

TOWN OF WALES SUBDIVISION ORDINANCE

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Table of Contents

Article 1.	Purposes	1
Article 2.	Authority, Administration, Effective Date, Repeal of Existing Ordinance	1
Article 3	Administrative Procedures	2
Article 4	Pre-application for Minor and Major Subdivisions.....	2
Article 5	Minor Subdivisions.....	3
Article 6	Preliminary Plan for Major Subdivision.....	6
Article 7	Final Plan for Major Subdivision	8
Article 8	Enforcement.....	10
Article 9	General Standards.....	12
Article 10	Street and Storm-Drainage Design and Construction Standards	28
Article 11	Performance Guarantees	29
Article 12	Waivers.....	31
Article 13	Amendments	32
Article 14	Appeals	32
Article 15	Amendment Fees	32
Article 16	Definitions	32

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 This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.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 (½) 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 (8½) 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.