

**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 This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.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 M RSA §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: