the above, as the case may be.
8. A copy of that portion of the county soil survey covering the subdivision along with soil descriptions and interpretations. When the medium-intensity soil survey shows soils that are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a registered soil scientist indicating the suitability of soil conditions for those uses.
9. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.
10. If any portion of the subdivision is in a flood-prone area, the delineation on the plan of the boundaries of any flood hazard areas and the one-hundred- (100-) year flood elevation.
11. A soil-erosion and sedimentation control plan that employs the Best Management Practices as contained in the Maine Erosion and Sediment Control Handbook for Construction.

12. A plan for the disposal of surface waters, prepared by a qualified professional knowledgeable in surface drainage.
13. The location of any freshwater wetlands.
14. The location of any river, stream, or brook within or abutting the proposed subdivision.
15. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife and the Beginning With Habitat Program.
16. The identification of any portion of the subdivision that is located within the watershed of a lake or pond.
17. A phosphorous-impact analysis and phosphorus-control plan, when determined necessary by the Board.
18. The location of any zoning boundaries affecting the subdivision.
19. The location of known archeological resources and, where information from the Maine Historic Preservation Commission indicates that sites may be of archaeological interest, a survey conducted by a professional archaeologist.
20. The identification of documented rare and endangered species identified by the state or federal governments and measures to protect them.
21. The location of documented historic buildings and sites on or adjacent to the site and measures to minimize impacts on them.
22. The location of scenic sites or views as identified on the Town of Wales Comprehensive Plan.
23. The location of existing agricultural and forestry activities and other existing activities on or adjacent to the site that may not be compatible with the proposed subdivision.
24. The location of any aquifers and well head protection areas on or adjacent to the site.
25. The cost of roads, storm drainage, erosion control, sediment control, and other improvements proposed and statements of the applicant's technical and financial capacity to carry out the project as proposed.

## **Article 6. Preliminary Plan for Major Subdivision**

### **6.1 Procedure**

- A. The procedure for reviewing a preliminary plan for a major subdivision shall be the same as the procedure for reviewing a final plan for a minor subdivision [Article 5.2.A. through 5.2.G., inclusive]. Insert the term "preliminary plan" for "final plan."
- B. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
  1. the specific changes that it will require in the final plan;



2. the character and extent of the required improvements for which waivers may have been requested and that, in the Board's opinion, may be waived without jeopardy to the public health, safety, and general welfare; and
  3. the amount and type of all performance guarantees that it will require as prerequisite to the approval of the final plan.
- C. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan; rather, it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval of the Board upon fulfillment of the requirements of this ordinance and the conditions of preliminary approval, if any. Prior to the approval of the final plan, as a result of the further study of a subdivision or as a result of additional information received, the Board may require additional changes or other conditions that it deems necessary. The final plan shall satisfy all of the approval criteria for subdivision approval set forth in this ordinance and in Title 30-A, M.R.S.A., §4404.

## **6.2 Submissions**

### **A. Location Map**

The preliminary plan shall be accompanied by a location map adequately showing the relationship of the proposed subdivision to the adjacent properties. This will enable the Board to locate the subdivision within the municipality. The location map shall show:

1. locations and names of existing and proposed streets;
2. boundaries and designations of any zoning districts;
3. an outline of the proposed subdivision showing the owner's/applicant's entire contiguous holdings.

### **B. Preliminary Plan**

The preliminary plan shall consist of the plans and accompanying information as required in the submissions for a minor subdivision [Article 5.3.A.], except that two (2) reproducible, stable-based, transparent originals are not required.

### **C. Accompanying Information**

The application for approval of a preliminary plan shall include the following information:

1. The information required to be submitted for a minor subdivision [Article 5.3.A.1. through Article 5.3.A.25., inclusive].
2. The number of acres within the proposed subdivision; the location of property lines, existing buildings, and watercourses; the vegetative cover type; and other essential existing physical features.
3. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

4. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks, and other open spaces on or adjacent to the subdivision.
5. The proposed lot lines with approximate dimensions and lot areas.
6. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
7. The location of any open space to be preserved and an indication of improvements and management plan(s).
8. A traffic impact analysis, prepared by a professional engineer, when required by the Board.
9. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.

## **Article 7. Final Plan for Major Subdivision**

### **7.1 Procedure**

- A. Within twelve (12) months after the preliminary plan approval by the Board, the subdivider shall submit an application for approval of a final plan to the CEO at least twenty-one (21) days prior to a scheduled meeting of the Board. Failure to submit an application within twelve (12) months of the preliminary plan approval shall require resubmission of the preliminary plan to the Board. The final plan shall approximate the layout shown on the preliminary plan and shall include any recommendation made by the Board. The CEO shall provide the subdivider with a dated receipt of the final plan application and application fee at the time of submission of the final plan application and the application fee.
- B. The procedure for review of a final plan for a major subdivision shall be the same as for the review of a minor subdivision [Article 5.2.B. through Article 5.2.G., inclusive].

### **7.2 Submissions**

- A. The subdivision plan for a major subdivision shall consist of two (2) reproducible, stable-based, transparent originals, embossed with the seal of the professional who prepared the plan. One (1) shall be recorded at the Registry of Deeds; the other shall be filed at the municipal office; and six (6) copies of one (1) or more maps or drawing drawn to a scale of not more than one hundred (100) feet to the inch shall be provided to the Board. The submissions and required fees shall be submitted to the CEO as outlined in Section 7.1.A. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (200) feet to the inch, provided that all necessary detail can be easily read. Plans shall be no larger than twenty-four (24) by thirty-six (36) inches in size and shall have a margin of one-half ( $\frac{1}{2}$ ) inch along all sides. Space shall be provided for endorsement by the Board. Six (6) copies of all information accompanying the plan shall be submitted. In addition, one (1) copy of the plan(s), which may be reduced to a size of eight and one-half ( $8\frac{1}{2}$ ) by eleven (11) inches, and all accompanying information shall be submitted so that copies can be forwarded by the CEO to the selectmen for their comments and suggestions.

The application for approval of the final plan shall include the following information:

- 1. The proposed name of the subdivision or its identifying title and the name of the municipality in which it is located, along with the tax assessor's map number(s) and lot number(s).
- 2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

3. The number of acres within the proposed subdivision; the location of property lines, existing buildings, and watercourses; the vegetative cover type; and other essential existing physical features.
4. An indication of the type of sewage system to be used in the subdivision. When sewage disposal is to be accomplished by subsurface sewage-disposal systems, test pit analyses prepared by a licensed site evaluator and in compliance with current Maine Subsurface Wastewater Disposal Rules, shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
5. An indication of the type of water-supply system(s) to be used in the subdivision.
  - a) When water is to be supplied by private wells, evidence of adequate groundwater supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
  - b) A letter from the Fire Chief indicating that there is adequate water for fire fighting or the Fire Chief's approval of a fire fighting water solution as outlined below:
    - 1) Cistern: A cistern system that meets the specifications outlined by the Fire Chief's recommendation based on the size of the subdivision (minimum capacity 10,000 gallons).
    - 2) Alternative proposals for water supply solutions as approved by the Fire Chief and the Planning Board, notwithstanding the appropriate safety precautions as approved by the Board, the Board of Selectmen, and the Fire Chief or his/her designee.
6. The date the plan was prepared; magnetic north point; the graphic map scale; the names and addresses of the record owner, the subdivider, and the individual or company who prepared the plan; and the names of adjoining property owners. The plan(s) shall be embossed with the seal of the professional engineer, surveyor, or planner, or all of the above, as the case may be.
7. The location of any zoning boundaries affecting the subdivision.
8. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
9. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks, and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing, and length of every street line, lot line, and boundary line to be readily determined and to be reproduced upon the ground. These lines shall be tied to reference points previously established.
10. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained, shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer of cession shall be included.

11. If any portion of the subdivision is in a flood-prone area, the delineation on the plan of the boundaries of any flood hazard areas and the one-hundred- (100-) year flood elevation.

### **7.3 Final Approval and Filing**

- A. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A., §4404 and this ordinance have been met and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One (1) copy of the signed plan shall be retained by the Board as part of its permanent records. One (1) copy of the signed plan shall be forwarded to the tax assessor and the CEO. Any subdivision not recorded in the Registry of Deeds by the subdivider within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.
- B. At the time the Board grants final plan approval, it may permit the plan to be divided into two (2) or more phases subject to any conditions the Board deems necessary in order to insure the orderly development of the plan.
- C. No change, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 8.1.C. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A., §4404 and this ordinance. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or to be evidence of any acceptance by the municipality of any street, easement, or other open space shown on the plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Failure to commence substantial site preparation or construction of the necessary improvements of the subdivision within two (2) years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

## **Article 8. Enforcement**

### **8.1 Inspection of Required Improvements**

- A. At least five (5) days prior to commencing each major phase of construction of required improvements, the subdivider or contractor shall notify the CEO in writing as to when construction of improvements will begin. The municipal officers shall cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. If the inspecting official finds, upon inspection of the improvements, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the municipal officers, board, and the subdivider or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the town. For major modifications, such as relocation of rights-of-way or property boundaries, changes of grade by more than one (1) percent, etc., the subdivider shall obtain permission from the Board to modify the plans.
- D. For those subdivisions in which construction activity will cease for the winter season, the town shall have the site inspected by the CEO at the close of each summer construction season. If the CEO determines that additional inspection is necessary, then a qualified individual will conduct the inspection at the expense of the subdivider. By November 1 of each year during which construction was done on the site, the CEO or inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to the job for which they were designed and whether the measures are sufficient to prevent erosion and storm water pollution during the time in which construction is suspended. The report shall also include a discussion and recommendations on any problems that were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered land surveyor stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the state of Maine may be required by the municipal officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements.
- G. The subdivider or builder shall be required to maintain all improvements and to provide for snow removal on streets and sidewalks and maintenance until either a homeowners association is established to accept responsibility for the improvements or the improvements are accepted by the town at the annual town meeting.

## **8.2 Violations and Enforcement**

- A. No plan of a division of land within the municipality that would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this ordinance.
- B. No person, firm, corporation, or other legal entity may convey, offer, or agree to convey any land in a subdivision that has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation, or other legal entity may convey any land in an approved subdivision that is not shown on the plan as a separate lot.
- D. Any person, firm, corporation, or other legal entity who conveys, offers, or agrees to convey any land in a subdivision that has not been approved as required by this ordinance shall be punished by a fine of not less than one hundred dollars (\$100) and not more than two thousand five hundred dollars (\$2,500) for each such conveyance, offering, or agreement, unless increased in accordance with Title 30-A, M.R.S.A., §4452 . The town may institute proceedings to enjoin the violation of this section and may collect attorney's fees and court costs if it is the prevailing party.
- E. No public utility or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- F. No person shall establish or develop a subdivision without first having a final plan thereof approved by the Board. "Develop" shall include grading or construction of roads, grading of land or lots, or construction of any buildings.

## **Article 9. General Standards**

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each, in addition to standards contained in Title 30-A, M.R.S.A., §4404, have been met prior to the approval of a final plan. In all instances, the burden of proof shall be upon the applicant.

### **9.1 Conformance With Comprehensive Plan**

- A. All proposed subdivisions shall be in conformity with the Town of Wales Comprehensive Plan and with the provisions of all pertinent state and local codes and ordinances.
- B. Subdivisions in all zones except the Growth Areas shall be restricted to 5 lots in any 5 year period unless an applicant for a subdivision owned the parcel under consideration on June 12, 2004 and has owned the parcel for at least 10 years at the time the preliminary application is found complete. (Note: See definition of applicant for clarification on qualified exceptions).
- C. Subdivision roads in all zones except the Growth Areas are ineligible for acceptance as town ways. To become town ways, roads in the Growth Areas must meet the requirements of the Town of Wales Road Ordinance, Article 8.1.F. and be accepted at a town meeting.

## **9.2 Land Not Suitable for Development**

The following lands shall not be included in the calculations of building density for the purpose of meeting the requirements of mobile home parks and multi-family developments of three (3) or more units, except for affordable elderly housing proposals in the Growth Areas.

- A. Land that is located within the one-hundred (100-) year-frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submission of materials prepared by a registered land surveyor that the property in question lies above the one-hundred (100-) year flood level. The elevation of filled or made land shall not be considered.
- B. Land that is part of a right-of-way or easement, including utility easements.
- C. Land that has been created by filling or draining a pond or wetland.

## **9.3 Lots**

- A. All lots shall meet the minimum requirements of the Land Use Ordinance, Town of Wales. All lots in zones other than the Growth Areas must include a minimum contiguous building envelope of 40,000 square feet that will contain all buildings, driveways and the sewage disposal system; the building envelope shall not include wetlands of any type.
- B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated.
- C. All subdivision lots in subdivisions of more than 3 lots shall have vehicular access only on an interior subdivision road; the subdivision plan shall indicate this restriction and it shall be included in deed covenants.

## **9.4 Utilities**

- A. The Board may require utilities serving the subdivision to be installed underground. The applicant will furnish or cause to be furnished to the Board the plans prepared by utility companies for the installation of utilities. Acceptance of the final plan of a subdivision is conditional upon receipt of these utility plans.
- B. For roads intended to be accepted as town roads, underground utilities shall be installed prior to the installation of the final gravel base of the road. All underground utilities shall be properly marked to avoid damage by future excavations.
- C. The size, type, and location of street lights, electric lines, telephone, and other utilities shall be shown on the plan.

## **9.5 Required Improvements**

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of this ordinance.

- A. Monuments



Monuments of granite or concrete not less than four (4) inches square in width or iron reinforcement rods at least 5/8 of an inch across the top and at least four (4) feet in the ground shall be installed as follows:

1. Monuments or iron reinforcement rods shall be set at all street intersections and points of curvature, but no further than seven hundred and fifty (750) feet apart along street lines having no curves or intersections.
2. Monuments or iron reinforcement rods shall be set at all corners and angle points of the subdivision boundaries and all lot boundary corners and angle points.

**B. Sewage Disposal**

The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

**C. Surface Drainage**

1. Where a subdivision is traversed by a stream, river, or surface-water drainage way, or where the Board has determined that surface-water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. This storm water-management system shall be designed by a qualified professional knowledgeable in surface drainage.
2. Drainage easements for existing watercourses or proposed drainage ways at least thirty (30) feet wide shall be provided and indicated on the plan, conforming substantially with the lines of existing natural drainage.
3. The applicant shall provide a statement from the designing professional that the proposed subdivision will not create erosion, drainage, or runoff problems either in the subdivision or with respect to adjoining properties. Where the peak runoff from the subdivision onto abutting properties is increased either in volume or duration, easements allowing such additional discharge shall be obtained from abutting property owners.
4. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements and meeting the standards of Article 10.4 shall be submitted.

**9.6 Land Features**

- A. Except for normal thinning, landscaping, and tree-cutting to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require the applicant to take measures to correct and prevent soil erosion in the proposed subdivision.
- B. The Board shall require the applicant to take measures as contained in the Maine Erosion and Sediment Control Handbook for Construction to correct and prevent soil erosion in the proposed subdivision.

- C. Whenever a subdivision is to be located adjacent to or in close proximity to an existing residential, agricultural, forestry or commercial use which is not compatible with the proposed use, buffers consisting of natural vegetation, new vegetation, berms, fences or structures shall be developed and/or maintained between the existing use and the proposed subdivision so as to minimize potential conflict between the incompatible uses. When the Board requires such a buffer, this shall be noted as a restriction on the subdivision plan.

## **9.7 Phosphorous Export**

- A. Phosphorous export from a proposed development shall be calculated according to the procedures defined in *Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development* (Maine DEP et. al., September 1989 with revision in 1992 and as may be amended). Upon request, copies of all worksheets and calculations shall be made available to the Board.
- B. Phosphorous-control measure shall meet the design criteria contained in *Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development* (Maine DEP et. al., September 1989 with revision in 1992 and as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimal road lengths and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds. Where buffers can be designed and maintained to remove 75% of the phosphorus in accordance with Table 6.1 of Stormwater Management for Maine: Best Management Practices, it will be assumed that the project meets this standard.

## **9.8 Construction in Flood-Hazard Areas**

When any part of a subdivision is located in a special flood-hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot that is included or partially included in the flood-hazard area.

## **9.9 Mobile Home Parks**

- A. These standards shall apply to all development proposals for new mobile-home parks and to any expansion of existing mobile-home parks.
- B. Lot Size, Width, and Density

Lots in mobile-home parks not located within the shoreland zone as defined in the Shoreland Zoning Ordinance, Town of Wales shall meet the following minimum lot size, width, and density requirements. Minimum requirements shall be based on Title 30-A, M.R.S.A., §4358.

- 1. Lots served by individual subsurface sewage-disposal systems:
  - a) minimum lot area – twenty thousand (20,000) square feet

- b) minimum lot width – one hundred (100) feet
- 2. Lots served by a central subsurface wastewater-disposal system:
  - a) minimum lot area – twelve thousand (12,000) square feet
  - b) minimum lot width – seventy-five (75) feet
- 3. The overall density of a mobile-home park served by a central subsurface wastewater-disposal system shall be no greater than one (1) unit per twenty thousand (20,000) square feet of total park area, subject to Article 9.2.
- 4. The overall density of the mobile-home park shall be computed using the combined area of its mobile home lots plus:
  - a) the area required for road rights-of-way; and
  - b) the area required for buffer strips, if any.
- 5. Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the front of the manufactured home.
- 6. Lots within the shoreland zone shall meet the lot-area, lot-width, setback, and shore-frontage requirements for that district.

#### C. Lot Setbacks

- 1. The following lot setbacks shall apply to all manufactured housing units:
  - a) front setback – twenty-five (25) feet
  - b) side setback – ten (10) feet
  - c) rear setback – ten (10) feet

If these requirements conflict with the requirements of lots within the shoreland zone, the stricter standards shall apply. If a lot has frontage on a public road, the setback shall conform with the residential setback requirements applicable to other residential dwelling units in the district.

- 2. For aesthetic purposes, the Board may allow the front or rear setbacks on a private road within a mobile-home park to be varied, provided that no home may be closer than ten (10) feet from the right-of-way or the rear of any lot and the average distance is at least twenty (20) feet for all units.
- 3. Carports of non-combustible materials are not subject to side setback requirements.
- 4. The Board may allow side setbacks to be reduced to five (5) feet, provided a distance of thirty (30) feet is maintained between manufactured housing units for the purpose of providing more usable yard space on one side of the home.

#### D. Lot Coverage

All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than fifty (50) percent of the lot area.

#### E. Buffer Strips

1. A fifty- (50-) foot-wide buffer strip shall be provided along all property boundaries that:
  - a) abut residential land that has a gross density of less than half of that proposed in the park; or
  - b) abut residential land that is zoned at a density of less than half of that proposed in the park.
  - c) No structures, streets, or utilities may be placed in the buffer strip, except that they may cross a buffer strip to provide services to the park.
2. The Board may require that within twenty-five (25) feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees), and/or undisturbed natural existing vegetation. This screening shall effectively screen at least fifty (50) percent of the homes from view from the adjacent property and shall be maintained throughout the life of the project. When the Board requires a buffer of berms, landscaping or undisturbed natural vegetation, this shall be noted as a restriction on the subdivision plan.

#### F. Parking

For each mobile-home lot, there shall be provided and maintained at least two (2) off-street parking spaces.

#### G. Road Standards

1. Road Design Standards
  - a) Private Roads. Privately owned roads within the mobile-home park shall be designed by a professional engineer who is registered in the state of Maine; shall be built according to accepted engineering standards; and shall comply with current standards adopted by the Maine Manufactured Housing Board. Roads shall have a minimum aggregate sub-base course of twelve (12) inches and a minimum aggregate base course of three (3) inches after compaction, and two and a half (2½) inches of hot bituminous pavement. All roads shall be designed in accordance with Appendix C of Chapter 850 of the regulations of the Manufactured Housing Board.
  - b) Roads for Public Acceptance. Roads within mobile home parks that are to be offered for acceptance by the town of Wales shall meet the minimum road standards for a minor or collector street, as appropriate, in the Road Ordinance, Town of Wales.
  - c) Intersection with Public Roads. Mobile home park roads that intersect with public roads shall meet the following standards.
    - 1) Angle of Intersection. The desired angle of intersection shall be ninety (90) degrees. The minimum angle of intersection shall be seventy-five (75) degrees.
    - 2) Grade. The maximum permissible grade with fifty (50) feet of the intersection shall be three (3) percent.
    - 3) Minimum Sight Distance. The minimum sight distance shall be ten (10) times the posted speed limit on the existing road. Sight distance shall be measured

from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye three and one half (3½) feet above the pavement and the height of object four and one-half (4½) feet.

Where necessary, the park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.

- d) No mobile home lot in a subdivision of more than 3 lots may have vehicular access directly onto a public street.

## 2. Right-of-Way, Pavement Width and Pavement Thickness

- a) All park roads shall have a minimum right-of-way of twenty-three (23) feet two-way roads shall have a minimum paved travel way surface of twenty (20) feet. On-street parking shall be prohibited.
- b) One-way streets shall have a minimum paved travel way surface of fourteen (14) feet. On-street parking shall be prohibited.
- c) Parking lanes, if provided, shall be a minimum of eight (8) feet in width.
- d) Cul-de-sac turnarounds shall have minimum radii of fifty (50) feet at the outer edge of the travel way, exclusive of any parking areas.
- e) Pavement thickness shall be 2½ inches after compaction.

## H. Utility Requirements

All mobile home parks shall provide permanent electrical, water, and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations.

## I. Refuse Disposal

The storage, collection, and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

## J. Additional Requirements

- 1. The site must comply with the Manufactured Home Installation Standard promulgated by the State of Maine, Department of Professional Regulation, Manufactured Housing Board, dated March 31, 1993, and as amended from time to time.
- 2. The mobile home or the manufactured home must comply with the safety standards as outlined in Article 3.4.B. of the Land Use Ordinance, Town of Wales.
- 3. The site must contain:
  - a) a drinking water source suitable for the use of the occupants of the mobile home;
  - b) a subsurface wastewater-disposal system that complies with Maine Subsurface Wastewater Disposal Rules and that is sized appropriately for the number of bedrooms in the mobile home;
  - c) an electrical-power source that complies with existing state requirements.

4. No fuels or flammable materials shall be stored under mobile homes, except as allowed by state regulations.
5. Mobile home parks are only allowed in the Growth areas.

**K. Conversion to Other Use**

No subdivision that has been approved as a mobile home park may be converted to another use without the approval of the Board and must meet the appropriate lot size, lot width, setback, and other requirements. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval.

1. The land within the park shall remain in the unified ownership and the fee to lots or portions of lots shall not be transferred.
2. No dwelling unit other than a manufactured-housing unit shall be located within the park.

**9.10 Traffic Conditions**

- A. All subdivision lots in subdivisions of more than 3 lots shall have vehicular access only on an interior subdivision road and shall be limited to two access points ..
- B. Where a lot in a subdivision of 3 or fewer lots has frontage on two (2) or more streets, the access to the lot shall, where practical, be provided to the lot across the frontage and from the street where there is lesser potential for traffic congestion and hazards to traffic and pedestrians.

**9.11 Groundwater Quality**

- A. When a hydro geologic assessment is submitted by request of the Board, the assessment shall contain at least the following information:
  1. A map showing the basic soils types.
  2. The depth to the water table at representative points throughout the subdivision
  3. Drainage conditions throughout the subdivision.
  4. Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  5. An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the subdivision and at the subdivision boundaries or at a distance of one thousand (1,000) feet from potential contamination sources, whichever is a shorter distance.
  6. A map showing the location of any subsurface wastewater-disposal systems and drinking-water wells within the subdivision and within one hundred (100) feet of the subdivision boundaries.

- B. The subdivision will not result in the existing groundwater quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking-water supply sources specified in the Maine State Drinking Water Regulations, pursuant to Title 22, M.R.S.A. Chapter 601.
- C. If groundwater contains contaminants in excess of the primary standards and the subdivision is to be served by on-site groundwater supplies, the application shall demonstrate how water quality will be improved or treated.
- D. If groundwater contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed one hundred and fifty (150) percent of the ambient concentration.
- E. Subsurface wastewater-disposal systems and drinking-water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking-water wells or other measures to reduce groundwater contamination and protect drinking-water supplies are recommended in the assessment, those standards shall be included as a note on the final plan and as restrictions in the deeds to the affected lots.

#### **9.12 Archeological Sites**

Any proposed subdivision activity involving structural development or soil disturbance on, or adjacent to, sites listed on, or eligible to be listed on, the National Register of Historic Places, or on or adjacent to a site of archaeological importance as determined during the application period, shall be designed to minimize the impact on those features or shall be delayed to allow archaeologists to fully investigate the site. The Board shall consider comments received from the public and the Maine Historic Preservation Commission prior to rendering a decision on the application.

#### **9.13 Open-space Subdivisions**

- A. It is the policy of the Town of Wales to encourage the development of open-space subdivisions in order to preserve a sense of space; to provide for agriculture and forestry, as well as recreation land; to protect historic and archaeological features and wildlife habitat; to preserve other resources identified in the Town of Wales Comprehensive Plan; and to harmonize new development with the traditional open, wooded and agricultural landscapes of Wales. This standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout and design and road-frontage requirements and by allowing the Board to waive or reduce certain otherwise-applicable standards and provisions of this ordinance and other ordinances of the Town of Wales if such landowners commit to the permanent preservation of important open-space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing development and environmental design that will promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

- B. An open-space subdivision achieves the purposes of this performance standard by reducing the lot size, frontage, and setback requirements contained in the Town of Wales Land Use Ordinance and locating housing and uses in those areas where they have the least impact on identified environmental, wildlife, agricultural, forestry, and other open-space resources. These resources are then permanently preserved by the use of covenants, restrictions, or conservation easements that run with the land. To qualify as an open-space subdivision, a subdivision must achieve those of the following purposes that the Board determines to be applicable to its specific circumstances:
1. Long term protection and preservation of existing natural and other resources and landscapes identified in the Town of Wales Comprehensive Plan, including but not limited to:
    - a. state-defined critical areas and unique features and areas identified in the Town of Wales Comprehensive Plan;
    - b. historic land-use patterns, historic structures and archaeological resources;
    - c. points of visual access to or from water bodies and scenic vistas as identified in the town of Wales Comprehensive Plan and points of access to water bodies;
    - d. forest land;
    - e. agricultural land;
    - f. wildlife habitat.
  2. Maintenance or establishment of compatibility with surrounding land uses and the overall character of the town as defined by the Town of Wales Comprehensive Plan.
  3. Provision of adequate buffers for adjoining properties where needed.
  4. Contribution to town wide open-space planning by creating a system of permanently preserved open spaces throughout the town and encouraging linkages between open-space areas.
  5. Preservation of land suitable for agriculture and forestry uses, particularly where the open-space subdivision borders active agricultural or forestry land, or land suitable for the same.
  6. Preservation of traditional land uses.
  7. Provision for recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard.
- C. All applicants for major subdivisions are required to submit sketch plans for both open space and conventional subdivisions, in accordance with Article 4.1. and applicants for minor subdivisions may do so. The Board shall review all applications in accordance with title 30-A, M.R.S.A., §4404 and this ordinance.
1. Preapplication procedure:
    - a. Any applicant for a subdivision with open space is encouraged but not required to submit, at the preapplication stage, a complete build out plan for the entire parcel.



- b. After review of the preapplication, if the board determines that the proposed subdivision with open space meets the purposes set forth in subparagraphs B.1.a.-f. that are applicable to the proposed subdivision and meets other applicable provisions of this subsection, this ordinance, all other ordinances of the Town of Wales, and the Town of Wales Comprehensive Plan, the Board shall permit the applicant to proceed with an application for an open space subdivision.

## 2. Application Procedure

### a. Required Plans

The submissions for a subdivision with open space shall include all plans and materials required for a conventional subdivision under this ordinance.

## 3. General Requirements

In Board review and approval of a subdivision with open space, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this ordinance and of the Town of Wales Land Use Ordinance.

### a. Use and District Requirements

All subdivisions with open space shall meet the use standards of the districts in which they are located.

- b. Allowable Density: When the Board determines that an open space subdivision is proposed for the express purposes of preserving existing agricultural or forestry land, protecting prime wildlife habitat, habitat corridors or archaeological resources, or fostering affordable housing, the residential density shall be one unit per two gross acres. Gross acreage shall be reduced by the road right-of-way if the subdivision road is intended to be accepted by the town.

- i. Otherwise, allowable density shall be based upon one of the following methods, as determined by the applicant.

- ii. Net residential density method, calculated in the following manner: determine the net residential acreage of the parcel by taking the total area of the parcel and subtracting, in order, the following, and then divide the buildable area by the minimum lot size required in the district.

- (a) area in proposed rights-of-way;
- (b) area of two (2) or more contiguous acres with sustained slopes of twenty (20) percent or greater;
- (c) area of wetlands identified as Class I, II, and III under the Natural Resource Protection Act;
- (d) area shown to be in floodway as designed in the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency; and
- (e) area of the lot covered by surface waters.

- iii. Simplified method, calculated in the following manner: determine the number of allowable dwelling units by taking sixty-five (65) percent of the total area divided by the minimum lot-size requirement in the district.
- c. A lot for a dwelling unit created as part of a subdivision with open space shall not be further subdivided.

#### D. Layout and Siting Standards

In planning the location and siting of residential structures in a subdivision with open space, priority should be given to the preservation of the open space for its natural –resource value, with human habitation activity located and sited on the lower-valued natural-resource portion of a parcel, taking into account the contours of the land and the reasonableness of slopes.

The building lots on a parcel shall be laid out and the residential structures shall be sited according to the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

1. In the least suitable agricultural soils and in a manner that maximizes the usable area remaining for the designated open-space use, where existing or future agricultural, forestry, or recreational uses are particularly sought to be preserved.
2. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland, to reduce encroachment upon agricultural soils and to enable new residential development to be visually absorbed by natural landscape features.
3. In such manner that the boundaries between residential lots and active agricultural , commercial forestry land, and wildlife habitat are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential, agricultural, and forestry uses.
4. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas in accordance with an overall plan for site development.

#### E. Space Standards

1. Shore-frontage and shore-setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the Town of Wales Shoreland Zoning Ordinance.
2. The required minimum lot area per dwelling unit may be reduced to twenty thousand (20,000) square feet. The lot shall contain a minimum of twenty thousand (20,000) square feet of land area that does not include one-hundred- (100-) year flood plains, areas of two (2) or more acres of sustained slopes greater than twenty (20) percent, or wetlands as defined by the Natural Resource Protection Act. If the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the district.
3. Minimum road frontage requirements contained in the Town of Wales Land Use Ordinance may be waived or modified by the Board, provided that:

- a. any applicable provisions regarding roads in subsection G below are satisfied; and
  - b. adequate access and turnaround to and from all parcels by emergency vehicles can be ensured by private roads and/or common driveways.
4. A reduction of required setback distances may be allowed at the discretion of the Board, based upon the public benefits to be achieved from the design, provided that the front and rear setbacks shall be no less than twenty-five (25) feet or that required for the applicable district, whichever is less. For the perimeter of an open-space development, overall development setback shall not be reduced below the minimum front, side, and rear setbacks in the zoning district unless the Board determines that a more effective design of the project can better accomplish the purposes of this performance standard.
5. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

#### F. Utilities

At the discretion of the Board, in order to achieve the most appropriate design and layout of lots and open space, utilities including individual wells and septic systems may be located on designated portions of the open space, if necessary, provided that they shall not unreasonably interfere with the open-space purposes or use to be achieved under this section and for the particular parcel(s).

#### G. Roads

The Board shall require private roads and common driveways to comply with the design standards set forth in The Town of Wales Road Ordinance, except as provided in subsection G.4 below.

1. The applicant shall submit to the Board, as part of the application for approval, a professional engineer's drawing showing the location, drainage characteristics, dimensions, and grade of roads and common driveways, as well as specifications setting forth their proposed composition.
2. The subdivision plan shall show the road clearly labeled "private road."
3. Whenever possible and as far as practicable, the roads and common driveways shall:
  - a. follow natural contours in an effort to limit phosphorous export;
  - b. be limited in width, curvilinear in design, and in keeping with the character of the town; and
  - c. turn away from the front access to public roads and use sufficiently dimensioned culverts to accommodate predevelopment and post development drainage and flows, where necessary.
4. Travel ways and shoulders of privately owned roads and common driveways within open-space subdivisions shall meet the following minimums:
  - a. Common driveways serving three (3) or fewer dwelling units: sixteen- (16-) foot travel way.
  - b. Roads serving four (4) or more units: eighteen- (18-) foot travel way and four- (4-) foot shoulders.

## H. Open-Space Requirements

In Board review and approval of a subdivision with open space, the following requirements shall apply and shall supersede any inconsistent or more restrictive provision of this ordinance or the Town of Wales Land Use Ordinance.

### 1. Open-space Uses

On all parcels, open space uses shall be appropriate to the site. Open space should include natural features located on the parcel(s), such as, but not limited to, stream beds, agricultural land, forested acreage, wildlife habitat, rock outcroppings, and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

- a. On parcels that contain significant portions of land suited to agriculture or commercial forestry, open space shall be preserved for agricultural or forestry or other compatible open-space uses such as wildlife habitat, recreation (active or passive), and resource conservation.
- b. When the principal purpose of preserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, historic or archaeological features, open-space uses in those portions may be limited to those that are no more intensive than passive recreation.

### 2. Notations on Plan

Open space must be clearly labeled on the final plan as to: its use or uses with respect to the portions of the open space to which such use or uses apply; its ownership; its management; its method of preservation; and the rights, if any, of the owners in the subdivision to such land or portions thereof. The plan shall clearly show that the open-space land is permanently reserved for open-space purposes and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations.

### 3. Ownership of Open-space Land

Open space land may be held in private ownership; owned in common by a homeowners' association (HOA); transferred to a nonprofit organization such as a conservation trust or association acceptable to the Board; or held in such other form of ownership as the Board finds adequate to achieve the purposes set forth in subparagraphs B.1.a.-f. and under the other requirements of this article. The Board, in its review, shall require as a condition of approval provisions for the ongoing maintenance and associated costs for such maintenance of the open space.

### 4. Maintenance Standards

- a. Where appropriate, ongoing maintenance standards shall be established and shall be enforceable by the town against the owner(s) of common land, including open-space land, roads, and other facilities as a condition of subdivision approval. Such

maintenance standards may include such conditions, obligations, or costs to maintain their use, facilities, and/or scenic character.

- b. If an HOA or an agreement of owners of the lots or units is to be used, until fifty-one (51) percent of all lots and/or units have been sold and an HOA has been formally organized, the applicant for such development shall be responsible for maintenance of the common lands and facilities.

I. Notation on Plan

Common lands, roads, or facilities, including open-space lands, must be clearly labeled or referenced on the final plan as to their use, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof and shall contain a notation indicating the book and page of any conservation easements, deed restrictions, or other documents regarding those provisions required to be recorded to implement such reservations, restrictions, or provisions.

J. Homeowner's Associations or Agreements (HOA)

Where any portion of a subdivision is proposed or required to be held in common by owners of lots or is owned in common by an HOA or similar entity, covenants for mandatory membership in the association, setting forth the owners' rights, interest, privileges, responsibilities for maintenance, and obligations in the association and the common land, road, or open space shall be approved by the Board and included in the deed for each lot

## **9.14 Homeowner's Association**

- A. The Town shall not accept as a Town Road any private road or way which is located in the General Use District or the Limited Rural District, nor shall the town accept as a Town Road any road in an open space subdivision that is not constructed in all ways in accordance with The Town of Wales Road Ordinance. After June 12, 2004 any person or persons, prior to:

1. developing a private road or way developed to provide access to two or more Dwelling Units or a Structure intended for Commercial, Industrial or Light Industrial Uses, or
2. extending an existing private road or way which will thereafter serve two or more Dwelling Units or a Structure intended for Commercial, Industrial or Light Industrial Uses, or
3. putting to use for the first time an existing private road or way to serve two or more Dwelling Units or a structure intended for Commercial, Industrial or Light Industrial Uses, shall be required to submit for the approval of the Planning Board a maintenance agreement or escrow agreement executed by the owners of the lots containing the Dwelling Units or Structures which shall be using the private road or way, in registry recordable form, which agreement provides for the obligations of each owner of the lots on which such Dwelling Units or Structures are located with respect to the maintenance, repair and snow plowing of such road or way. The applicant shall prepare and submit for Approval of the Planning Board a Maintenance Agreement which shall specify the rights

and responsibilities of the owners of the lots on the road or way in question among themselves with respect to responsibility for the costs of construction, maintenance, repair and plowing.

- B. The Maintenance Agreement shall also include, and the Planning Board will consider in granting approval, the following factors:
1. A detailed statement of how the ownership interests in the private way will be structured (i.e., whether ownership will be single or joint, whether lot owners will own the fee or have easements, etc.).
  2. A statement that in the event any of the lots shown on the plan are divided or in the event any remaining land of the Declarant is subsequently divided into lots which are served by the private way, then such resulting lot or lots shall become subject to the Maintenance Agreement and to any modifications to the Maintenance Agreement advisable to adjust the duties and responsibilities equitably among the owners of all the lots served by the private way.
  3. An acknowledgment by the Declarant and any other persons signing the Maintenance Agreement that the Town of Wales is not responsible for the construction, maintenance, repair or plowing of the private way.
  4. A statement that the duties and obligations imposed by the Maintenance Agreement run with the land and shall be transferred to donees, purchasers or other transferees of any portion of the real estate subject to the Maintenance Agreement and that, upon such transfer, the Planning Board shall be notified in writing and provided with a copy of any changes or amendments to the Maintenance Agreement.
  5. A requirement that the Maintenance Agreement be referenced in all deeds to any lots served by the private way.
  6. If the private way subject to the Maintenance Agreement is an extension of an existing private way which served lots created prior to June 12, 2004, a statement that the applicant for private way approval has contacted the owners of such lots, has offered them the opportunity to make their properties subject to the Maintenance Agreement and that they have either accepted or declined that offer; and that the Declarant has submitted to the Planning Department a notarized affidavit confirming the Declarant's compliance with this paragraph.
  7. An agreement which permits the other signatories of the Maintenance Agreement to place a lien on the property of any signatory who has not paid the share of expenses allocated to them in the amount of the unpaid assessment for costs for the private way.
  8. An acknowledgment that all persons executing the Maintenance Agreement are aware that no lot served by the private way shall be sold and no building permit shall be issued for any lot served by the private way until the Maintenance Agreement is recorded in the Androscoggin County Registry of Deeds.
  9. Upon approval of the agreement the person or persons submitting the agreement shall record it in the Androscoggin County Registry of Deeds so that the obligations therein shall be covenants that run with the land upon which the Dwelling Units or

Structures are located. No building permit or other approval required by this ordinance for the Dwelling Units or Structure to be served by such road or way, shall be issued or approved unless this provision has been complied with.

## **Article 10. Street and Storm-Drainage Design and Construction Standards**

### **10.1 General Requirements**

- A. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the Town of Wales Road Ordinance except as provided in this ordinance.
- B. Street names shall be proposed by the applicant and approved by the municipal officers.
- C. All information and submissions as required in the Town of Wales Road Ordinance shall be submitted as an element of the subdivision application, as required by this ordinance.
- D. Approval of the final plan shall not constitute or be evidence of any acceptance by the town of Wales of any easement or street as a town way.

### **10.2 Additional Improvements and Requirements**

#### **A. Erosion Control**

The procedures outlined in the erosion- and sedimentation- control plan shall be implemented during the site preparation, construction, and cleanup stages.

#### **B. Cleanup**

Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the disposal site shall be indicated on the plan and shall be suitably covered with fill and topsoil, limed, fertilized, and seeded.

#### **C. Street Names, Signs, and Lighting**

Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate or bear phonetic resemblance to the names of the existing streets within the municipality and shall be subject to the approval of the municipal officers. No street name shall be the common given name of a person. The developer shall reimburse the town for the costs of installing street-name, traffic-safety, and control signs. Street lighting shall be installed as approved by the board.

### **10.3 Certification of Construction**

Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the state of Maine shall be submitted to the municipal officers, at the expense of the applicant, certifying that the proposed way meets or exceeds the design and

construction requirements of this ordinance and the Town of Wales Road Ordinance. "As built" plans shall be submitted to the municipal officers.

#### **10.4 Stormwater-Management Design Standards**

- A. Adequate provision shall be made for disposal of all stormwater generated within the subdivision and for any drained groundwater through a management system of ditches, swales, culverts, underdrains, and/or storm drains. The stormwater-management system shall be designed to conduct stormwater flows to existing watercourses or storm drains. All components of the stormwater-management system shall be designed to meet the criteria of a twenty-five- (25-) year storm.
- B. The stormwater management system shall be designed to accommodate upstream drainage taking into account existing conditions and approved or planned developments not yet built, and shall include a surplus design-capacity factor of twenty-five (25) percent for potential increase in upstream runoff.
- C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm-drainage systems downstream from the subdivision nor cause downstream erosion. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
- D. Wherever the storm-drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the town allowing maintenance and improvement of the system.
- E. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the stormwater-drainage system.

### **Article 11. Performance Guarantees**

#### **11.1 Types of Guarantees**

With submittal of the application for final plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements in the current phase, taking into account the time span of the construction schedule and the inflation rate for construction costs:

- A. a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account or.
- B. the applicant may agree to a condition of approval that no lots will be sold and no building permits issued until all required improvements in the current phase have been constructed.

The conditions of the performance guarantee shall be determined by the Board with the advice of the town engineer, road commissioner, and municipal officers.



### **11.2 Contents of Guarantee**

The performance guarantee shall contain a construction schedule; cost estimates for each major phase of construction, taking inflation into account; provisions for inspections of each phase of construction; provisions for the release of part or all of the performance guarantee to the developer; and a date after which the developer will be in default and the town shall have access to the funds to finish construction.

### **11.3 Escrow Account**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider except for any portion of the interest earned that was needed, in addition to the principal of the escrow account, to pay for completion of the required improvements.

### **11.4 Conditional Agreement**

The Board, at its discretion, may allow the subdivider to enter into a binding agreement with the municipality in lieu of the escrow account. Such an agreement shall provide for approval of the final plan on the condition that no lots may be sold or built upon until it is certified by the Board, or its agent, that all of the required improvements for the current phase of the subdivision have been installed in accordance with this ordinance and the regulations of the appropriate utilities.

Notice of the agreement and any conditions shall be on the final plan that is recorded by the subdivider at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Article 11.6. Proof of recording shall be provided by the subdivider to the Board.

### **11.5 Phasing of Development**

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street that is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way and temporary turn arounds to allow access for emergency vehicles will be constructed. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

### **11.6 Release of Guarantee**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

### **11.7 Default**

If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the CEO shall so report in writing to the municipal officers, the Board, and the subdivider or builder. The municipal officers shall take any steps necessary to preserve the town's rights.

### **11.8 Privately Owned Roads**

Where the subdivision streets are to remain privately owned roads, the following words shall appear on the recorded plan: "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the town." The subdivider shall be required to maintain all private roads, including winter maintenance, until a homeowners association is established to accept maintenance responsibility.

## **Article 12. Waivers**

### **12.1**

Where the Board makes written findings of fact that the developer will suffer an undue economic or other hardship if the requirements of this ordinance are strictly applied, it may waive the necessity for strict compliance with the requirements of this ordinance in order to provide relief from the hardship in question and to permit a more practical and economical development, provided, however, that the public health, safety, and welfare will not be compromised, and further provided that the waivers in question will not have the effect of nullifying Title 30-A, M.R.S.A., §4401 et. Al., this ordinance or the Town of Wales Comprehensive Plan.

### **12.2**

Where the Board makes written findings of fact that, due to special circumstances regarding the lot proposed for subdivision, an undue economic or other hardship will be caused, it may waive strict compliance with those requirements of this ordinance causing such hardship in order to permit a more practical or economically viable development, provided that the public health, safety, and welfare will not be compromised.

### **12.3**

In granting waivers to any of these regulations in accordance with Sections 12.1 and 12.2, the Board shall require such conditions as will assure that the objectives of this ordinance are met.

### **12.4**

When the Board grants a waiver to any of the improvements required by this ordinance, the final plan to be recorded at the Registry of Deeds shall indicate the waiver(s) granted and the date on which it (they) was (were) granted.

## **Article 13. Amendments**

### **13.1 Initiation of Amendments**

An amendment to this ordinance may be initiated by:

- A. the Board, provided a majority of the Board has so voted;
- B. the request of the municipal officers; or
- C. the written petition of a number of voters equal to at least ten (10) percent of the number of voters cast in the municipality at the last gubernatorial election.

### **13.2 Public Hearing**

The Board shall hold a public hearing on the proposed amendment. At least seven (7) days' advance notice shall be given by newspaper and posting in three (3) commonly accessible locations in the town of Wales.

### **13.3 Adoption of Amendment**

An amendment to this ordinance may be adopted by a majority vote of the town meeting.

## **Article 14. Appeals**

An aggrieved party may appeal any decision of the Board under this ordinance within thirty (30) days from the date of that decision to Androscoggin County Superior Court.

## **Article 15. Fees**

Fees shall be established by the Board of Selectmen.

## **Article 16. Definitions**

In general, words and terms used in this ordinance shall have their customary dictionary meanings. Certain words and terms used herein shall be as defined in the Town of Wales Definitions Ordinance.

# **Wireless Telecommunications Facilities Siting Ordinance**

## **Town of Wales**

Adopted: June 11, 2005

## **Article 1. Purpose, Authority, and Applicability**

### **1.1 Purpose**

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to: implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities; establish clear guidelines, standards, and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities; ensure that all telecommunications carriers providing facilities or services within the Town of Wales comply with the ordinances of the Town of Wales; ensure that the Town of Wales can continue to fairly and responsibly protect the public trust consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development.

This Ordinance shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of the Town of Wales, Maine (hereinafter referred to as this ordinance).

### **1.2 Authority**

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

### **1.3 Applicability**

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in Article 1.3, A.

A) Exemptions: The following are exempt from the provisions of this ordinance:

- 1) Emergency Wireless Telecommunications Facility. Temporary wireless communication facilities for emergency communications by public officials.
- 2) Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- 3) Parabolic antenna. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- 4) Maintenance or repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- 5) Temporary wireless telecommunications facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
- 6) Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

#### 1.4 Effective Date

The effective date of this Ordinance shall be the date of the 2005 Town Meeting of the Town of Wales held on June 11, 2005.

#### 1.5 Repeal of Prior Ordinances

This Ordinance shall repeal the ordinance entitled "Wireless Telecommunications Facilities Siting Ordinance of the Town of Wales" adopted at the June 2000 Wales Town Meeting.

### **Article 2. Review and Approval Authority**

#### 2.1. Approval Required

No person shall construct or expand a wireless telecommunication facility without approval of the the Planning Board (PB) as follows:

- A) Expansion of an Existing Facility and Colocation. Approval by the PB is required for any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than 20 feet; accessory use of an existing wireless telecommunications facility; or colocation on an existing wireless telecommunications facility.
- B) New Construction. Approval of the Planning Board is required for construction of a new wireless telecommunications facility; and any expansion of an existing wireless telecommunications facility that increases the height of the facility by more than 20 feet.

#### 2.2 Approval Authority

In accordance with Section 2.1 above, the Planning Board shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

### **Article 3. Approval Process**

#### 3.1. Pre-Application Conference

All persons seeking approval of the Planning Board under this ordinance shall meet with the Code Enforcement Officer (CEO) no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

#### 3.2 Application for Planning Board Approval.

All persons seeking approval of the PB under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice

of the application has been published in a newspaper of general circulation in the community.

An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

- A) Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
- B) A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
- C) A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
- D) A site plan:
  - 1) prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
  - 2) certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and
  - 3) a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
- E) A scenic assessment, consisting of the following:
  - 1) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
  - 2) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
  - 3) Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
  - 4) A narrative discussing:
    - a) the extent to which the proposed facility would be visible from or within a designated scenic resource,
    - b) the tree line elevation of vegetation within 100 feet of the facility, and



- c) the distance to the proposed facility from the designated scenic resource's noted viewpoints.
- F) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
- G) Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
  - 1) Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,
  - 2) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements,
  - 3) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
    - a) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
    - b) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
    - c) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
  - 4) For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;
  - 5) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access;
- H) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
- I) A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
  - 1) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - 2) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

- 3) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
- 4) require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
- J) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.
- K) Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

### 3.3. Submission Waiver

The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

### 3.4. Fees

- A) **Planning Board Application Fee.** An application for Planning Board approval shall include payment of an application fee. The Selectmen, after holding a public hearing, shall establish reasonable fees for the administration of this Ordinance, including Board of Appeals application fees. The application shall not be considered complete until the fee is paid. An applicant is entitled to a refund of the application portion of the fee if the application is withdrawn within fifteen (15) days of the date of filing, less all expenses incurred by the Town of Wales to review the application.
- B) **Planning Board Review Fee.** An applicant for approval by the Planning Board shall pay all reasonable and customary fees incurred by the Town of Wales that are necessary to review the application. The review fee shall be paid in full prior to the start of construction. That portion of the review fee not used shall be returned to the applicant within fourteen (14) days of the Planning Board's decision.

### 3.5. Notice of Complete Application

Upon receipt of an application, the CEO shall provide the applicant with a dated receipt. Within fifteen (15) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. The Planning Board shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.

If the application is complete, the CEO shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the Planning Board and the abutters.

If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

If the application is deemed to be complete, the CEO shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

### 3.6. Public Hearing

For applications for Planning Board approval under Section 2.1, a public hearing shall be held within 30 days of the notice of the complete application.

### 3.7. Approval

Planning Board Approval. Within ninety (90) days of receiving a complete application for approval under section 2.1, the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary, or within sixty (60) days of the completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

## **Article 4. Standards of Review**

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

### 4.1 Planning Board Approval Standards

An application for approval by the Planning Board under Section 3.2 must meet the following standards.

- A) **Priority of Locations.** New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.

- 1) Colocation on an existing wireless telecommunications facility or other existing structure on Oak Hill, so-called, located easterly of Route 126 and westerly of Oak Hill Road, so-called.
  - 2) A new facility on Oak Hill, so-called.
  - 3.) A new facility on public or private property in the Town of Wales.
- B) **Design for Colocation:** A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three (3) additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future colocation.
- C) **Height:** A new wireless telecommunications facility must be no higher than the existing towers on Oak Hill in the Town of Wales, if the facility is located on Oak Hill, or one hundred ninety (190) feet in height, if located on other property in the Town of Wales.
- D) **Setbacks:** A new or expanded wireless telecommunications facility must comply with the set back requirements for the zoning district in which it is located, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:
- 1) The setback may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
  - 2) An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.
- E) **Landscaping:** A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
- F) **Fencing:** A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
- G) **Lighting:** A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.
- H) **Color and Materials:** A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

I) **Structural Standards:** A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

J) **Visual Impact:** The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the municipally adopted comprehensive plan, or by a State or federal agency.

In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

- 1) The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;
- 2) the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
- 3) the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
- 4) the amount of vegetative screening;
- 5) the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and
- 6) the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

K) **Noise:** During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. is exempt from existing municipal noise standards.

L) **Historic & Archaeological Properties:** The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

## 4.2 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

A) The owner of the wireless telecommunications facility and his or her successors and assigns agree to:

- 1) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - 2) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  - 3) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation.
  - 4) require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.
- B) Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

## **Article 5. Amendment to an Approved Application**

Any changes to an approved application must be approved by the Planning Board, in accordance with Article 2.

## **Article 6. Abandonment**

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the Town of Wales for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

## **Article 7. Appeals**

Any person aggrieved by a decision of the CEO or the Planning Board under this ordinance may appeal the decision to the Board of Appeals, as provided by Article 6 of the Land Use Ordinance of the Town of Wales.

## **Article 8. Administration and Enforcement**

The CEO, as appointed by the Board of Selectmen, shall enforce this ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.

The Board of Selectmen, or their authorized agent, are authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless: there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

## **Article 9. Penalties**

Any person who owns or controls any building or property that violates this ordinance shall be fined in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

## **Article 10. Conflict and Severability**

### **10.1 Conflicts with other Ordinances**

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

### **10.2 Severability**

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

## **Article 11. Definitions**

Unless specifically defined in the Town of Wales Definitions Ordinance, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application.

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(207) 626-3870

***Maine Revised Fireworks Statutes  
~ Consumer Fireworks ~  
Summary Field Reference Guide***



(207) 624-7280

**NOTE:** This abbreviated summary is intended only as a quick reference guide for use in the field

**MAINE REVISED STATUTE,  
Title 8: Amusements and Sports  
Chapter 9-A: FIREWORKS  
Title 8 § 221-A & § 223-A. CONSUMER FIREWORKS**

**The Revised Consumer Fireworks Statute is included in its entirety beginning on Page Six.  
A one-page summary of prohibited acts is listed on Page Three.**

***A Joint informational Bulletin Issued by the Maine Fire Marshal's Office and the  
Maine Information and Analysis Center  
12 June 2012***





## **Table of Contents**

- 2 Table of Contents
- 3 Summary of prohibited acts – A Reference Guide for use in the field
- 4 Examples of prohibited fireworks
- 5 A listing with one-line descriptors for each new section; an “index” to the complete document
- 6 Revised Consumer Fireworks Statute printed in its entirety (Four pages)
- 10. Most recent list of ordinances adopted by individual municipalities



# Maine Fireworks Revised Statutes



## Summary of Prohibited Acts

**\*\*\* The Following pertains only to consumer fireworks and is in an abbreviated format  
Intended to serve as a guide only (Full version attached) \*\*\***

### **Title 8: AMUSEMENTS AND SPORTS, Chapter 9-A: FIREWORKS, 8 § 223-A.11.A**

#### **11. PROHIBITED ACTS**

- A.** A person may not sell consumer fireworks within the State unless that person holds a valid license or is an employee or agent of a person that holds a valid license.
- B.** A person licensed to sell consumer fireworks under this chapter may not sell consumer fireworks to a person under 21 years of age or who appears to be under the influence of alcohol or drugs.
- C.** Except as specifically allowed under subsection 4, paragraph E, a person may not knowingly:
- (1) Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or
  - (2) Allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks.
- D.** A person under 21 years of age may not purchase, use or possess consumer fireworks within the State or present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the person's own for the purpose of purchasing consumer fireworks.

#### **8. RESTRICTIONS ON USE OF CONSUMER FIREWORKS**

- A.** Consumer fireworks may be used between the hours of **9:00 a.m. and 10:00 p.m.**, except that on the following dates they may be used between the hours of **9:00 a.m. and 12:30 a.m.** the following day:
- (1) July 4th;
  - (2) December 31st; and
  - (3) The weekends immediately before and after July 4th and December 31st.
- B.** A person may use consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property.

A person who violates this subsection commits a civil violation for which ~ SEE FULL CONTEXT

**2. MUNICIPALITIES:** The legislative body of a municipality may adopt an ordinance to restrict, prohibit or require a permit for the sale or use of consumer fireworks within the municipality... provide to the Office of the State Fire Marshal a copy of the relevant restriction or prohibition within 60 days of adoption. SEE FULL CONTEXT.

**Current as of this date, a list of ordinances adopted by individual municipalities is included herein.**

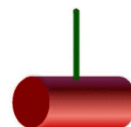
**12. Violations.** The following penalties apply to violations of subsection 11 ~ SEE FULL CONTEXT



## Examples of **Prohibited** Consumer Fireworks



- **Banned Under Federal Law: M-80s, Cherry Bombs, Firecrackers containing more than 50mg of powder** (aprox. 1/16th of a typical aspirin), Large reloadable shells, Aerial Bombs, Mail Order Kits.
- **M-80s, Cherry bombs, and silver salutes are now illegal in the U.S.** However, manufacturers of **legal** (1.4G) fireworks continue to **name** their products things such as "M-80 Firecrackers", "M-8000s", etc., in an attempt to lure buyers into thinking the devices are more powerful than they really are, or have some connection to real M-80s. But they don't - the name is just a marketing gimmick. They're not even close to being as powerful as real M-80s.
- The first step in determining if a firework is real and LEGALLY made is to be aware of what they look like. **M-80s** (illegal) are approximately and inch and a half long, a half inch in diameter, with a red casing and a stiff, short fuse coming out of the side. **Silver Salutes** are basically the same, except they're silver in color and also prohibited.
- **Cherry Bombs** are also illegal and pose the additional hazard of being mistaken for a consumer "smoke ball." Both are about an inch in diameter. Consumer fireworks should have a manufacturer's label and **are required by federal law to have "FIREWORKS UN0336 1.4G" (the UN hazard category for consumer fireworks) printed somewhere on the device.** This is proof to you that it was made in a factory and has been tested and approved for consumer use.
- **Sky Rockets and Bottle Rockets containing MORE THAN 20 GRAMS** of chemical composition are illegal (as prescribed under section 3.7 and Table 4.3-1 of the American Pyrotechnics Association Standard 87-1). These have a wooden stick attached for guidance and stability. Rockets rise into the air upon ignition. A burst of color and/or sound may be produced at or near the height of flight.
- **Missile-Type Rockets: containing MORE THAN 20 GRAMS** of total chemical composition are illegal. These are similar to a sky rocket in size, composition, and effect but use fins rather than a stick for guidance and stability.
- **Helicopter and Aerial Spinners:** A tube containing **MORE THAN 20 GRAMS** of chemical composition are illegal. They have a propeller blade attached. Upon ignition the rapidly spinning device rises into the air. A visible and / or audible effect may be produced at or near the height of flight.
- **Mortar / Launch Tubes** typically have two or three "stages" in a single load; 1. Lift charge, 2. Reports (bangs), 3. Break charge (colors). These are permissible but **cannot contain MORE THAN 60 GRAMS** of chemical composition for a single load. Launch tubes are usually 1 3/4" or less in diameter.



Bottle Rocket



Sky Rocket





**Below is the title and a one-line summary of each of the  
Newly Revised Statute Subsections**



**The Revised Statute in its entirety follows on pages 6 – 10.**

**8 §223-A. SALE OF CONSUMER FIREWORKS (Complete document begins on the next page)**

- **Sale of consumer fireworks.** A person may not sell consumer fireworks...
- **Municipalities.** The legislative body of a municipality may restrict the sale or use of consumer fireworks
- **State license.** The commissioner may issue a license to sell consumer fireworks to an applicant who...
- **Storage and handling.** A person authorized to sell ... may store and sell the fireworks only in a ...
- **Insurance.** A person authorized to sell ... shall maintain public liability & product liability insurance...
- **Advertising.** A person may not advertise the sale of consumer fireworks in a way that is misleading ...
- **Civil liability.** A person who violates the provisions of this section is liable in a civil action ...
- **Restrictions on use of consumer fireworks.** Also in this section are the permissible hours for use ...
- **Enforcement against licensees.** This section stipulates which authority / agency may enforce ...
- **Disclosures to customers.** A person authorized to sell ...shall provide ... written guidelines ...
- **Prohibited acts.** This subsection governs prohibited acts
- **Violations.** The following penalties apply to violations of subsection 11
- **Annual report to the Legislature.** Beginning in 2013, the Office of the State Fire Marshal shall submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a written report regarding the sale and use of consumer fireworks in this State.



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**MAINE REVISED STATUTE, Title 8: AMUSEMENTS AND SPORTS**  
**Chapter 9-A: FIREWORKS**  
**8 §223-A. SALE OF CONSUMER FIREWORKS**

(207) 626-3870

(207) 624-7280

**Joint informational Bulletin Issued by the Maine Fire Marshal's Office and the  
Maine Information and Analysis Center  
15 May 2012**

**8 §223-A. SALE OF CONSUMER FIREWORKS (Page 1 of 4)**

**8 §223-A. SALE OF CONSUMER FIREWORKS**

**1. Sale of consumer fireworks.** A person may not sell consumer fireworks unless that person is 21 years of age or older and possesses:

- A. A federal permit to sell fireworks under 18 United States Code, Section 843; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]
- B. A license under subsection 3; and [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]
- C. A municipal permit if required under subsection 2. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**2. Municipalities.** The legislative body of a municipality may adopt an ordinance to prohibit or restrict the sale or use of consumer fireworks within the municipality. Municipalities that prohibit or restrict the sale or use of consumer fireworks shall provide to the Office of the State Fire Marshal a copy of the relevant restriction or prohibition within 60 days of adoption. A municipality may require that a person obtain a municipal permit for selling consumer fireworks within the municipality. A municipality that chooses to issue municipal permits under this subsection shall notify the Office of the State Fire Marshal at least 60 days prior to the initiation of its permitting program for the sale of consumer fireworks. A municipal permit may not be issued unless:

- A. The applicant is 21 years of age or older; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]
- B. The applicant applies for a permit under this subsection on a form prescribed by the commissioner; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]
- C. The applicant possesses the federal permit required under subsection 1, paragraph A; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]
- D. The applicant complies with the provisions of subsection 4; and [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]
- E. The application is approved by the municipality's police chief, fire chief and code enforcement officer if those positions exist. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

A municipality may require a reasonable fee for a permit issued under this subsection. A person holding a permit issued by a municipality under this subsection may not sell consumer fireworks unless the person satisfies all the requirements of subsection 1.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**3. State license.** The commissioner may issue a license to sell consumer fireworks to an applicant who:

- A. Is 21 years of age or older; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

B. Possesses the permits required under subsection 1, paragraphs A and C; [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. Complies with the provisions of subsection 4; and [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

D. Has not been convicted of an offense or violated a state, federal or municipal law, rule or regulation involving fireworks or explosives within the 2 years prior to the application. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

The commissioner shall charge a fee of \$5,000 for the initial license issued to an applicant and \$1,500 for each annual license renewal. The term of a license is one year. A separate license is required for each location at which an applicant seeks to sell consumer fireworks. Fees collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**4. Storage and handling.** A person authorized to sell consumer fireworks under subsection 1 may store and sell the fireworks only in a permanent, fixed, stand-alone building dedicated solely to the storage and sale of consumer fireworks in accordance with this subsection.

A. The building must be constructed, maintained and operated, and all consumer fireworks must be stored, in compliance with the requirements of National Fire Protection Association Standard 1124, as adopted by the Office of the State Fire Marshal, relevant building codes, zoning ordinances and other municipal ordinances. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. The building may not be less than 60 feet from another permanent building and may not be less than 300 feet from a structure at which gasoline, propane or other flammable material is sold or dispensed. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. Cigarettes, tobacco products or lighters or other flame-producing devices may not be permitted in the building. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

D. A person under 21 years of age may not be admitted to the building unless accompanied by a parent or guardian. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

E. Notwithstanding paragraph D, a person at least 18 years of age may handle and sell consumer fireworks if the person is under the direct supervision of a person 21 years of age or older. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**5. Insurance.** A person authorized to sell consumer fireworks under subsection 1 shall at all times maintain public liability and product liability insurance with minimum coverage limits of \$2,000,000 to cover the losses, damages or injuries that might ensue to persons or property as a result of the person selling consumer fireworks.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**6. Advertising.** A person may not advertise the sale of consumer fireworks in a way that is misleading about the conditions under which consumer fireworks may be purchased or used or about the requirements of this section. An advertisement for the sale of consumer fireworks must contain the words "Check with your local fire department to see if consumer fireworks are allowed in your community" in a conspicuous location and in a consistent font as approved by the commissioner.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**7. Civil liability.** A person who violates the provisions of this section is liable in a civil action for damages for bodily injury or property damage resulting from violation, and the defenses under Title 14, section 156 or a defense based on assumption of risk may not be used by the person.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**8. Restrictions on use of consumer fireworks.** The use of consumer fireworks is governed by this subsection.

A. Consumer fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following day:

(1) July 4th;

(2) December 31st; and

(3) The weekends immediately before and after July 4th and December 31st. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. A person may use consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

A person who violates this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$500, plus court costs, may be adjudged for any one offense.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**9. Enforcement against licensees.** The commissioner, a state law enforcement officer, a municipal law enforcement officer, a code enforcement officer or a fire safety official may petition the Superior Court or District Court to seize or remove at the expense of a licensee consumer fireworks sold, offered for sale, stored, possessed or used in violation of this section. The commissioner may immediately suspend a license granted under subsection 3 for a violation of this section. A person whose license is suspended under this subsection must receive a hearing within 10 days of the suspension under Title 5, chapter 375, subchapter 4. A person whose license is suspended under this subsection may not receive a license under subsection 3 for a period of at least one year from the date of suspension.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**10. Disclosures to customers.** A person authorized to sell consumer fireworks shall provide to the purchaser at the point of sale written guidelines describing the safe and proper use of consumer fireworks. The guidelines must also include the following statements in a conspicuous location: "MAINE LAW EXPRESSLY PROHIBITS PERSONS UNDER 21 YEARS OF AGE FROM PURCHASING, POSSESSING OR USING CONSUMER FIREWORKS" and "FURNISHING CONSUMER FIREWORKS TO PERSONS UNDER 21 YEARS OF AGE IS A CRIMINAL OFFENSE IN MAINE." Such guidelines must be published or approved by the commissioner prior to distribution.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**11. Prohibited acts.** This subsection governs prohibited acts.

A. A person may not sell consumer fireworks within the State unless that person holds a valid license or is an employee or agent of a person that holds a valid license. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. A person licensed to sell consumer fireworks under this chapter may not sell consumer fireworks to a person under 21 years of age or who appears to be under the influence of alcohol or drugs. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

C. Except as specifically allowed under subsection 4, paragraph E, a person may not knowingly:

(1) Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or

(2) Allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

D. A person under 21 years of age may not purchase, use or possess consumer fireworks within the State or

present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the person's own for the purpose of purchasing consumer fireworks. [2011, c. 416, §5 2011, c. 416, §9 (AFF).]

It is an affirmative defense to prosecution for a violation of paragraph B or C that the licensee sold consumer fireworks to a person under 21 years of age in reasonable reliance upon fraudulent proof of age presented by the purchaser.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**12. Violations.** The following penalties apply to violations of subsection 11.

A. A person who violates subsection 11, paragraph A, B or C commits a Class D crime. If the violation involves furnishing consumer fireworks to a minor, a fine of not less than \$500 must be imposed in addition to any term of imprisonment the court may impose. If a person violates subsection 11, paragraph A, B or C after having been convicted of violating the same paragraph one or more times within the previous 6-year period, a fine of not less than \$1,000 must be imposed in addition to any term of imprisonment the court may impose. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

B. A person who violates subsection 11, paragraph D commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be imposed. If the person has been previously convicted of violating subsection 11, paragraph D one or more times, a fine of not less than \$300 and not more than \$600 must be imposed. [2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF).]

Fines collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

**13. Annual report to the Legislature.** Beginning in 2013, the Office of the State Fire Marshal shall submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a written report regarding the sale and use of consumer fireworks in this State. The report must, at a minimum, include information on the issuance and oversight of licenses to sell consumer fireworks, reported consumer fireworks-related injuries, reported consumer fireworks-related fires or other property damage and municipal restrictions or prohibitions on the sale or use of consumer fireworks. The report must be submitted not later than March 1st each year.

[ 2011, c. 416, §5 (NEW); 2011, c. 416, §9 (AFF) .]

SECTION HISTORY

2011, c. 416, §5 (NEW). 2011, c. 416, §9 (AFF) .

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**MAINE FIREWORKS LAWS ~ MUNICIPALITY SPECIFIC RESTRICTIONS**  
**DATE PRINTED: 12 JUNE 2012**

COMMUNITY	RESTRICTIONS	PROHIBITED	EFFECTIVE DATE
<b>Bangor</b>		No person shall use, possess with the intent to use in the City of Bangor, sell, possess with the intent to sell in the City of Bangor, or offer for sale consumer fireworks.	24-Oct-11
<b>Bath</b>		The use, discharge, ignition, sale, or offer for sale, of consumer fireworks in the City of Bath is prohibited.	25-Jan-12
<b>Biddeford</b>		No person shall use, possess with intent to use, sell, possess with intent to sell or offer for sale consumer fireworks in the City of Biddeford.	3-Apr-12
<b>Brunswick</b>		No sale or use of consumer fireworks.	1-Jan-12
<b>Buxton</b>		The use and sale of consumer fireworks in Buxton is prohibited.	2-Mar-12
<b>Cape Elizabeth</b>		Sale, use and possession with intent to use.	22-Nov-11
<b>Cumberland</b>	A person may use consumer fireworks on July 3 – 5 at specified times in addition to December 31 <sup>st</sup> and January 1 <sup>st</sup> at specified times.	A person may not sell consumer fireworks in Cumberland.	12-Dec-11
<b>Eliot</b>		Use is prohibited.	16-Dec-11
<b>Ellsworth</b>	Consumer fireworks shall not be used when the fire danger class is 4 or greater. See ordinance for other use restrictions. A permit from the city is required in order to sell consumer fireworks.		16-Apr-12
<b>Fairfield</b>	Sale is allowed with municipal permit.	Use not allowed in public areas.	14-Dec-11
<b>Falmouth</b>		Use and sale.	1-Nov-11
<b>Farmingdale</b>	Fireworks may only be used between 5:00 PM and 10:00PM. Fireworks may not be used when the fire danger class, as designated by the Maine Forest Service, is a class 4 or 5 fire danger day.		1-Jan-12
<b>Farmingdale (cont'd)</b>	Three complaints on any user will result in that user not being allowed to use fireworks in Farmingdale.		1-Jan-12
<b>Freeport</b>		No person or group may sell, possess with intent to sell or offer for sale consumer fireworks or fireworks.	4-Oct-11
<b>Frye Island</b>		Use unless sanctioned by the Town of Frye Island Board of Selectman.	1-Nov-11
<b>Gardiner</b>		180 moratorium prohibiting the sale and use of consumer fireworks.	21-Dec-11
<b>Hallowell</b>	Use restricted to certain areas of the municipality. Contact city officials for more information. Sale is permitted.		23-Feb-12
<b>Holden</b>	To sell must possess municipal permit. .	none	5-Oct-11
<b>Hollis</b>		Use and sale	9-Nov-11
<b>Mount Desert Island</b>		Use and sale	1-Jun-12
<b>North Berwick</b>	Use restrictions: Must be 50 ft. from combustibles and can only use during Maine Forest Service Class conditions 1, 2, or 3. Sales facilities must comply with local zoning ordinances.		31-Mar-12
<b>North Yarmouth</b>		No person or group may sell, possess with the intent to sell or offer for sale consumer fireworks or fireworks.	18-Oct-11
<b>Orono</b>		No person shall sell, use or possess with intent to sell or use consumer fireworks.	11-Jan-12
<b>Owls Head</b>		No person or group shall use or sell consumer fireworks in Owls Head.	19-Dec-11

**MAINE FIREWORKS LAWS ~ MUNICIPALITY SPECIFIC RESTRICTIONS**  
**DATE PRINTED: 12 JUNE 2012**

<b>Portland</b>	No person shall sell, use or possess with intent to sell or use consumer fireworks.	17-Aug-11
<b>Rockland</b>	Use and sale	14-Dec-11
<b>Scarborough</b>	Consumer fireworks may be sold but can only be used during the days of 7/3, 7/4, 7/5, 12/31 and 1/1 during times established in ordinance.	7-Mar-12
<b>South Portland</b>	Use, sell or possess with intent to use or sell consumer fireworks.	6-Nov-11
<b>Waterville</b>	"Maine Today" 7 June 2012 issue reports that as of June 18 the sale and use of fireworks will be prohibited in Waterville.- VERIFY	18-Jun-12
<b>Wayne</b>	No person or group shall sell or use consumer fireworks in Wayne.	14-Feb-12
<b>Wells</b>	Use and sale	20-Jan-12
<b>Westbrook</b>	Sale is allowed with municipal permit required. No restrictions on use.	6-Dec-11
<b>Winslow</b>	In order to sell consumer fireworks a person must obtain (purchase) a permit from the Town of Winslow and follow town rules pertaining to storage and sprinkler systems.	12-Mar-12
<b>Winthrop</b>	No person shall sell, possess with intent to sell, or offer for sale consumer fireworks in Winthrop. No person shall use, possess with intent to use, display, fire or cause to be exploded consumer fireworks in Winthrop.	6-Feb-12
<b>Wiscasset</b>	<b>SALE</b> of consumer fireworks is limited to certain areas of Wiscasset only. <b>USE</b> of consumer fireworks prohibited in Wiscasset.	1-Jan-12
<b>Woodstock</b>	Selling, or offering for sale, consumer fireworks is prohibited.	26-Mar-12
<b>Yarmouth</b>	The use, sale, and possession with intent to use of all consumer fireworks is prohibited except for sparklers that do not contain certain elements specified in ordinance.	22-Nov-11

**Note: For a more complete explanation of municipal ordinances referenced above you can contact the town or this office at 626-3873. If your Community has adopted an ordinance, you must submit a copy of the ordinance to the Office of the Fire Marshal within 60 days. 8 M.R.S.A. §223-A (2). Submit the ordinance to:**

**Richard E. Taylor**  
**Office of the State Fire Marshal**  
**52 State House Station**  
**Augusta, Maine 04333-0052**

# **Town of Wales, Maine**

Incorporated Feb. 1, 1816

302 Centre Rd.  
Wales, ME 04280

Phone: (207) 375-8881  
Fax: (207) 375-8811  
email:ttownofwales@roadrunner.com

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## **Ordinance** **Cap on Unappropriated Surplus**

The Town's undesignated unreserved general fund balance shall not exceed \$600,000.00. The Board of Selectmen shall apply that portion of the Town's unreserved undesignated general fund balance that exceeds this cap toward reducing the Town's property tax levy for the next fiscal year. This ordinance shall apply to reduce the Town's property tax levy for the July 1, 2010-June 30, 2011 fiscal year, and later fiscal years to the extent applicable.

Certified on July 20, 2010.

Board of Selectmen

\_\_\_\_\_  
Paul Burgess, Chairman

\_\_\_\_\_  
Gregory Johnson

\_\_\_\_\_  
Eric Gagnon

Certified on July 20, 2010

\_\_\_\_\_  
Patty Auge, Municipal Clerk

# **Town of Wales, Maine**

Incorporated Feb. 1, 1816

302 Centre Rd.  
Wales, ME 04280

Phone: (207) 375-8881  
Fax: (207) 375-8811  
email:ttownofwales@roadrunner.com

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## **Ordinance** **Notice of Annual and Special Town Meetings**

The Board of Selectmen is required to send notification of annual and special town meetings via the US Postal Service to all resident mail boxes, to all post office boxes owned by Wales residents, and to all non-resident taxpayers. The notification shall be mailed no less than 10 days prior to each scheduled annual or special town meeting. The notification shall be a postcard setting forth the location, date, time of day, and purpose of the town meeting. This notification shall be in addition to any other posting and notification requirements for town meetings.

Certified on July 20, 2010.

Board of Selectmen

\_\_\_\_\_  
Paul Burgess, Chairman

\_\_\_\_\_  
Gregory Johnson

\_\_\_\_\_  
Eric Gagnon

Certified on July 20, 2010.

\_\_\_\_\_  
Patty Auge, Municipal Clerk