

# ZONING BY-LAWS

## TOWN OF WALES, MASSACHUSETTS

### ZONING BY-LAWS

<b>SECTION 1: AUTHORITY AND PURPOSE .....</b>	<b>4</b>
1.0 AUTHORITY .....	4
1.1 PURPOSES .....	4
<b>SECTION II: ESTABLISHMENT OF DISTRICTS .....</b>	<b>5</b>
2.0 ZONING DISTRICTS.....	5
2.1 ZONING MAP .....	5
<b>SECTION III: OVERLAY ZONING DISTRICTS.....</b>	<b>6</b>
3.0 FLOOD PLAIN DISTRICT .....	6
3.0.1 Purposes.....	6
3.0.2 Scope of Authority.....	6
3.0.3 DISTRICT DELINEATION.....	6
3.0.3.1 Flood Plain District .....	6
3.0.3.2 Flood Maps .....	6
3.0.4 USE REGULATIONS .....	6
3.0.4.1 Compliance .....	6
3.0.4.2 Permitted Uses .....	7
3.0.4.3 Prohibited Uses.....	7
3.0.4.4 Uses By Special Permit.....	7
3.0.4.5 Special Permit Application Requirements .....	7
3.0.4.6 Special Permit Review Procedures .....	7
3.0.4.7 Special Permit Criteria and Decision.....	7
3.0.4.8 Flood Plain Performance Standards .....	8
<b>SECTION IV: USE REGULATIONS.....</b>	<b>10</b>
4.0 GENERAL USE REGULATIONS .....	10
4.1 SCHEDULE OF USE REGULATIONS .....	10
4.1.2 Flood Plain District Uses. ....	10
4.1.3 Does not exist.....	10
TABLE 4.1 WALES SCHEDULE OF USE REGULATIONS	ERROR! BOOKMARK NOT DEFINED.
4.1.4 Agricultural Uses .....	11
4.1.5 Recreational Facilities.....	11
4.1.6 Residential Uses.....	11
4.1.6 Residential Accessory Uses.....	12
4.1.7 Community Facilities .....	12
4.1.8 Service and Business Uses .....	13
4.1.9 Transportation, Warehouse and Manufacturing Uses.....	14
4.1.9 Accessory Transportation, Warehouse and Manufacturing Uses .....	14
4.2 NON-CONFORMING USES AND STRUCTURES .....	15
4.2.1 Reconstruction of an Existing Use.....	15
4.2.2 Extension/Alteration, or Change .....	15
4.2.3 Abandonment .....	15

4.2.4	<i>Changes to a Conforming Use</i> .....	15
<b>SECTION V: INTENSITY REGULATIONS</b> .....		<b>16</b>
5.0	GENERAL REQUIREMENTS .....	16
5.0.1	<i>Conformity With Table 5.1</i> .....	16
5.0.2	<i>Lot Size and Frontage Requirements</i> .....	16
TABLE 5.1 INTENSITY REGULATIONS .....		17
<b>SECTION VI: GENERAL PROVISIONS</b> .....		<b>18</b>
6.0	CONDITIONS FOR CONSTRUCTION .....	18
6.1	RATE OF DEVELOPMENT .....	19
6.1.1	<i>Purpose</i> .....	19
6.1.2	<i>Applicability</i> .....	19
6.1.3	<i>Regulations</i> .....	19
6.2	WETLAND RESTRICTIONS ON BUILDING LOTS .....	19
<b>SECTION VII; SPECIAL LAND USE REGULATIONS</b> .....		<b>20</b>
7.0	SIGN REGULATIONS .....	20
7.0.1	<i>General Requirements</i> .....	20
7.0.2	<i>Design Standards</i> .....	20
7.0.3	<i>Placement Standards</i> .....	20
7.0.3.1	<i>General Requirements</i> .....	20
7.0.4	<i>Non commercial signs</i> .....	21
7.1	PARKING STANDARDS.....	21
7.1.1	<i>Handicapped Parking</i> .....	24
7.2	EARTH REMOVAL .....	25
7.2.1	<i>General Requirements</i> .....	25
7.2.2	<i>Application Procedure</i> .....	25
7.2.3	<i>Standards for Extractive Operations</i> .....	25
7.3	RACETRACK REGULATIONS .....	26
7.3.0	<i>General Requirements</i> .....	26
7.3.1	<i>Location and Buffer Requirements</i> .....	26
7.3.2	<i>Application Requirements</i> .....	26
7.3.3	<i>Criteria for Approval</i> .....	26
7.4	UNREGISTERED MOTOR VEHICLES.....	27
7.4.0	<i>General Requirements</i> .....	27
7.5	DUPLEX/MULTI-FAMILY RESIDENTIAL DWELLINGS .....	27
7.5.1	<i>General Requirements</i> .....	27
7.6	MOBILE HOMES AND MANUFACTURED HOMES .....	30
7.7	WIRELESS COMMUNICATION FACILITIES .....	31
7.7.0	<i>General Requirements</i> .....	31
7.7.1	<i>Special Permit Standards for Wireless Communication Facilities</i> .....	31
7.7.2	<i>Application Requirements</i> .....	32
7.8	ADULT ENTERTAINMENT .....	34
7.9	N/A	
7.10	SOLAR INSTALLATIONS	
<b>SECTION VIII: ADMINISTRATION</b> .....		<b>41</b>
8.0	ENFORCEMENT.....	41
8.1	PENALTY .....	41

8.2 ZONING BOARD OF APPEALS .....	41
8.2.0 Application Fees .....	41
8.2.1 Establishment.....	41
8.2.2 Powers.....	42
8.2.3 Appeals of Decisions by the Board of Appeals .....	42
8.3 ADMINISTRATIVE APPEALS .....	42
8.4 SPECIAL PERMITS .....	42
8.4.1 Purpose .....	43
8.4.2 Special Permit Granting Authorities .....	43
8.4.3 Application Procedures .....	43
8.4.4 Special Permit Criteria.....	44
8.4.5 Public Hearing.....	45
8.4.6 Review Procedures.....	45
8.4.7 Special Permit Granting Authority Vote.....	45
8.4.8 Special Permit Expiration.....	45
8.4.9 Conditions, Safeguards, Limitations.....	46
8.4.10 Transfer.....	47
8.4.11 Document Distribution.....	47
8.4.12 Time Schedule .....	47
8.4.13 Change, Alterations, Expansion .....	47
8.4.14 Appeals on Special Permit Activity.....	47
8.5 VARIANCES .....	47
8.5.3 Applications .....	48
8.6 AMENDMENT .....	48
8.7 VALIDITY .....	48
<b>SECTION IX: DEFINITIONS .....</b>	<b>49</b>
Definitions Diagram 9.0 .....	57

# **SECTION 1: AUTHORITY AND PURPOSE**

## ***1.0 AUTHORITY***

The Town of Wales, under the authority of the Zoning Act, M.G.L. Chapter 40A, does hereby enact this bylaw.

## ***1.1 PURPOSES***

The purposes of this Zoning Bylaw are to promote the general welfare of the Town of Wales; to protect the health and safety of its inhabitants; to encourage the appropriate use of land within the Town; to retain our natural resources; to protect, conserve and increase the value of property and the quality of life.

## **SECTION II: ESTABLISHMENT OF DISTRICTS**

### **2.0 ZONING DISTRICTS**

The Town of Wales is designated as having two (2) districts. These are the General Rural District comprising the entire area of the Town, and including in itself the overlay district known as the Flood Plain District as described in Section 3.0. The regulations of the Flood Plain District (See Section 3.1) shall be an addition to the regulations of the General Rural District, not a substitute or alternate.

### **2.1 ZONING MAP**

Said zoning districts are shown on a map entitled Zoning Map of the Town of Wales and dated March 1994, on file in the Office of the Town Clerk. The map, with all explanatory matter thereon, is hereby made a part of this bylaw. The Flood Plain District is defined on maps described in Section III.

## **SECTION III: OVERLAY ZONING DISTRICTS**

### **3.0 FLOOD PLAIN DISTRICT**

#### **3.0.1 Purposes**

The purposes of the Flood Plain District are to:

- 3.0.1.1 Protect life, public safety and property from flooding hazards;
- 3.0.1.2 Preserve the natural flood control and flood storage characteristics of the floodplain;
- 3.0.1.3 Prevent any alterations to the natural flow of streams or brooks;
- 3.0.1.4 Protect fisheries and wildlife habitat within and along river;
- 3.0.1.5 Prevent water pollution caused by erosion, sedimentation, nutrient or pesticide run-off, and poorly sited waste disposal facilities.
- 3.0.1.6 Preserve and maintain the groundwater table and water recharge areas within the floodplain.

#### **3.0.2 Scope of Authority**

The Flood Plain District is an overlay district and shall be superimposed on the other districts established by this Bylaw. All regulations of the Wales Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Flood Plain imposes additional regulations, such regulations shall prevail.

#### **3.0.3 District Delineation**

##### **3.0.3.1 Flood Plain District**

The Flood Plain District shall encompass all floodplain areas within the Town of Wales designated as Zone A or Zone AE on the Hampden County Flood Insurance Rate Map (FIRM).

##### **3.0.3.2 Flood Maps**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Wales designated as Zone A or AE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Wales are panel numbers 25013C0459E, 25013C0467E, 25013C0478E, 25013C0479E, 25013C0486E, 25013C0487E, 25013C049E and 25013C0490E dated July 16, 2013. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Conservation Commission.

#### **3.0.4 Use Regulations**

##### **3.0.4.1 Compliance**

All development, including structural and non-structural activities, whether permitted as a right or by special permit must be in compliance with the Massachusetts Wetlands Protection Regulations (currently 310 CMR 10.00), the Massachusetts Inland Wetlands Restrictions (currently 310 CMR 13.00) Chapter 131, Section 40 of the Massachusetts General Laws, with the requirements of the State Building Code (780 CMR) pertaining to construction in the floodplain, and with the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, (currently 310 CMR 15, Title 5).”

### **3.0.4.2 Permitted Uses**

(a) The following uses of low flood damage potential and if causing no obstruction of flood flows, shall be permitted provided they do not require structures, fill, or storage of materials or equipment.

1. Agricultural uses such as farming, grazing, truck farming, and horticulture;
2. Forestry and nursery uses;
3. Outdoor recreational uses, including fishing, boating, play areas, etc;
4. Conservation of water, plants, wildlife;
5. Wildlife management areas, foot, bicycle and/or horse paths;
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises;
7. Buildings lawfully existing prior to the adoption of these provisions;
8. Reconstruction or improvement, provided that any square foot increase does not exceed 25% of the overall square footage of the structure existing at the time of adoption of this Bylaw.

### **3.0.4.3 Prohibited Uses**

(a) The following uses shall be prohibited within the Flood Plain District:

1. Industrial uses;
2. Junkyards, solid waste landfills, auto salvage and recycling facilities, and dumps;
3. Business and industrial uses, not agricultural, involving manufacture, use, processing, storage or disposal of hazardous materials or wastes as a principal activity, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair.
4. The outdoor storage of salt, other de-icing chemicals, pesticides or herbicides, flammable, explosive or toxic materials.
5. Excavation or disposal of soil or mineral substances, except as necessary for construction of foundations, utilities or roads.
6. All other uses not specifically permitted or allowed by special permit approval within the overlay zone are prohibited.

(b) Within the regulatory floodway within the Town of Wales, as designated on the Hampden County Flood Insurance Rate Map, all structures and dams shall be prohibited.

### **3.0.4.4 Uses By Special Permit**

Text omitted on recommendation of the MA DCR

### **3.0.4.5 Special Permit Application Requirements**

Text omitted on recommendation of the MA DCR

### **3.0.4.6 Special Permit Review Procedures**

Text omitted on recommendation of the MA DCR

### **3.0.4.7 Special Permit Criteria and Decision**

Text omitted on recommendation of the MA DCR

### 3.0.4.8 Flood Plain Performance Standards

(a) The following performance standards shall apply to all uses allowed by right or by Special Permit in the Flood Plain District:

1. No encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood.

2. All utilities shall meet the following standards:

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(b) New on-site waste disposal systems shall be located to avoid impairment or contamination from them during the flooding and shall be located no less than 150 feet from the normal high water mark. Replacement of existing on-site waste disposal systems shall be located as far away from the normal high water mark as is feasible.

3. All uses not specifically permitted or allowed by Special Permit are prohibited.

4. Any lawful use, building, structure, premises, land or parts thereof existing at the effective date of this Bylaw or amendments thereof and not in conformance with the provisions of this Bylaw shall be considered a nonconforming use.

5. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

6. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

7. In a riverine situation the **Conservation Committee** shall notify the following of any alteration or relocation of a watercourse:

(a) Adjacent Communities

(b) Bordering States (optional)

(c) NFIP State Coordinator

Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700 Boston, MA 02114-2104



(d) NFIP Program Specialist  
Federal Emergency Management Agency,  
Region I  
99 High Street, 6th Floor  
Boston, MA 02110

8. All subdivision proposals must be designed to assure that:
- (a) such proposals minimize flood damage;
  - (b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (c) adequate drainage is provided to reduce exposure to flood hazards.

*(Accepted at Annual Town Meeting May 21, 2014 Approved by Attorney General 11-12-14)*

## **SECTION IV: USE REGULATIONS**

### **4.0 GENERAL USE REGULATIONS**

4.0.1 All uses allowed by right or permitted by Special Permit must be in harmony with the general purpose and intent of this bylaw. No use is allowed which would be detrimental or offensive or tend to reduce property values in the area by reason of dirt, odor, fumes, gas, sewage, refuse, excessive vibration, noise, or danger of explosion, fire, or contamination of soil, air, or ground water.

4.0.2 Not more than one principal building shall be erected on a lot unless otherwise specified in this Bylaw.

### **4.1 SCHEDULE OF USE REGULATIONS**

#### **4.1.1 Introduction**

No building or structure shall be constructed, nor any building, structure, land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth, or those listed as allowed by Special Permit in Section 4.1, and so authorized. The restrictions and controls intended to regulate development in each district are set forth in Table 4-1, Wales Schedule of Use Regulations. All such regulations and restrictions contained in these Zoning Bylaws shall be uniform for each class or kind of structure or use throughout the district.

Y - Yes - Use Permitted by Right  
SP(PB) - Use allowed by Special Permit from the Planning Board  
SP(S) - Use Allowed by Special Permit from the Board of Selectmen  
N - No - Use Prohibited

Uses allowed by right and uses permitted by special permit shall be in conformity with all intensity regulations and any other pertinent requirements of this bylaw.

#### **4.1.2 Flood Plain District Uses.**

See Section 3.0, the Flood Plain District, to determine what uses are permitted.

#### **4.1.3 Does not exist**

<b>TABLE 4.1 WALES SCHEDULE OF USE REGULATIONS</b>			
<b>BY LAW NUM BER</b>	<b>LAND USE CLASSIFICATION</b>	<b>STANDARDS AND CONDITIONS</b>	<b>ZONING DISTRICT GENERAL RURAL</b>
<b>4.1.4</b>	<b>4.1.4 Agricultural Uses</b>	See Section 7.1 for Parking Standards	
	Nurseries, Greenhouses, Orchards, Forestry		Y
	Storage of Equipment Used Primarily For Agriculture		Y
	Farmstands	For the display and sale of agricultural products, the majority of which are produced by the owner of land on which the farmstand is located during the months of June, July, August, and September of every year.  Adequate off-street parking must be provided.	Y
	Agricultural, Horticultural, Floricultural Or Viticultural Uses		Y
<b>4.1.5</b>	<b>4.1.5 Recreational Facilities</b>	Commercial, public or private facilities whether or not a fee is charged	
	Campgrounds		SP (PB)
	Boat Storage and Rental		Y
	Bathing Beach Serving up to 50 people		Y
	Bathing Beach for More Than 50 People		SP (PB)
	Golf Course		SP (PB)
	Ski Tow		Y
	Public Riding Stables	Agricultural uses protected under M.G.L. Chapter 40A includes the boarding of horses	Y
	Bowling Alley		SP (PB)
	Skating Rink		SP (PB)
	Recreational Uses		SP (PB)
<b>4.1.6</b>	<b>4.1.6 Residential Uses</b>	See Section 7.1 for Parking Standards	<sup>1</sup>
	Single Family Dwelling		Y
	Rental of Rooms/and or Furnishing of Board	Applies to four or fewer persons in a dwelling regularly used as a residence	Y

<sup>1</sup> See Section 3.0 for Floodplain Use Regulations where applicable

**TABLE 4.1 WALES SCHEDULE OF USE REGULATIONS**

<b>BY LAW NUM BER</b>	<b>LAND USE CLASSIFICATION</b>	<b>STANDARDS AND CONDITIONS</b>	<b>ZONING DISTRICT GENERAL RURAL</b>
	Duplex/Multi-Family Residential Dwellings	Duplex/Multi-family Dwellings have two or more dwelling units in a building. Buildings over two stories are prohibited. See Section 7.5 for additional standards.	SP (PB)
	Mobile Homes	See Section 7.6 for additional standards	N
<b>4.1.6 Continued</b>	<b>4.1.6 Residential Accessory Uses</b>	Use of building, structure, or premises that is customarily incidental to residential use	
	Home Occupations	Permitted within a residential dwelling or residential accessory structure. Must be carried on wholly within the building or accessory structure and may not use more than 25% of the floor area, not employ more than 3 persons outside the family, and adequate parking must exist or be provided.	Y
	Accessory Business Uses	The following uses are classified as Accessory Business Uses and are permitted within a residence if adequate parking is provided: a. Professional Office b. Handicrafts c. Millinery d. Musical Instruction e. Antique or Gift Shop f. Insurance Office g. Real Estate Office h. Art Studio or Gallery i. Dressmaking j. Hairdressing k. Family Day Care Home l. Florist	Y
	Accessory Trade Use	The following uses are classified as Accessory Trade Uses and are permitted if the use is in connection with the trade by the resident of the dwelling: a. Carpenter b. Electrician c. Painter d. Plumber e. Mason f. Other Artisans	Y
	Garaging and Storing of Unregistered Motor Vehicles	See Section 7.1 and 7.4	SP (PB)
	Swimming Pools	Must be fenced securely to a minimum height of four (4) feet.	Y
	Dog Kennels	For the boarding, grooming, training or selling of dogs. Kennel cannot house more than ten (10) dogs.	Y
	<b>4.1.7 Community Facilities</b>	See Section 7.1 for Parking Standards	

See Section 3.0 for Floodplain use Regulations where applicable

**TABLE 4.1 WALES SCHEDULE OF USE REGULATIONS**

<b>BY LAW NUM BER</b>	<b>LAND USE CLASSIFICATION</b>	<b>STANDARDS AND CONDITIONS</b>	<b>ZONING DISTRICT GENERAL RURAL</b>
<b>4.1.7</b>	Public Educational Use		Y
	Church or Other Religious Use		Y
	Child Care Facility		Y
	Hospital or Nursing Home		SP (PB)
	Public Utilities	Public Utilities includes, but is not limited to, transmitting towers, radio and television stations, and telephone or express offices or storage yards. Public Utilities exempt under M. G. L. Chapter 40A, Section 3, are permitted by right.	SP (PB)
	Wireless Communication Facility		SP (PB)
<b>4.1.8</b>	<b>4.1.8 Service and Business Uses</b>	Establishment primarily engaged in providing services for individuals, business and government establishment and other organizations. See Section 7.1 for Parking Standards	
	Bank of Other Financial Institution		Y
	Newspaper office		Y
	Data Processing		Y
	Mortuary		Y
	Laundromat, Dry Cleaning Establishment		Y
	Saw, Scissors, Skate Sharpening Establishment		Y
	Key Making Establishment		Y
	Repair Shops	Limited to Furniture, Shoe, Radio, Television, Appliance, and Lawn and Garden Equipment repair shops only.	Y
	Auto Repair	Provided work takes place inside a building and that there are no storage of parts of vehicles except as provided in Section 7.4	Y
	Blacksmith		Y
	Retail Stores Under 2000 Square Feet		Y
	Retail Stores With 2000 Square Feet or More		SP (PB)
	Farm Supply stores Under 2000 Square Feet		Y

See Section 3.0 for Floodplain Use Regulation where applicable  
See Section 3.0 for Floodplain Use Regulations where applicable

**TABLE 4.1 WALES SCHEDULE OF USE REGULATIONS**

<b>BY LAW NUM BER</b>	<b>LAND USE CLASSIFICATION</b>	<b>STANDARDS AND CONDITIONS</b>	<b>ZONING DISTRICT GENERAL RURAL</b>
	Restaurant, Bar, Theater, Hall or Club		SP (PB)
	Hotels, Motels, lodging for more than four (4) People	Buildings over two stories are prohibited.	SP (PB)
	Gas Station		SP (PB)
	Veterinary Hospital		SP (PB)
	Septic Sludge Disposal Area Establishment	Not to include private home septic systems.	N
	Service Establishments Over 2000 Square Feet		SP (PB)
	Automobile Sales, New and Used		SP (PB)
	Administrative or Clerical Offices		SP (PB)
	Storage of Construction Equipment and Vehicles of More Than Two Axles, Up to a Total of Four (4) Such Vehicles or Construction Equipment		Y
	Storage of Construction Equipment and Vehicles of More Than Two Axles, Above a Total of Four (4) Such Vehicles or Construction Equipment		SP (PB)
	Ice Company		Y
	Sail Making		Y
	Adult Entertainment Establishments		SP (PB)
	Large-Scale Ground-Mounted Solar Photovoltaic Installations		SP (PB)
<b>4.1.9</b>	<b>4.1.9 Transportation, Warehouse and Manufacturing Uses</b>	See Section 7.1 for Parking Standards	
	Manufacturing, Processing or Warehousing in a Building With Less than 2000 Square Feet		Y
	Sawmills, Lumberyards, Cordwood, Lumbering Operations		Y
	Sand and Gravel Operations		SP (PB)
	Aviation Field		SP (PB)
	<b>4.1.9 Accessory Transportation, Warehouse and Manufacturing Uses</b>		
	Uses Accessory to Uses Permitted in Connection With Scientific Research and Development or Related Fields	As long as Planning Board finds that such proposed accessory use does not substantially derogate from public good.	SP (PB)

<sup>2</sup> ( Table 4.1 Approved 4-29-2020)

<sup>2</sup> See Section 3.0 for Floodplain Use Regulations Where Applicable

## **4.2 NON-CONFORMING USES AND STRUCTURES**

4.2.0 This Bylaw shall in no way apply to any existing buildings or structures, nor to the continuation of the existing use of any building or structure, nor to the land or premises to the extent of the use existing at the time of adoption of the Bylaw.

### **4.2.1 Reconstruction of an Existing Use**

In the event of destruction, reconstruction without substantial enlargement or alteration is deemed a continuation of an existing use.

### **4.2.2 Extension/Alteration, or Change**

A pre-existing non-conforming use or structure may not be extended, altered or changed except by a special permit from the Zoning Board of Appeals (ZBA). The proposed extension, alteration, or change of a non-conforming structure must meet the following criteria:

4.2.4.1 The proposed extension, alteration, or change must not increase the non-conformity (if any) with open space, yard, height, and off-street parking requirements.

4.2.4.2 If the proposed extension, alteration, or change complies with Section 4.2.4.1, the ZBA must determine whether or not the proposed project would be substantially more detrimental to the neighborhood than the existing use or structure.

### **4.2.3 Abandonment**

A non-conforming use which has been abandoned or not used for two years or more may not be reestablished, except by a Special Permit from the Zoning Board of Appeals, and any other future use shall conform to this Bylaw. (Approved 10-30-2019)

### **4.2.4 Changes to a Conforming Use**

Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use.

## **SECTION V: INTENSITY REGULATIONS**

### **5.0 GENERAL REQUIREMENTS**

#### **5.0.1 Conformity With Table 5.1**

All permitted uses and uses allowed by Special Permit shall be in conformity with the intensity regulations set forth in Table 5.1, Table of Intensity Regulations. No existing lot shall be changed in size or shape so as to result in the violation of requirements set forth in Table 5.1.

#### **5.0.2 Lot Size and Frontage Requirements.**

(Originally passed 2/20/74)

5.0.2.0 Dwellings. Any dwelling hereafter erected in the Town of Wales shall be located on a lot having the minimum requirements set forth in Table 5.1. No existing lot used for dwelling purposes shall be changed as to size or shape so as to result in a violation of the requirements set forth herewith. [Refer to Chapter 40A, Section 5a of the General Laws for rulings on exceptions of lot sizes already established at the time of this amendment.]

5.0.2.1 Buildings other than dwellings. Any building or structure hereafter erected shall be located on a lot having not less than the minimum requirements set forth in Table 5.1. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Table 5.1.

No parcel is considered a buildable lot unless at least 90% of the minimum lot size requirement is comprised of contiguous upland and excludes from this buildable portion any body of water, including water courses, or any bog swamp, wet meadow, or marsh as defined in M.G.L. Chapter 131 Section 40. (See Section 6.2 of this bylaw.)

Note: See Section VII for Special Land Use Regulations.



TABLE 5.1 INTENSITY REGULATIONS									
		Minimum Dimensions		Minimum Yard Requirements in Feet					
District	Use*	Lot Area in Square Feet	Lot Frontage in Feet	Front	Side	Rear	Maximum Height in Feet	Maximum % Lot Coverage	Notes
General Rural	Sign						25 feet		No sign may be closer than ten (10) feet from any property line.
	Single Family Dwelling	43,560 one acre	150						
	Earth Removal			100	100	100			No topsoil, loam, sand, gravel, or rock may be removed from any area within 100 feet of a wetland or property boundary.
	Race Track			500	500	500			The area for the site must contain sufficient property to provide for a 500 foot buffer zone between the area of the race track including any barn, kennel, concession stand, parking area or any other building utilized for the race track and an abutting property including a public way.
	Duplex/ Multi-Family Residential Dwelling	43,560 (one acre per dwelling unit)	150 continuous feet per dwelling unit	75	50	50			Two (2) stories is the maximum number. Parking areas shall not be located within front, rear, or side yard requirements and shall be screened. No parking area shall contain more than 12 spaces. No parking is allowed on interior streets and drives and parking areas shall be illuminated only by shielded lights not higher than 15 feet.
	All Other Uses	43,560	150						
Flood Plain	Refer to Section 3.0								

## **SECTION VI: GENERAL PROVISIONS**

### **6.0 CONDITIONS FOR CONSTRUCTION**

(Originally voted I /26/77)

The following conditions shall apply to all new construction, repair, alteration or moving taking place within the Town of Wales.

6.0.1 The Building Inspector shall be responsible for issuing or withholding a building permit in accordance with the provisions of this Bylaw. He/she shall withhold a building permit for the construction, alteration, or moving of any building or structure if the building or structure would, as constructed, altered or moved, be in violation of any Zoning Bylaw. (See Section 10.0 Enforcement.)

6.0.2 No permit or license shall be issued for a new use which would be in violation of any Zoning Bylaw.

6.0.3 No building permit shall be issued for construction, moving, or alteration of any building unless the applicant has written approval, from the Board of Health, of the present or proposed septic system.

6.0.4 No building permit shall be issued for construction of a dwelling or for construction of a building to be used for public assembly without the applicant having first obtained documented approval from the Town's Board of Health as to compliance with all current codes governing present or proposed septic system.

6.0.5 No new building shall be constructed until the Building Inspector has determined that no bylaw affecting the land is being violated and has issued a building permit to the owner of the land.

6.0.6 A copy of each building permit issued shall be filed by the Building Inspector with the Board of Assessors within thirty (30) days of issuance.

6.0.7 A time limit of six (6) months to commence construction or operation shall be imposed, beginning at the date of issuance of a building permit. If construction or operation has not begun in six (6) months, or if construction is not continuing toward completion in a continuous and expeditious manner as is reasonable, then the construction or operation must conform to any subsequent bylaw amendments.

## **6.1 RATE OF DEVELOPMENT**

(Originally Voted 11/18/86)

### **6.1.1 Purpose**

The purpose of this section is to ensure that residential growth occurs in an orderly and planned manner that allows the Town preparation time for the provision of municipal services without overwhelming existing staff and volunteer officials.

### **6.1.2 Applicability**

6.1.2.1 The regulations of this section shall apply to all definitive subdivision plans, subdivisions not requiring approval (ANRs), and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for purposes of development scheduling, if located either on a single parcel or contiguous parcels of land that have been in the same ownership at any time subsequent to the date of adoption of this section.

6.1.2.2 Any person who owned a parcel of land prior to January 1, 1990, which meets all other requirements to build in Wales, shall receive a one-time exemption (one building permit) for the purpose of constructing a single-family dwelling unit on the parcel owned, provided that the single family dwelling unit shall be owned and occupied by the owner of that parcel of land. The issuance of a building permit for this purpose shall, however, count toward the growth rate limit of 40 dwelling units.

### **6.1.3 Regulations**

6.1.3.1 The number of building permits for any new dwelling unit will be limited to forty (40) permits issued per year.

6.1.3.2 There will be a limit for each subdivision requiring a "Definitive Plan", as defined by M.G.L. Chapter 41, of Five (5) building permits per year.

6.1.3.3 The Selectmen, Planning Board and Building Inspector shall meet and jointly develop a fair and equitable method of determining the distribution of the forty (40) building permits with a 2/3 vote required for the passage of said method.

## **6.2 WETLAND RESTRICTIONS ON BUILDING LOTS**

No parcel is considered a buildable lot unless its upland acreage is at least 90% contiguous of the minimum lot size and shall be land other than any body of water, including watercourses, or any bog, swamp, wet meadow, or marsh as defined in M.G.L. Chapter 131 Section 40.

## **SECTION VII; SPECIAL LAND USE REGULATIONS**

### **7.0 SIGN REGULATIONS**

#### **7.0.1 General Requirements**

In granting a Special Permit for permanent sign, the Special Permit Granting Authority (SPGA) may require standards or conditions in addition to those set forth in this bylaw in order to ensure that all signs shall be in keeping with the rural and colonial character of the Town and meet the design and placement standards contained in this section.

Temporary signs do not require a special permit.

#### **7.0.2 Design Standards**

7.0.2.1 No sign, temporary or permanent, larger than 24 square feet shall be erected on a person's property.

7.0.2.2 Signs off the premises shall not exceed 6 square feet.

7.0.2.3 No signs shall move, revolve, or flash.

7.0.2.4 Signs shall have exterior illumination only.

7.0.2.5 No sign shall exceed 25 feet in height.

#### **7.0.3 Placement Standards**

##### **7.0.3.1 General Requirements**

- a. No sign shall be attached to trees, utility poles, or rocks, except certain temporary signs with permit.
- b. No sign may be closer than ten (10) feet from any property line.

##### **7.0.3.2 On premise business signs**

- a. There may be no more than three temporary or permanent signs on a person's property.
- b. Multiple freestanding signs on a single property must be a minimum of 75 feet apart.

### **7.0.3.3 Off premise business signs**

- a. Signs located on the premises of someone other than the owner of the sign or on premises other than the business location, shall not exceed 6 square feet.
- b. There shall be a maximum of three off premise signs per advertiser allowed in the Town of Wales.
- c. Realtors' signs advertising the availability for rental or sale of a property on which the sign is located shall be considered temporary signs with no time limit.

### **7.0.4 Non commercial signs**

#### **7.04.1 Political signs**

Political signs shall not exceed twenty four (24) square feet and shall be permitted by right.

#### **7.0.4.2 Election Signs**

Signs pertaining to an upcoming election may be erected up to sixty (60) days before an election and shall be removed no later than seven (7) days following an election.

#### **7.0.4.3 Identification signs**

One sign for each dwelling unit is permitted by right, provided such sign shall not exceed one square foot in surface area; if lighted, it shall be illuminated with white or blue non- flashing lights only.

## **7.1 PARKING STANDARDS**

### **7.1.0. General Parking Standards**

For uses permitted by right or by Special permit from the Special Permit Granting Authority (SPGA), the Parking Standards described in Table 7.1, in addition to other conditions or standards set forth in this Bylaw shall be applied.

<b>TABLE 7.1 PARKING STANDARDS</b>	
<b>Uses</b>	<b>Required Minimum Space</b>
<b>Residential Uses</b>	
Single Family Dwelling	2 Spaces per dwelling unit
Rooming House/Boarding House	1 Space for each room rented
Duplex/Multi-family Dwellings	2 Spaces for each dwelling unit with one additional space per dwelling unit for visitor parking screened from public ways and adjacent or abutting properties. (See Section 7.5.1.4e for further standards)
Home Occupations	Spaces adequate to accommodate, under normal conditions, the vehicles of occupants, employees, members, customers, clients and visitors to the premises.
Family Day Care Home	1 Space per employee plus adequate parking for visitors to the premises
Accessory Business and Trade	1 Space per each 300 feet of gross floor area devoted to the use: parking adequate to accommodate the vehicles of occupants, employees, customers, clients and visitors
<b>Government, Institutional, and Public Service Uses</b>	
<b>Community Facilities</b>	
Public Educational	1 Space for each teacher and employee, including space for the users of the gymnasium or auditorium whichever has the larger capacity
Indoor Place of Assembly with Fixed Seating Including Theaters, Halls, and Churches	1 Space for every four seats or, where benches are used, one space for each 8 linear feet of bench
Indoor Place of Assembly Without Fixed Seats Including Recreation Centers, Membership Clubs, Skating Rinks, or Other Places of Amusement	1 Space for each 300 square feet of gross floor area
Child Care Facility	1 Space per two employees
Hospital or Nursing Home	1.5 Spaces per bed at design capacity
<b>Recreational, Service and Business Uses</b>	
Facilities Including Campgrounds, Bathing Beaches, Golf Course, Ski Tows, Public Riding Stables	1 Space for every two people to be accommodated
Bowling Alley	1 Space per three lanes

Miscellaneous Professional and Business Uses Including Banks, Newspaper Office, Data Processing, Laundromat Dry Cleaning Establishment, Saw, Scissors, Skate Sharpening Establishment, Key Making Establishment, Repair Shops	1 Space per 200 square feet of gross floor area in use for the business or as required to accommodate occupants, employees, members, customers, clients and visitors
Mortuary	10 Spaces for each reposeing room
Auto Repair, Gas Station	3 Spaces/per service bay, but not less than 1 space/per 100square feet of gross floor area
Commercial Retail and Personal Service Establishments	1 Space per each 300 square feet of gross floor area
Restaurant, Bar	1 Space for every four seats with one space in addition for every two employees on the largest shift
Hotels, Motels, Lodging for More than 4 People	1 Space for each sleeping room, plus 1 space for each 500 square feet of public meeting area or restaurant
Automobile Sales. New and Used	1 Space per 800 square feet of gross floor space. In the case of outdoor display area, 1 space for each 1,000 square feet of area in such use
For all Other Permitted Business and Service Uses Including, But Not Limited to Farmstands	Off-street parking spaces adequate to accommodate under normal conditions the vehicles of occupants, employees, members, customers, clients and visitors to the premises shall be provided
Warehousing or Storage	1 Space for each person employed on the largest shift
Any Use Permitted By This Bylaw Not Interpreted to Be Covered by This Schedule	Closest similar use as shall be determined by the Planning Board

Note: 1. Gross floor area shall mean the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Note: 2. When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction of one-half or more shall require one space.

### **7.1.1 Handicapped Parking**

7.1.1.1 All parking areas shall provide handicapped accessible parking spaces, as required' by the federal Americans with Disabilities Act (ADA) except for the following uses which are specifically exempted in ADA Requirement:

- a. owner-occupied buildings with no more than four units;
- b. housing operated by religious organizations and private clubs that limit occupancy to members.

Accessible spaces shall be 8'0" wide, with an adjacent access aisle 5'0" wide, and shall be marked with signs and pavement paint. One in every eight accessible spaces shall have an access aisle 8'0" (rather than 5'0"), and shall be signed "van accessible".



## **7.2 EARTH REMOVAL**

### **7.2.1 General Requirements.**

**7.2.1.1** Within the Town of Wales, the removal of topsoil, loam, sand, gravel, or rock from any property not in public use except when incidental to and in connection with the construction of a permitted structure, shall be permitted only after issuance of a Special Permit from the Planning Board after a public hearing (see Section 8.4).

**7.2.1.2** In issuing such a permit under this Bylaw, the Planning Board may impose such conditions, not specifically provided for herein, as it may deem necessary for the adequate protection of the neighborhood and including reasonable conditions as to the re- establishment of ground levels and grades and the planting of the area to suitable cover.

**7.2.1.3** The Planning Board, before issuing a permit for the removal of topsoil, loam, sand, gravel, or rock from any area, shall consult with local officials of the Soil Conservation Service or their successors and the Conservation Commission and shall file any written statements respecting their recommendations with the records relating to such a permit.

### **7.2.2 Application Procedure**

The application to the Planning Board for a Special Permit for the removal of earth products shall include the following specific information:

- a. the approximate amount of topsoil, loam, sand, gravel, or rock to be removed;
- b. the exact area from which it is to be taken;
- c. a time allowance for such removal;
- d. a statement of the provisions for the re-establishment of ground levels and grades and the planting of the area to suitable cover.
- e. copies shall be provided and distributed as outlined in Section 8.4 of this bylaw.

### **7.2.3 Standards for Extractive Operations**

The Planning Board shall set conditions and standards of operation, including but not limited to, the following:

- a. No topsoil, loam, sand, gravel, or rock may be removed from any area within 100 feet of a wetland.
- b. No topsoil, loam, sand, gravel, or rock may be removed from any area within 100 feet of a property boundary.

### **7.2.4 No Special Permit is required for the following:**

- a. removal of topsoil, loam, sand, gravel, or rock for any parcel of land when such removal is incidental to and in connection with the construction of a building;
- b. transfer of topsoil, loam, sand, gravel, or rock from one part of an owner's premises to another part for the improvement of the premises so long as no other provision of this bylaw or the General Laws, including M.G.L. Chapter 131 s. 40, is thereby violated.

### **7.2.5 Establishment of Fees**

A fee is to be set by the Planning Board to cover costs in administering this section.

## **7.3 RACETRACK REGULATIONS**

### **7.3.0 General Requirements**

In accordance with Chapter 128A, Section 13A of the Massachusetts General Law, the Board of Selectmen of the Town of Wales shall not approve a "site" for a track to be used for any form of racing in connection with pari-mutuel betting unless the provisions of this section are met in all regards and a special permit has been issued by the Planning Board in accordance with the provisions of this section and Section 8.4.

### **7.3.1 Location and Buffer Requirements**

7.3.1.0 The area for a "site" must not be within two (2) miles of a church, cemetery or burial ground, school playground, public park or recreational area, or fire station.

7.3.1.1 The area for a "site" must contain sufficient property so that it will provide for a 500 foot buffer zone between the area of the race track including any barn, kennel, concession stand, parking area or any other building utilized for the racetrack and an abutting property line including a public way.

### **7.3.2 Application Requirements**

7.3.2.1 The petitioner shall provide an engineering plan complete in detail as to elevation, drainage, sewerage, water and building layout. This must be first filed with the Office of the Building Inspector with a complete building plan by a certified architect as are necessary for the issuance of a building permit.

7.3.2.2 A noise study shall be provided by the petitioner with a certification by a qualified noise engineer that there will be no appreciable increase of noise which will affect abutting and other property owners.

7.3.2.3 A traffic study shall be provided by the petitioner with certification by a qualified traffic engineer that the public highways, as they presently exist in the Town of Wales, will be sufficient for traffic attracted to a track at the "site" which is the subject matter of the petition; and, further, a certification that said traffic will not materially interfere with the provision of adequate fire, police, ambulance, snow plow, and other necessary services.

### **7.3.3 Criteria for Approval**

7.3.3.0 The Planning Board shall, prior to approval of any "site", render detailed written factual findings that said "site" approval shall not adversely affect the residential, rural, and agricultural nature of the Town of Wales, including the natural, scenic, historic, and aesthetic qualities of the present environment, the existing conditions with respect to clean air, water, and noise, traffic, sewerage disposal, and other factors affecting the environment of the Town of Wales.

7.3.3.1 The engineering plan and architectural plan shall be approved by the Building Inspector, Conservation Commission, Historical Committee, and Planning Board.

## **7.4 UNREGISTERED MOTOR VEHICLES**

(Originally voted 3/16/77)

### **7.4.0 General Requirements**

No more than one unregistered motor vehicle, assembled or disassembled, shall be kept, stored, or allowed to remain on a parcel of land except by a person duly licensed under M.G.L. Chapter 140, Section 59 and except as provided in Section 4.0 of this bylaw or as allowed by Special Permit pursuant to Section 8.4 below.

### **7.4.1 Special Permit Requirements.**

7.4.1.0 For purposes of this Section the Board of Selectmen shall be the SPGA.

7.4.1.1 Each permit granted by the Board of Selectmen under this section shall:

- a. specify the maximum number of such vehicles that may be kept, stored, or allowed to remain on such parcel;
- b. be limited to a reasonable period of time; and
- c. be a personal privilege of the applicant and not a grant attached to and running with the land.

7.4.1.2 This bylaw shall not apply to vehicles which are:

- a. Stored within an enclosed building; or
- b. Designed and used as vehicles for farming, agriculture, or construction purposes.

7.4.1.3 A-maximum often (10) unregistered vehicles may be kept on a parcel of land if said vehicles are not visible from the road or abutting properties and do not pose an environmental hazard.

## **7.5 DUPLEX/MULTI-FAMILY RESIDENTIAL DWELLINGS**

(Amended 5/20/92)

### **7.5.1 General Requirements**

7.5.1.1 Duplex/Multi-family Residential Dwellings by Special Permit Duplex/Multi-family dwellings shall be permitted in the Town of Wales only upon issuance of a Special Permit from the Planning Board and in accordance with requirements specified herein.

In order to protect the groundwater and rural character of the Town of Wales, and to ensure the general health, welfare, and safety of the inhabitants while the Town reviews its policies and requirements concerning the development of duplex and multi-family dwellings, there is hereby established a

moratorium on the issuance of any special permits for new or converted duplex or multi-family residential dwellings for a period of two years effective July 1, 2008 thru June 30, 2010.

#### 7.5.1.2 **Definitions**

For purposes of this section the terms duplex dwelling and multi-family dwelling shall be defined as follows:

- a. Dwelling, Duplex: A detached building containing two (2) dwelling units with each unit containing its own sleeping, cooking and sanitary facilities.
- b. Dwelling, Multi-family: A building containing more than one but not more than four (4) dwelling units with each unit containing its own sleeping, cooking and sanitary facilities.

#### 7.5.1.3 **Dimensional Requirements**

All duplex/multi-family dwellings which shall be connected to on-site sewerage disposal and water systems shall conform to the following dimensional requirements

Minimum lot size per dwelling unit	1 acre
Maximum number of dwelling units per structure	4 units
Minimum frontage per dwelling unit	150 feet continuous
Minimum front yard	75 feet
Minimum side yard	50 feet
Minimum rear yard:	50 feet
Maximum height:	35 feet
Maximum number of stories	2 stories
Maximum lot coverage	30%

#### 7.5.1.4 **Additional Requirements**

The' following standards shall be used as additional requirements in the Special Permit process for all duplex/multi-family dwellings:

##### a. **Siting and Layout Requirements**

(1) The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible:

(a) minimize use of wetlands, steep slopes, floodplains, hilltops;

(b) minimize obstruction of scenic views from publicly accessible locations;

- (c) preserve unique natural or historical features
  - (d) minimize tree, vegetation and soil removal, and grade changes; and
  - (e) screen objectionable features from neighboring properties and roadways.
- (2) More than one duplex/multi-family dwelling maybe placed on a lot, but no principal structures shall be placed closer to each other than fifty (50) feet and must be visually separated by trees and plantings.
- (3) Each duplex/multi-family dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations.

b. Design Requirements

(1) Architectural styles shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings.

c. Vehicular and Pedestrian Access Requirements

- (1) The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
- (2) Duplex/multi-family structures shall have access on roads having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic generated by the site.
- (3) Connecting walkways and tree belts shall be provided between structures and parking areas within the site and shall be constructed in accordance with the standards set forth in the Town of Wales Subdivision Regulations.

d. Buffer Area Requirements

- (1) All land not devoted to dwellings, accessory uses, roads, or other development shall be grassed or landscaped.
- (2) Duplex/multi-family structures shall be separated from adjacent properties by buffer strips consisting of (where appropriate) trees and or fencing sufficient to minimize the visual and noise impacts of the development.

e. Parking, Loading, and Lighting Requirements

(1) Parking areas shall not be located within a required front, rear, or side yard as specified in Section 9.0.3 above and shall be screened from public ways and adjacent or abutting properties by building location, fencing, or planting. Two individual parking areas shall be provided for each dwelling unit, with an additional one (1) space provided per dwelling unit for visitor parking. No parking shall be allowed on interior streets.

(2) Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors from objectionable features.

(3) No buildings shall be floodlit. Drives and parking areas shall be illuminated only by shielded lights not higher than fifteen (15) feet.

f. Water and sewerage system requirements

(1) The following utility requirements shall apply to all duplex/multi-family dwellings which are served by on-site sewerage or water supply systems:

i For dwellings to be served by on-site water and waste disposal systems, the applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the Special Permit application. No septic system serving the project shall exceed 2,000 gallons per day sewage flow. More than one (1) septic may serve the site in order to meet this requirement.

ii For dwellings to be served with on-site water the water system shall be capable of producing five(5) gallons per minute per dwelling unit for a period of four (4) hours.

iii Dwellings with on-site waste disposal systems shall be allowed only upon demonstration by the applicant that the ground water quality of the boundaries of the lot will not fall below the standards established by the Massachusetts Department of Environmental Protection in "Drinking Water Standards of Massachusetts" or by the U.S. Environmental Protection Agency in "National Interim Primary Drinking Water Regulations", or where groundwater quality is already below these standards upon determination that the activity will result in no further degradation. Where compliance is in doubt, the Planning Board may hire a Professional Engineer to analyze and certify groundwater quality impacts and may charge the applicant for the cost of such analysis.

g. Drainage Requirements

(1) Drainage shall be designed so that run-off shall not be increased, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

h. Utility Requirements

(1) Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible.

## **7.6 MOBILE HOMES AND MANUFACTURED HOMES**

7.6.1 No mobile home, manufactured home, trailer, or camper trailer shall hereafter be placed, erected, stored, or installed in the Town of Wales, except storage of a camper trailer.

7.6.2 In the event that a mobile home, manufactured home, or trailer erected prior to the enactment of this Bylaw has been damaged, destroyed, or discontinued, it may be reconstructed, repaired, or replaced

providing the size is not increased by more than 25% of the original structure. Reconstruction, repair, and resumption of use must occur within a period of twenty-four (24) months from the date of said damage or discontinuance.

7.6.3 The owner or occupier of a residence which has been rendered uninhabitable by fire or natural disaster may place a manufactured home on the site of such residence and may by right, reside in such manufactured home for a period not to exceed twelve months while the residence is being rebuilt. Any such manufactured home is subject to the provisions of the State Sanitary Code and the pertinent regulations of the Board of Health. The manufactured home must be removed from the site upon issuance of the Certificate of Occupancy by the Building inspector for the rebuilt residence.

## **7.7 Wireless Communication Facilities**

### **7.7.0 General Requirements**

7.7.0.1 Wireless communication facilities shall be allowed by Special Permit from the Planning Board and shall be subject to the Special Permit standards set forth In Section 8.4.

7.7.0.2 In granting a Special Permit for a wireless communication facility, the Special Permit Granting Authority (SPGA) may require standards or conditions in addition to those set forth in this bylaw. In order to:

- a. Minimize the adverse visual impact of any wireless communication structures, buildings or appurtenances on adjacent properties and residential neighborhoods
- b. Protect, to the maximum extent practicable, the rural character of Wales, the property values of the community, and the health and safety of all citizens.

### **7.7.1 Special Permit Standards for Wireless Communication Facilities**

7.7.1.2 No wireless communications facilities shall be erected or installed except in compliance with the provisions of Section 7.7. Any proposed modification to a existing wireless communication facility including, but not limited to, extension in the height, addition of antennas or panels, or new construction or replacement of a facility, shall be subject to these provisions and shall require a new application

7.7.1.3 Lattice style towers and/or any tower requiring guy wires shall not be permitted. Facilities requiring the construction of a tower shall be located on stealth monopoles. Stealth meaning "camouflaged" in such a fashion as to preserve the visual integrity of the surrounding area. "Camouflage" meaning appearance such as trees, steeples, flagpoles, etc.

7.7.1.4 Providers of wireless communication service shall report to the Building Inspector any cessation in the use or operation of any wireless communications facility that exceeds 30 days, and such facilities shall be removed at the owner's expense within one year of cessation use or operation. In the event that the owner does not so notify the Building Inspector and the facility has ceased to operate or be used for one year, the facility may be removed by the Town. The applicant shall post a bond with the Town Treasurer in an amount sufficient to pay for the removal of the facility. The bond will be revisited and up dated at intervals of no more than five years. A condition specifying that the applicant has agreed to this provision shall be included on any special permit issued under Section 7.7.

7.7.1.5 To the extent feasible, all service providers shall co-locate on a single tower. The Planning Board shall consider new towers only upon a finding that existing or approved towers cannot

adequately fulfill the applicant's service requirements or accommodate the wireless communications equipment, which are the subject of an application.

- 7.7.1.6 All towers shall be designed to be constructed to the minimum height necessary to accommodate the anticipated and future use. No wireless communication facility shall exceed 100 feet in height as measured from ground level at the base of the tower, or a height 25 feet above the tree line, whichever is less. The height limit may be waived by the Planning Board if demonstrated by the applicant that proposed (100 ft.) or current height cannot provide services as required (by law).
- 7.7.1.7 The setback of a tower from the property line of the lot on which it is located shall be at least equal to the height of the tower as measured from the finished grade of the tower base. This setback requirement shall be in addition to the requirements in Section 5.0.2.1.
- 7.7.1.8 All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the town shall be as limited as possible. All wireless communications facilities shall be painted, colored, and/or constructed in such a way as to minimize the visual impact of the wireless communication facility on adjacent abutters, residential neighbors and other areas of town. The Planning Board may impose reasonable conditions to ensure this result, including painting, landscaping, lighting and the precise location of the facility on the lot.
- 7.7.1.9 Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the town and of abutting properties.
- 7.7.1.10 There shall be no signs associated with a wireless communications facility except: a sign identifying the facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24) hour basis; a no trespassing sign; a sign displaying the FCC registration number; and any signs required to warn of danger. All signs shall comply with the requirements of the Wales Zoning Bylaw.
- 7.7.1.11 Lighting of towers shall be prohibited unless required by the Federal Aviation Administration (FAA). Any lighting of a tower shall be in accordance with the minimum required by the FAA. Lighting of the area around the tower, including buildings, may be allowed only upon the finding by the Board that the lighting is required to ensure a safe and secure facility. All lighting shall be shielded to prevent undue impact on surrounding properties.
- 7.7.1.12 Existing on-site vegetation shall be preserved to the maximum extent practicable. Clearing of land shall be performed in a manner which will maximize preservation of natural appearance and conservation of natural resources and which will minimize marring of the landscape or silting of streams or wetlands.

## **7.7.2 Application Requirements**

- 7.7.2.1 The following application requirements are in addition to those set forth in Section 8.4. A complete application for a Wireless Communication Facility Special Permit shall include:



- 7.7.2.2 A landscape plan showing the proposed site before and after development including topography and screening proposed to protect abutters.
- 7.7.2.3 A color photograph or illustration of the proposed wireless communication facility including, but not limited to, the proposed tower with its antenna and/or panels. A rendition shall also be prepared illustrating a view of the proposed wireless communication facility from the nearest street or streets.
- 7.7.2.4 A description of the wireless communication facilities including, but not limited to, the height of any towers and antennas, access roads and power supplies, the type, size and number of transmitters and a technical report which demonstrates that the maximum height of the installation is the minimum feasible to provide the intended service.
- 7.7.2.5 The technical and other reasons for the proposed location, height and design including, but not limited to, a survey of all sites which are feasible for providing the intended services both within and directly adjacent to the Town of Wales and the reason(s) the proposed site was chosen over all alternative sites.
- 7.7.2.6 A survey of all preexisting structures, buildings or towers which are capable of supporting the equipment necessary to provide the intended service and a technical report which demonstrates why any such structure, building or tower cannot be used by the applicant.
- 7.7.2.7 A map of existing wireless communications facilities and wireless service coverage within Wales and within one (1) mile of the town boundary.
- 7.7.2.8 A map illustrating the service provider's existing and planned wireless communications facilities and wireless service coverage plan for the service area(s) including the Town of Wales.
- 7.7.2.9 A statement of the services to be supported by the proposed wireless communication facilities and a delineation on the Zoning District Map of all areas in Wales which will not be served by the proposed installation for the primary site and all alternate sites.
- 7.7.2.10 A description of the special design features utilized to minimize the visual impact of the proposed wireless communication facility in accordance with this bylaw.
- 7.7.2.11 A certification that the applicant possesses all necessary licenses to operate such a facility and has complied with all federal and state requirements to provide the proposed service.
- 7.7.2.12 Demonstration by the applicant that the proposal is in full compliance with the Massachusetts Wetlands Protection Act
- 7.7.2.13 Within thirty days after filing the application for any new tower or extension in height thereto, the applicant shall arrange to fly a balloon at the proposed site at the maximum height of the proposed installation on a weekend day during daylight hours for a period no less than eight (8) hours. The balloon shall be of size and color that can be seen from every direction for a distance of one mile. The applicant shall be responsible for publishing the date and location of the balloon(s) as a legal advertisement at least 14 days, but not more than 21 days before the flight in at least two different issues of a newspaper with a general circulation in the Town of

Wales. A copy of this notice shall be forwarded to the Planning Board and the Board of Selectmen at least fourteen (14) days prior to the planned flight.

- 7.7.2.14 Applicants proposing to erect wireless communication facilities on public or private land or structures shall provide evidence of contractual authorization from the Town of Wales (or other appropriate public entity, when applicable) to conduct wireless communication services on public or private property.
- 7.7.2.15 A plan outlining the return of the site to pre-existing condition shall be submitted as part of the application. A bond, in an amount the applicant estimates will be required to restore the site shall be required. The Planning Board must approve the amount of the bond and any terms and conditions of its release. The bond will be reviewed and updated at intervals of no more than five years. Said bond shall be held by the town and released at such time as the Planning Board determines that the conditions of the bond agreement have been satisfied.
- 7.7.2.16 The Special Permit Granting Authority may waive any application requirements it judges to be unnecessary to the review of a particular proposal for modification to an existing facility.
- 7.7.2.17 Applications for wireless communications facilities construction or installation require a provider of personal wireless services be a co-applicant (or sole applicant).

## **7.8 Adult Entertainment**

The operation of an adult theatre, bookstore or dance club (Adult Entertainment Establishment) shall require a Special Permit from the Special Permit Granting Authority (SPGA). The applicant for a Special Permit is subject to the rules as defined in SECTION VIII, Article 8.4 SPECIAL PERMITS.

The operation of an adult theatre, bookstore, or dance clubs shall not be situated within 500 feet of a residential use. In granting a Special Permit, the SPGA will provide that an adult theatre, bookstore or dance clubs will not be located within 1000 feet of the nearest boundary line of any educational or religious establishment, licensed day care center, Commonwealth or Town municipal building, public park/beach/playground, library, nursing home or hospital and any other adult establishment.

If the business allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed should not be closed off by curtains, doors or screens; all should be clearly seen from the center of the establishment.

No advertisement, display or other promotional material is to be visible to the public from any public way including but not limited to pedestrian walkways.

All adult dance clubs shall meet all provisions of Section 12B of Chapter 138 of the General Laws of Massachusetts (MGL).

Applicant restrictions: No Special Permit to operate an Adult Entertainment Establishment shall be issued to any person convicted of violating the provisions of Chapter 119, Section 63, MGL or Chapter 272, Section 28, MGL. This restriction shall apply to Owners, Officers, Directors and General Partners of the business entity.

Management restrictions: No person convicted of violating the provisions of Chapter 119, Section 63, MGL or Chapter 272, Section 28, MGL shall be employed to manage, operate an Adult Entertainment Establishment.

The duration of a Special Permit Issued for an Adult Entertainment Establishment use shall expire 12 months after from its date of issuance and shall be renewable upon submittal of a written request for such renewal. The SPGA shall consider the request and grant the renewal upon findings that the use has not had a deleterious effect on the surrounding neighborhood/area and there have not been any changes in the ownership or management of the Adult Entertainment Establishment use. (Approved 5/18/2008)

## **7.10 Large Scale Ground-Mounted Solar Photovoltaic Installations**

(Approved 12-12-17 as of 5-17-17)

### **7.10.1 Purpose**

The purpose of this bylaw is to ensure the safety and proper construction of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

### **7.10.2 Applicability**

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

### **7.10.3 Definitions**

**Building Inspector:** The local inspector of buildings designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

**Building Permit:** A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing large-scale ground-mounted solar photovoltaic installations.

**Large-Scale Ground-Mounted Solar Photovoltaic Installations:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250kW DC.

**On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the photovoltaic system in Direct Current (DC).

**Site Plan Review:** Review by the Site Plan Review Authority to determine conformance with local zoning ordinances or bylaws.

**Site Plan Review Authority:** For purposes of this bylaw, Site Plan Review Authority refers to the Town of Wales Planning Board.

**Zoning Enforcement Authority:** The person or board charged with enforcing the zoning ordinances or bylaws. (Approved 4-29-2020)

### **7.10.4 General Requirements for all Large Scale Solar Power Generation Installations**

The following requirements are common to all large-scale solar power generation installations whether or not to be sited in designated locations.

#### **7.10.4.1 Compliance with Laws, Ordinances and Regulations**

The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All building and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

#### **7.10.4.2 Building Permit and Building Inspection**

No large-scale solar photovoltaic installations shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

#### **7.10.4.3 Fees**

The application for a building permit for a large-scale solar photovoltaic installation must be accompanied by the fee required for a building permit. The site plan review authority may additionally require a review fee in accordance with its regulations.

#### **7.10.4.4 Site Plan Review**

Large-scale ground-mounted solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in Town of Wales By-Laws Section 7.10.6

#### **7.10.4.5 Special Permit**

Development of a large-scale ground-mounted solar photovoltaic installation in any area shall require a special permit in accordance with the Wales Zoning Bylaws in addition to site plan review. (Approved 4-23-2020)

### **7.10.5 General**

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

### **7.10.6 Required Documents**

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- a. A site plan showing:
  - i. Property lines and physical features, including roads, for the project site;
  - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures;
  - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the commonwealth of Massachusetts showing the proposed layout of the system, lighting, signage, utility connections, transformers, and any potential shading from nearby structures, natural features or vegetation;
  - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and overcurrent devices;
  - v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter; Specifically a Bill of Materials (BOM) being utilized including the name of manufacturer, part numbers, full descriptions, data sheets, other information as asked for by the Site Plan Review Authority.

- vi. Name, address license verification, and contact information for proposed system installer;
- vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- viii. The name, contact information and signature of any agents representing the project proponent; and
- b. Documentation of actual or prospective access and control of the project site (see also Section 7.12); (Approved 4-23-2020)
- c. An operation and maintenance plan (See also section 7.12);(Approved 4-23-2020)
- d. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose) including delineation of any wetland on or near the specific parcel(s) proposed for the installation;
- e. Proof of liability insurance, and
- f. Proof and Description of financial surety that satisfies Section 7.18.3
- g. A public outreach plan, including a project development timeline, which indicates how the project proponents will meet the required site plan review notification procedures and otherwise inform abutters and the community.

The Site Plan Review Authority may waive documentary requirements as it deems appropriate on a case by case basis.

### **7.11 Site Control**

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

### **7.12 Operation and Maintenance Plan**

The project proponents shall submit a plan for operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls (SWPP Plan), as well as general procedures for operational maintenance of the installation.

### **7.13 Utility Notification**

No large-scale ground-mounted solar photovoltaic installations shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

### **7.14 Dimension and Density Requirements**

#### **7.14.1 Setbacks**

For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- a. Front yard: the front yard depth shall be at least 200 feet.
- b. Side yard: Each side yard shall have a depth of at least 100 feet
- c. Rear yard: The rear yard depth shall be at least 50 feet, provided however, that where the lot abuts a Residential Housing, the rear yard shall be not less than 150 feet.

- d. Access roads or driveways shall be set back at least 25 feet from the side and rear lot lines.

#### **7.14.2 Appurtenant Structures**

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations shall be architecturally compatible with each other.

Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

#### **7.14.3 Size**

The area covered by the large-scale ground-mounted solar photovoltaic installation shall not exceed twenty acres, in aggregate, of all arrays, structures and building and shall not include wetlands. (App 8-6-18)

### **7.15 Design Standards**

#### **7.15.1 Lighting**

Lighting of large-scale ground-mounted solar photovoltaic installations shall be consistent with local, state and federal Law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be shielded from abutting properties. Lighting of the large-scale ground-mounted solar photovoltaic installation shall be directed downward and shall incorporate cut-off fixtures to reduce light pollution.

#### **7.15.2 Signage**

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with the Town of Wales Sign By-Law (Section 7.0). A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Large-scale ground-mounted solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the large-scale ground-mounted solar photovoltaic installation, or for safety considerations (warning signs, etc.)

#### **7.15.3 Utility Connections**

Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the large-scale ground-mounted solar photovoltaic installation underground, depending on appropriate soil conditions, shape and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

#### **7.15.4 Height**

Other than accessory buildings and appurtenant structures, no components of a large-scale ground-mounted solar photovoltaic installation shall exceed 15 feet in height.

### **7.16 Safety and Environmental Standards**

#### **7.16.1 Emergency Services**

The large-scale ground-mounted solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief and police chief.

Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the large-scale ground-mounted solar photovoltaic installation shall be clearly marked. The owner or

operator shall identify a responsible person for public inquiries throughout the life of the installation.

#### **7.16.2 Land Clearing, Soil Erosion, and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

Replanting of vegetation shall be considered post-construction if it would be safe and not hinder the operation of the Array System.

**7.16.2 (a)** If any portion of proposed project is in a priority habitat or estimated habitat of rare wildlife according to the Massachusetts National Heritage Endangered Species Program's (MA NHESP) BIOMAP2, the project must be reviewed and approved by MA NHESP before proceeding. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of LSGMSPI. Grading that substantially disturbs the existing soil profile and structure is prohibited. Sites shall be selected where construction may be accomplished without such earthwork. (8-6-18)

**7.16.2 (b)** To retain ecosystem services and protect the aesthetic and rural character of this town. If forestland is proposed to be converted to LSGMSPI, the plans shall designate thereon an area of unprotected forested land on same lot of a size equal to the total area of such installation. Such designated land shall remain in substantially its natural condition without alteration, including unauthorized forestry tree cutting until such time as the installation is decommissioned. The special permit may be conditioned make this requirement enforceable. (8-6-18) (Approved 4-23-2020)

**7.16.2. (c)** All fencing shall be placed a minimum of 6" above ground level to facilitate wildlife movement or to adhere to the Massachusetts Electrical Code whichever is more facilitative. (8-6-18) (Approved 4-23-2020)

#### **7.16.3 Landscape Maintenance**

Native plant species shall be used, with diverse species selected on a case-by-case basis, when landscaping and/or creating natural vegetation barriers to abutters. Use of plants identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources, is prohibited.

(App 8-6-18)

#### **7.16.4 Sound Levels**

The sound levels under normal operation conditions, measured at the boundary of the lot on which the installation is sited shall not be more than 10 decibels greater than would otherwise exist in the absence of such a facility.

### **7.17 Monitoring and Maintenance**

#### **7.17.1 Solar Photovoltaic Installation Conditions**

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained at a level acceptable to the Town Fire Chief, Town Police Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the large-scale ground-mounted solar photovoltaic installation and any access road(s), unless accepted as a public way.

#### **7.17.2 Modifications**

All material modifications to the large-scale ground-mounted solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

### **7.18 Abandonment or Decommissioning**

### **7.18.1 Removal Requirements**

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 7.18.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of the discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

### **7.18.2 Abandonment**

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property, after receipt of an appropriate court order, and physically remove the installation. As a condition of site plan approval, the applicant and the landowner shall agree to allow the Town entry to remove an abandoned or decommissioned installation. (Approved 4-23-2020)

### **7.18.3 Financial Surety**

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond, or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

### **7.18.4 Independent Engineer**

Upon request from the Planning Board, the proponent shall pay for a third-party Independent Engineer to review the site plan. (Approved 12-12-2017)



## **SECTION VIII: ADMINISTRATION**

### **8.0 ENFORCEMENT**

8.0.1 The Selectmen shall appoint a Building Inspector who shall enforce the zoning by-laws.

8.0.2 The Building Inspector shall withhold a building permit for the construction, alteration, or moving of any building or structure if the building or structure would, as constructed, altered or moved, be in violation of any zoning by-law; and no permit or license shall be issued for a new use which would be in violation of any zoning by-law.

8.0.3 The Building Inspector shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this Bylaw. If the Building Inspector is requested, in writing, to enforce any zoning by-law and said Inspector declines to act, he shall notify, in writing, (the party requesting such enforcement of his actions or refusal to act, giving his reasons therefore, within fourteen (14) days of receipt of said request.

8.0.4 Construction or operations under a building or special permit shall conform immediately to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit; and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

### **8.1 PENALTY**

Any person, firm, or corporation who violates disobeys, or refuses to comply with any of the provisions of these Bylaws shall be fined a sum not to exceed \$100.00 for each offense. Each day that such violation continues shall constitute a separate offense

### **8.2 ZONING BOARD OF APPEALS**

#### **8.2.0 Application Procedures**

Application is made on the ZBA application form available from the ZBA Clerk or the Town Clerk's office. Applications shall be filed with the Town Clerk, who will date and time stamp the completed application. No application is complete until the fee is paid. Application shall be in one original and the number of copies specified in the application. The application fee shall be the current fee determined by the Zoning Board of Appeals upon approval by the Board of Selectmen.

#### **8.2.1 Establishment**

As provided in Chapter 40A of the Massachusetts General Laws, as amended, the Selectmen shall appoint a Zoning Board of Appeals consisting of three (3) members, terms to be arranged so that one member's term shall expire each year. The Board shall annually elect a chairman and a clerk and may employ clerical help subject to appropriation. Any member may be removed by the Selectmen for good cause, following written charges and a public hearing. Vacancies shall be filled for unexpired terms in the same manner as original appointments. The Selectmen shall, if necessary, appoint associate

members which the chairman of the Zoning Board of Appeals may designate to sit on the Board in event of conflict of interest, inability to act, or absence of any regular Board member.

### **8.2.2 Powers**

The Board of Appeals shall have the power to hear and decide positions for administrative appeals, variances, and special permits as provided for in this Bylaw and in accordance with the Zoning Act, Massachusetts General Law, Chapter 40A.

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

Any person, any municipal officer, or any municipal board, aggrieved by any of the following may appeal under the provisions of M.G.L., Chapter 40A, Section 17, as amended:

8.2.3.1 A decision by the Board of Appeals; or

8.2.3.2 The failure of the Board of Appeals to take final action concerning any appeal, application or petition within the required time.

Any such appeal must be taken within twenty (20) days after the decision is filed with the Town Clerk.

## **8.3 ADMINISTRATIVE APPEALS**

8.3.1 The Board of Appeals shall hear and decide administrative appeals from:

8.2.3.1 Any person aggrieved by reason of an inability to obtain a permit or enforcement action from any administrative officer under the provisions of the Massachusetts General Laws, Chapter 40A;

8.2.3.2 Any person including any officer or board of the town or of any abutting town, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of the Massachusetts General Laws, Chapter 40A, or this Bylaw.

8.3.2 Any appeal shall be filed by the petitioner with the Town Clerk within thirty (30) days from the date of the order or decision which is being appealed. The notice of appeal shall specify the grounds for the appeal. A copy of the notice, including the date and time of the filing certified by the Town Clerk, shall be filed immediately by the petitioner with the Board of Appeals and with the officer or board whose order or decision is being appealed in accordance with the Zoning Act, Massachusetts General Laws, Chapter 40A, Section 15.

8.3.3 In accordance with the Zoning Act, Massachusetts General Laws, Chapter 40A, Section 15, the Board of Appeals shall hold a public hearing within sixty-five (65) days from the receipt of notice by the Board of such appeal. The Board of Appeals shall make a decision on the appeal within one hundred (100) days after the date of the filing with the Town Clerk.

## **8.4 SPECIAL PERMITS**

(Originally voted June 6, 1978)

Special Permits are requested for certain uses, structures, or conditions as specified in Section 4.0 General Use Regulations.

#### **8.4.1 Purpose**

Special permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic and environment, health and safety, property values, and the character of the Town among other things. The Special Permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and ensure the proposals are consistent with the purpose and intent of the Bylaw.

#### **8.4.2 Special Permit Granting Authorities**

The Planning Board and the Board of Selectmen shall have those special permit granting authorities specified in Section 4.1, Schedule of Use Regulations.

#### **8.4.3 Application Procedures**

8.4.3.1 Application is made on the form for special permits available from the Planning Board or Town Clerk's office. Applications shall be filed with the Town Clerk, who will date and time stamp the completed application. No application is complete until the fee is paid. Application shall be in one original and the number of copies specified in the application, each accompanied by a site plan drawn to scale, and showing the following as deemed necessary by the SPGA:

- a. Location and dimensions of the lot.
- b. Names of abutting streets and property owners.
- c. Locations, number of stories and intended uses of existing and proposed buildings and structures, including signs or other means of advertising.
- d. Parking, loading areas and driveways.
- e. Facilities for water supply, sewer, refuse, other waste disposal and surface water drainage.

8.4.3.2 The SPGA may waive any information requirements it judges to be unnecessary to the review of a particular plan because of the scale or scope of the project or inapplicability of requirements to a specific project.

8.4.3.3 Copies of rules and regulations are available from the Special Permit Granting Authority and are on file with the Town Clerk.

8.4.3.4 The Special Permit Granting Authority shall obtain with each submission, a deposit sufficient to cover any expenses connected with a public hearing and review of the special permit application, including the costs of any engineering or planning consultant services necessary for review purposes.

8.4.3.5 A review fee may be imposed only if:

- a. The work of the consultant consists of review of studies prepared on behalf of the applicant, and not of independent studies on behalf of the SPGA or others,
- b. The work is in connection with the applicant's specific proposal, and

c. All written results and reports are made part of the record before the SPGA.

8.4.3.6 A review fee maybe imposed only after the SPGA has complied with the Uniform Procurement Act, M.G.L c. 30B, and with the special account procedures set forth in M.G.L. c. 44, Section 53G.

#### **8.4.4 Special Permit Criteria**

Special Permits may only be issued after the Special Permit Granting Authority (SPGA) makes a finding that the proposed use is in harmony with the general purposes and intent of this bylaw, meets the specific regulations for the zoning district in which the use is located and complies with the specific regulations listed below.

The SPGA may grant a Special Permit authorized by this bylaw if it finds, when applicable that:

8.4.4.1 The proposed use would be suitably located in the neighborhood in which it is proposed and/or the total town, as deemed appropriate by the SPGA;

8.4.4.2 The proposed use will be reasonably compatible with the character and scale of other uses permitted as of right in the same district;

8.4.4.3 The use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories;

8.4.4.4 Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation within the site, and in relation to adjacent streets, property or improvements;

8.4.4.5 The proposed use shall comply with any and all additional special permit criteria or special use regulations imposed on individual uses in Section VII of this bylaw;

8.4.4.6 The proposed use will not create traffic congestion or impair pedestrian safety. Provision shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent street, property improvements;

8.4.4.7 The proposed use ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;

8.4.4.8 The proposed use will not create a significant adverse impact to the quality of surface water or groundwater during and after construction, and provision shall be made for maximizing groundwater recharge;

8.4.4.9 The design of the project shall provide for adequate methods of disposal and recycling of sewage, refuse or other wastes generated by the proposed use;

8.4.4.10 The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive uses through the use of screening or vegetated buffer zones;

8.4.4. 11 The proposed use ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow.

#### **8.4.5 Public Hearing**

8.4.5.1 In the case of every application for a special permit made to it under the provisions of this Zoning Bylaw, the SPGA shall hold a public hearing to consider the application in question and shall cause a notice thereof to be published in the local newspaper and by posting a notice in three conspicuous places including the Post Office, on the Bulletin Board in the Town Office Building, and one other location as determined by the Town Clerk, not less than fourteen (14) days before the day of such hearing. A copy of the notice shall also be sent by both regular and certified mail, postage prepaid, to the petitioner, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within three hundred (300) feet of the property/line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, and any other person or persons who in the opinion of the SPGA may be interested in such application. (Approved 4-23-2020)

8.4.5.2 Special permits shall only be granted following a public hearing held within sixty-five (65) days after an application for a special permit has been filed by the applicant with the Special Permit Granting Authority, a copy of which shall be filed by the applicant with the Town Clerk at the same time.

Said public hearing shall be held in accordance with Section II, Chapter 40A of the Massachusetts General Laws, as amended.

#### **8.4.6 Review Procedures**

Upon receipt of the special permit application, the SPGA shall simultaneously submit one (1) copy of said application and site plan to the Planning Board, Board of Health, Board of Selectmen, Zoning Board of Appeals, Highway Superintendent, Building Inspector/Zoning Enforcement Officer and Conservation Commission, for their review. One copy shall be retained by the Town Clerk for viewing by the public during office hours. Said Boards and Commission shall make recommendations as they deem appropriate and shall send copies thereof to the SPGA in accordance with Chapter 40A, Section II, of the Massachusetts General Laws, as amended. Failure of said Boards or Commission to make recommendation within thirty-five (35) days of receipt of the petition by said Board or Commission shall be deemed lack of opposition thereto. However, the SPGA shall not grant approval of an application for a Special Permit until these recommendations have been received or until expiration of the 35-day period. (Approved 4-23-2020)

#### **8.4.7 Special Permit Granting Authority Vote**

In accordance with Chapter 40A of the Massachusetts General Laws, as amended, the granting of a special permit shall require unanimous vote of the SPGA consisting of three (3) members or a vote of at least four members of a five-member board. Only members or alternates who have attended the public hearing may vote on whether or not to grant a Special Permit.

#### **8.4.8 Special Permit Expiration**

All special permits shall lapse two (2) years from the date of issuance, unless substantial use or construction has commenced. Included in the two (2) years shall be the time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A of the Massachusetts General Laws, as amended.

#### **8.4.9 Conditions, Safeguards, Limitations**

In granting a special permit, the Special Permit Granting Authority may, in accordance with M.G.L., Chapter 40A, impose conditions, safeguards, and limitations. Such conditions, safeguards, and limitations shall be in writing and may include but are not limited to the following.

- a. Setback, side and rear yards greater than the minimum required in this Bylaw;
- b. Screening of parking areas or other parts of the premises from adjoining properties or from streets by the use of walls, fences, plantings or other such devices;
- c. Limitations of size, number of occupants, method or time of operation or extent of facilities;
- d. Modification of the exterior design or appearance of buildings, structures, signs, or landscape materials.
- e. Additional parking, loading or traffic requirements beyond the minimum required in the Bylaw;
- f. Measures to protect against environmental pollution; and;
- g. Performance bond or other security to ensure that the project meets the conditions specified in the special permit.

#### **8.4.10 Transfer**

Where a Special Permit involving the construction of buildings has not been implemented by substantial construction, said permit shall not pass to future owners of the property without a public hearing and approval of the Special Permit Granting Authority.

#### **8.4.11 Document Distribution**

When a Special Permit has been granted, one copy each of the decision, conditions, and approved plans shall be filed with the Building Inspector/Zoning Enforcement Officer, Board of Selectmen, the Planning Board and the Town Clerk and one copy shall be returned to the applicant. The Planning Board may also distribute one copy each of the decision, conditions, and approved plans to the Historical Commission, Highway Department, Board of Health, Zoning Board of Appeals and the Assessors. The set of documents on file with the Town Clerk shall bear the endorsement of the Special Permit Granting Authority and certification that copies of the decision and related plans have been filed in accordance with this section.

#### **8.4.12 Time Schedule**

Special Permits shall only be granted following a public hearing which must be held within 65 days of the date the application was filed. The SPGA shall act within 90 days following the public hearing. Failure of the SPGA to make final action upon an application for a Special Permit within said 90-day period shall be deemed to be a granting of the Special Permit applied for.

#### **8.4.13 Change, Alterations, Expansion**

Any substantial change, alteration or expansion of a use allowed by special permit shall require a special permit from the appropriate Special Permit Granting Authority.

#### **8.4.14 Appeals on Special Permit Activity**

Any person, any municipal officer, or any municipal board, aggrieved by any of the following may appeal under the provisions of M.G.L., Chapter 40A, Section 17, as amended:

- a) a decision of the Special Permit Granting Authority (SPGA); or
- b) the failure of the SPGA to take final action concerning any application for a special permit within the required time.

Any such appeal must be taken within twenty (20) days after the decision is filed with the Town Clerk.

### **8.5 *VARIANCES***

#### **8.5.1 Authority**

The Zoning Board of Appeals may authorize upon appeal, or upon petition with respect to particular land or structures, a variance from the terms of this Bylaw.

### **8.5.2 Conditions**

Such a variance shall be granted only if all of the following conditions have been met:

8.5.2.1 Circumstances exist that relate to the soil conditions, shape or topography of the land or structures which especially affect such land or structures but do not generally affect the zoning district in which the land or structures are located.

8.5.2.2 Literal enforcement of the Bylaw will result in a substantial hardship, financial or otherwise.

8.5.2.3 The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

### **8.5.3 Applications**

All applications for variances shall be made in writing to the Zoning Board of Appeals and shall be accompanied by a plan indicating the following:

8.5.3.1 Location of premises showing dimensions, abutting properties with owner's names and addresses, abutting and nearby streets and ways, and the zoning of all properties shown.

8.5.3.2 Location and dimensions of all proposed structures.

8.5.4 If the rights authorized by the variance are not exercised within one (1) year from the date such variance was granted, they shall lapse and may be re-established according to Chapter 40A of the Massachusetts General Laws, as amended.

8.5.5 Variances shall only be issued following a public hearing held in accordance with Chapter 40A, Section 11 of the Massachusetts General Laws, as amended.

## **8.6 *AMENDMENT***

This Zoning Bylaw may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Chapter 40A of the Massachusetts General Laws, as amended.

## **8.7 *VALIDITY***

8.7.1 The invalidity of any section or provision of this Zoning Bylaw shall not invalidate any other section or provision thereof.

8.7.2 Any previous bylaws or parts thereof, inconsistent with this Bylaw, are hereby repealed.



## **SECTION IX: DEFINITIONS**

**Abandonment.** The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

**Accessory Building.** A detached building which: (a) is subordinate in area or extent to the principal building, (b) the use of which is customarily incidental and subordinate to that of the principal building, and (c) is located on the same lot as that occupied by the principal building. Agriculture. The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids hereof, including the breeding and grazing of any or all of such animals, bees and apiary products; fur animals, trees and forest products, fruits of all kinds, including grapes, nuts and berries; vegetables, nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

### **Adult Bookstore**

An establishment having as a substantial or significant portion of its stock in trade, books, magazine, video and other matter which are distinguished or characterized by their emphasis depicting, describing, relating to sexual conduct or sexual excitement as defined in MGL Section 31 of Charter 272 and which excludes minors by virtue of age.

### **Adult Dance Club**

An establishment which, as its principle form of entertainment, permits a person or persons to perform in a state of nudity as defined in MGL Ch. 272 Section 31.

### **Adult Theatre**

An enclosed building used for presenting materials distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272m section 31 and which excludes minors by virtue of age.

**Auto repair.** Any building, premises and land in which or upon which a business or service involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

**Bar.** A structure or part of a structure used primarily for the sale or dispensing of liquor by the drink.

**Base Flood.** The flood having a one per cent chance of being equaled or exceeded in any given year (also referred to as the 100-year flood).

**Bathing Beach.** A nearly level stretch of pebbles and/or sand beside a lake which may be man-made or created by the action of the water and which is maintained for recreational uses related to swimming.

**Blacksmith.** A person who makes horseshoes and shoes horses or an artisan who works in iron.

**Building.** A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. The word "building" shall be construed, where the context requires, as though followed by the words "or part or parts thereof." A porch is to be considered as part of a building when considering setbacks.

**Building, Detached.** A building having open space on all sides.

**Campground.** Any area or tract of land upon which two or more campsites are commercially located, established, or maintained for the occupancy of cabins, tents, trailers, or other camping outfits as temporary living quarters for recreational, educational or vacation purposes. Occupancy of campgrounds shall be temporary, falling between April 1 and November 30 of the same year.

**Campsite.** A plot of ground within a campground intended for the exclusive occupancy by a cabin, tent, trailer or other camping outfit under the control of a camper.

**Child Care Facility.** Centers that serve children under seven years of age or sixteen if the children have special needs, or school-age children (under fourteen years of age if they have special needs) in programs that are held before or after school hours or during vacation.

**Club.** A social, fraternal, religious, athletic, or political association or organization which operates solely for members and their guests.

**Dog Kennel.** Any facility in a dwelling, accessory structure (including runs, fences, and enclosures), or otherwise providing overnight accommodations for five (5) or more dogs for any private or commercial purpose.

**Dry Cleaning Establishment.** An establishment providing dry cleaning machines on the premises for rental use to the general public for dry cleaning purposes.

**Dwelling.** A building occupied as a residence for one or more families.

**Dwelling, Single Family.** A detached residential dwelling unit, designed for and occupied by one-family only.

**Dwelling, Duplex.** A detached building containing two (2) dwelling units with each unit containing its own sleeping, cooking and sanitary facilities.

**Dwelling, Multi-family.** A building containing more than one but not more than four (4) dwelling units with each unit containing its own sleeping, cooking and sanitary facilities.

**Family.** A family is any number of individuals related by blood, marriage, foster care or adoption living together as a single housekeeping unit, provided that a group of not more than five persons keeping house together but not necessarily related by blood or marriage shall be considered a family. This section, however, does not apply to non- related disabled persons as defined by any applicable Federal and/or State law and/or regulations.

**Family Home Day Care.** Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children shall not exceed six, including participating children living in the residence. Family home day care shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**Frontage.** The linear distance of a lot fronting on a single street measured continuously along one line between its side lot lines and their intersection with the street line. (See Diagram 9.0) Frontage must provide meaningful access to the parcel. That portion of a lot fronting on a discontinued or unconstructed road does not constitute frontage.

**Gas Station.** Any building, land area or premises, or portion thereof, used or intended to be used for retail dispensing or sale of vehicular fuels; and including as accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

**Golf course.** A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include club houses and shelters.

**Home Occupation.** Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

**Hospital.** A hospital is any institution, however named, whether conducted for charity or for profit, which is advertised, conducted or maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of diagnosis or medical or surgical treatment which is rendered within said institution.

**Horticulture.** The cultivation of a garden or orchard.

**Hotel.** A building operated by a duly licensed inn-holder where lodging is furnished or food is served to transient or permanent guests, and which has a public dining room and a general kitchen.

**Lattice Style:** A style of tower characterized by a latticework type of construction wherein the structure is much larger at its base (ground level) and grows smaller as it increases in height. The lattice style is in direct contrast with the monopole.

**Laundromat.** An establishment providing washing and/or drying machines on the premises for rental use to the general public for family laundering purposes.

**Lodging.** Facilities in which rental sleeping accommodations are provided and where meals may be supplied as part of the fee.

**Lot.** A parcel of land. In order to be used for building purposes, it must meet the criteria for a building lot.

**Lot, Buildable.** See lot, building.

**Lot, Building.** A parcel of land in one ownership meeting the dimensional requirements of this Bylaw in which such land is situated, and if occupied by a principal building and its accessory buildings, meeting the minimum yard requirements of that district, and defined on a plan or deed recorded in the Registry of Deeds.

**Lot, Corner.** A lot having at least two adjacent sides dividing it from a street right of way, provided that the interior angle at the intersection of such two sides is less than one-hundred thirty-five degrees (135%).

**Lot, Frontage.** The length of the front lot as measured along the property line dividing a lot from a street right of way.

**Lot Line, Front.** The lot line separating a lot from a street right-of-way. (See Diagram 9.0.)

**Lot Line, Rear.** The lot line opposite the street line, except that in case of a corner lot, the rear lot line shall be the line opposite the street line of the street on which the building is numbered or would be numbered. (See Diagram 9.0.)

**Lot Line, Side.** The line dividing one lot from another. (See Diagram 9.0.)

**Manufactured Home.** A structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein, as defined in M.G.L. Chapter 140, section 32Q, as amended.

**Manufacturing.** A facility primarily for heavy or light industry and the manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and package. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities are permitted.

**Mobile Home.** Any vehicle or object, whether resting on wheels, jacks, or other foundation and having no motor of its own, but which is drawn by, or used in connection with a motor vehicle, and which is so designed and constructed as a dwelling unit which permits its transportation and relocation as a complete unit on its own wheels. This shall not include the type of vehicle known as a "camper trailer" or similar trailer designed for travel, recreational, and vacation use.

**Monopole:** A style of tower characterized by a single round pole having the general configuration of a flagpole. The monopole does not appear significantly larger at its base than at the point of maximum height

**Mortuary.** A place for the storage of human bodies prior to their burial or cremation.

**Motel.** An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

**Non-conforming Building or Structure.** A building or structure, lawfully existing at the effective date of this Bylaw, or any subsequent amendment to, which does not conform to one or more provisions of this Bylaw.

**Non-conforming Lot.** A lot lawfully existing at the effective date of this Bylaw, or any subsequent amendment to, which is not in accordance with all the provisions of this Bylaw.

**Non-conforming Use.** A use lawfully existing at the time of adoption of this Bylaw, or any subsequent amendment thereto, which does not conform to one or more provisions of this Bylaw.

**Nursing home.** A long-term care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**Off Premise Sign.** A sign that advertises a service or product not available at the location of the sign.

**On Premise Sign.** A sign advertising a service or product and available at the location of the sign.

**Principal Building.** A building in which is conducted the principal use of the lot on which it is located.

**Principal Use.** The main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it may be used, occupied or maintained under this by-law. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this by-law shall be considered an accessory use.

**Public Way.** Land maintained and certified for public use. See definition of Street.

**Recreation.** Leisure time activities whether active (usually of a somewhat formal nature and performed with others and often requiring equipment and taking place at prescribed places, sites or fields) or passive (generally not requiring extensive equipment or landscape alterations, e.g., hiking, bird watching, fishing, cross country skiing on open land, etc.).

**Recreational Facilities.** Establishments primarily engaged in the conduct of sports leisure time activities and other customary and usual recreational activities. Recreational facilities include campgrounds, boat storage and rental, bathing beaches, golf courses, ski tows, public riding stables, bowling alleys, and skating rinks whether operated as public, commercial, or private membership organizations.

**Repair shop.** Any building, premises and land in or upon which repair of household items except motor vehicles, including but not limited to lawnmowers, electrical appliances; radios and televisions; watches, clocks and jewelry; and furniture occurs.

**Residential Accessory Uses.** Uses of a building, structure, or premises that are customarily incidental to residential use by the Owner or Occupant of the building, structure or premises. See Table 4.1, Section 4.1.6 (Accepted Approved 11-12-14)

**Restaurant.** A business establishment where food and drink is prepared, served and consumed primarily within the principal building.

**Retail store.** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Service Establishments.** Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations including, but not limited to, carpet and

upholstery cleaning; beauty and barber shops; health clubs; photographic studios; museums; galleries; medical offices; and professional offices for attorneys, engineers and architects, auditors or dentist. Service establishments do not include the following uses: hospitals or nursing homes; public utilities; bank or other financial institution; newspaper office; data processing; mortuary; laundromat or dry cleaning establishment; saw, scissors or skate sharpening; key making establishments; repair shops; auto repair; retail stores or farm supply stores; restaurant, bar, theater, hall or club; hotels and motels; gas station; veterinary hospital; automotive sales; administrative or clerical offices, sail making; or ice making.

**Sign.** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**Sign, Area of.**

1. The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing.
2. The area of a sign consisting of individual letters or symbols attached to or painted on a surface building, wall or window, shall be considered to be that of the smallest quadrangle or a triangle which encompasses all of the letters and symbols.
3. The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross-section of that object.
4. In computing the area of signs, one side of back-to-back signs shall be included.

**Sign, Temporary.** Any sign, including its support structure, intended to be maintained for a continuous period of not more than sixty (60) days in any calendar year.

**Site.** Any plot or parcel of land or combination of contiguous lots or parcels of land.

**Ski tow.** Lifts or other facilities for moving skiers or others within an area developed for snow skiing.

**Special Permit.** A process which allows the Town to conduct a more detailed review of certain uses and structures which may have a significant impact on their surroundings and ensures proposals are consistent with the purposes of the Zoning Bylaw as specified in Section IV of this Bylaw. Such special permit shall be issued in accordance with provisions of Section 8.4 of this Bylaw.

**Special Permit Granting Authority.** The special permit granting authority for the town of Wales, Massachusetts shall be the Planning Board or Board of Selectmen as provided in Section IV and Section VIII of this Bylaw.

**Street.** A public way, a private way shown on a plan approved under the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in Wales or sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the abutting land or land to be served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**Structure** A combination of materials assembled at a fixed location to give support or shelter, such as' a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, mast for radio antenna, or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part or parts thereof."

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

**Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

**Theater.** A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.

**Trailer.** Any vehicle which is or can be used for sleeping, living or working, or quarters and which is, has been, or can be mounted on wheels.

**Variance.** Such departure from the terms of this Bylaw relating to structures, front yard, side yards, frontage requirements and/or lot size as the board of appeals, upon appeal in specific cases, is empowered to authorize under the terms of Section VIII. A variance is granted because strict enforcement of the zoning by-law as it applies to a specific lot would cause an undue hardship and present site-specific practical difficulties that are not relevant to other lots in the district. Use variances are not permitted.

**Veterinary hospital.** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

**Viticulture.** The cultivation of grapes.

**Wireless Communication Facility:** A general term to include buildings, devices such as antennas, panels, and dishes, and structures such as towers used by commercial or public utility companies to facilitate wireless communications including cellular telephone service, personal communications service, enhanced specialized mobile radio service and similar uses.

**Yard.** A portion of a lot upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof. (See Diagram 9.0.)

**Yard, Front.** A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line. (See Diagram 9.0.)

**Yard, Rear.** A yard, except by a necessary structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**Yard, Side.** Yard extending for the full length of a building between the nearest building wall and the side lot line. (See Diagram 9.0.)





## Definitions Diagram 9.0

