

Chapter 200
ZONING

ARTICLE I
Authority and Title

§ 200-1. Statutory authority.

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and for each of the purposes specified therein, the Town Board of the Town of Wales, County of Erie and State of New York, has ordained and does hereby enact this chapter regulating and restricting the location, size and use of buildings and other structures and the use of land in the Town of Wales.

§ 200-2. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Wales."

ARTICLE II
Terminology

§ 200-3. Word usage.

For the purpose of this chapter, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular. The word "person" includes a firm, partnership or corporation as well as an individual. The word "used" shall be interpreted to include the term "designed or intended to be used." The term "shall" is always mandatory.

§ 200-4. Power of Interpretation

In instances where the provisions of this Code do not expressly address a specific use, standard, definition, or situation, the Code Enforcement Officer shall have the authority to interpret the Code. Such interpretations shall be guided by the intent and purpose of the Code, and may take into account similar provisions within this or other municipal codes, relevant New York State laws and regulations, and recognized planning and zoning principles. All interpretations shall be documented in writing and made available upon request. Any person aggrieved by an interpretation of the Code Enforcement Officer may submit an appeal to the Zoning Board of Appeals pursuant to the procedures set forth in Article XI Board of Appeals.

§ 200-5. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING — A subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an "accessory building" is attached to the main building in a substantial manner, as by a wall or roof, such "accessory building" shall be considered part of the main building in determining yard requirements.

ACCESSORY USE — A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall an "accessory use" dominate, in area, extent or purpose, the principal building.

AGRICULTURE — A use customarily defined as farming, dairying, pasturage, agriculture, horticulture, viticulture, animal and poultry husbandry, and the sale of such products by one engaged in agriculture. **[Added 8-14-2007 by L.L. No. 4-2007]**

AIRPORT, PRIVATELY OWNED — Any landing areas used for receiving or discharging passengers or cargo; any landing area being used for personal or training purposes; and any locality, either of land or water, which is used or intended to be used for the landing and takeoff of aircraft, whether or not facilities are provided for shelter, servicing or repair. **[Added 12-8-1998 by L.L. No. 2-1998]**

ALTERATIONS — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

ANTENNA — A system of electrical conductors that transmit or receive frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, digital and/or data communications, personal wireless communications services (PWS) and microwave communications. **[Added 4-9-1997 by L.L. No. 2-1997]**

ASSEMBLY HALLS — A structure or part thereof used for purposes of any form of public or private assembly: religious, secular, social, recreational, professional or governmental, profit or nonprofit.

AUTOMOTIVE JUNKYARD — As provided in Chapter 120, Junkyards and Junk Dealers.

BARN — A structure customarily used in farming, dairying, agriculture, horticulture, viticulture, and

animal and poultry husbandry.[**Added 8-14-2007 by L.L. No. 4-2007**]

BED-AND-BREAKFAST INN — An owner-occupied building designed, use and occupied as a single-family residence having, as an accessory use therein, public lodging rooms and facilities for preregistered short-term transient guests.[**Added 5-11-1993 by L.L. No. 1-1993**]

BOARDING- OR ROOMING HOUSE — The furnishing of meals and/or living accommodations for four or more persons on a weekly or longer time basis for compensation.

BUILDING COVERAGE — The horizontal area of a lot covered by buildings, measured to the outside of walls.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

CAMPING GROUND — Land used for temporary overnight accommodations in tents, trailers or other nondwelling arrangements. This term does not include mobile home courts.

CERTIFICATE OF OCCUPANCY — A certificate issued by the Building Zoning Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this chapter and such adjustments thereto granted by the Board of Appeals.

CLUSTER DEVELOPMENT — A development of residential lots, each containing less area than the minimum lot required for the zone within which such development occurs but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.

COMMERCIAL GARAGE — Any building, structure or lot which is used for the repair, maintenance or equipping of motor vehicles.

COMMERCIAL RECREATION — The use of land or structures thereon for recreational functions or purposes for the use of the general public or enrolled membership and operated for gain.

DRIVEWAY — A road or right-of-way, usually private, extending from a street or other public thoroughfare to a building, house, garage or other fixed structure.[**Added 10-11-2016 by L.L. No. 3-2016**]

DWELLING — A building used as the living quarters for one or more families.

DWELLING GROUP — A group of two or more dwellings located on the same lot and having any yard or open space in common.

DWELLING, MULTIFAMILY — A building or a group of buildings on one lot containing three or more dwelling units or two or more buildings with one or more dwellings on one lot.

DWELLING, ONE-FAMILY — A building containing one dwelling unit.

DWELLING, TWO-FAMILY — A building containing two dwelling units.[**Amended 12-8-1998 by L.L. No. 2-1998**]

DWELLING UNIT — A structure or part of a structure containing a room or rooms designed for human occupancy by one family and including customary kitchen facilities.

FACILITY -- Any building, structure, or area used for a specific function or activity, including but not limited to educational, recreational, governmental, utility, medical, or institutional uses. This definition may include accessory structures or areas associated with the primary function of the facility.

FAMILY — One person or more than one person related by birth, marriage or other domestic bond, occupying and maintaining a dwelling unit intended as a permanent residence and living as a single, nonprofit housekeeping unit.

FARM — A parcel of land and on-farm buildings, equipment, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise. For the purposes of this Code, a farm may consist of one or more parcels of owned or leased land, which may be contiguous or non-contiguous, and shall be operated by a single farm business. Land qualifying as a farm shall generally meet the requirements set forth in NYS Agriculture and Markets Law Article 25-AA.

FARM BUILDING OR USE — Any use of land or buildings customarily a part of farm or agricultural pursuits, including the housing of farm animals, except fur-bearing animals, the repair of equipment used on the premises and the sale of farm products where such is clearly incidental to the overall use of the premises as a farm.

FENCE — Any structure, regardless of composition, except a living fence, that is erected or maintained for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions.

FLAMMABLE LIQUID — A liquid having a flash point below 200° F., closed-cup tester. Class I "flammable liquids" (e.g., gasoline, ether and liquid petroleum gas) are those having a flash point below 25° F. Class II "flammable liquids" are those having a flash point below 70° F. but not below 25° F.

GARAGE, PRIVATE — An accessory building or portion of a main building used for the storage of automotive vehicles used by the occupants of the premises.

GARAGE, PUBLIC — Any garage other than a private garage, available to the public, operated for gain and used for motor vehicle storage, repair, rental, servicing, adjusting or equipping.

GASOLINE SERVICE STATION — A building, structure or tract of land used for the storage and sale of gasoline, motor fuel, lubricants, accessories, supplies and any other materials related to the maintenance or equipment of automobiles or in which repairs, adjustments, maintenance or the equipping of automobiles is conducted. The term shall include, without limitation, the rendering of the following services: fueling or changing oil, water, batteries or tires; replacing fan belts, air filters or oil filters; and installing windshield wiper blades or light bulbs. The term shall not include any such establishment which renders such services or stores such materials for a single commercial or industrial establishment rather than offering such services and materials to the public.

GROUND FLOOR AREA OF DWELLING — The projected plan area of the dwelling enclosed for year-round use, exclusive of garages, carports, open porches and verandas, and exclusive of accessory buildings, whether attached or detached.

HEIGHT — In regard to fences, the distance measured from the existing grade to the top of the fence.

HOME OCCUPATION — An accessory use, of a service character, conducted within a dwelling by the residents thereof, which occupation is clearly secondary to the use of the dwelling for the living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a permitted nameplate, and in connection with which there is not involved the keeping of a stock-in-trade. The following occupations, such as, but not limited to, are deemed home occupations: teaching of voice or individual musical instruments, computer services, bookkeeping, accounting and manufacturers' representatives. **[Amended 12-8-1998 by L.L. No. 2-1998]**

HOME PROFESSIONAL OCCUPATION — The office of a member of a recognized profession when conducted on residential property; such occupations shall include but not be limited to those of doctors, lawyers, architects, engineers, artists, ministers and other recognized professional persons.

HOTEL or LODGING HOUSE — A building containing sleeping rooms for five or more persons, which rooms are available to the public for less than a week at a time for compensation, with no cooking or dining facilities except a general kitchen and public dining room.

JUNKYARD — An area, lot or unenclosed shed where junk, waste or discarded salvaged materials

are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including auto wrecking or dismantling yards, house wrecking yards, used lumber yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, for processing of used, discarded or salvaged materials as part of manufacturing operations or for the sale, purchase or storage of used motor vehicles or salvaged machinery to be reused for the purpose for which originally manufactured.

KENNEL — Any premises on which four or more dogs over six months of age are kept.

LOT — A parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same. A "lot" within the meaning of this chapter may or may not be a lot as shown on a subdivision plat, assessment record or recorded deed.

LOT AREA — The net area contained within lot lines.

LOT LINES — The property lines bounding the lot by legal description. The "front lot line" shall be measured at the edge of the right-of-way of the highway giving access to the lot. In the case of a corner lot, the owner may designate either street line as the "front lot line" and shall maintain the minimum setbacks from the edge of each right-of-way. The "rear lot line" shall be the lot line most distance from the front lot line.**[Amended 12-8-1998 by L.L. No. 2-1998; 8-26-2008 by L.L. No. 8-2008]**

LOT WIDTH — The least horizontal distance across the lot between side lot lines measured at the nearest street or highway center line.

MOBILE HOME — Any vehicle or combination thereof used, designed for use or capable of being used for sleeping or living quarters for one or more persons, designed to be moved from one location to another by means of wheels affixed to an axle or carriage affixed to the vehicle, whether propelled by its own power or by the power of another vehicle to which it may be attached, and whether the axle or carriage to which the wheels may be affixed is detachable or detached, and irrespective of the name or title assigned or designated by the manufacturer of the unit or any other persons.

MOBILE HOME PARK — Any plot of ground on which two or more occupied mobile homes are located, whether or not a charge is made for such accommodations.

MOTEL — A building or group of buildings used primarily as sleeping or living quarters for transient automobile travelers and providing for accessory off-street parking but with no cooking facilities except in a restaurant or caretaker's unit. The term includes auto courts, cabin courts, motor lodges, tourist courts and similar appellations, but not trailer camps.

NONCONFORMING USE — Lawful occupancy of a structure or land by a use or activity which was lawful prior to the adoption or amendment of this Chapter 200, Zoning, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

NURSERY SCHOOL — Use of a building or lot or part of a building or lot for nursery or other care of more than five children under six years of age not residing on the premises and conducted on a regularly scheduled basis.

NURSING HOME — Use of a building for nursing care of two or more persons not related to the operators by family ties and done for compensation.

OFF-STREET LOADING SPACE — An unobstructed area having access to a street suitable for the loading or unloading of motor transport vehicles with minimum dimensions of 12 feet in height, 10 feet in width and 50 feet in depth.

OFF-STREET PARKING SPACE — An unobstructed area having access to a street suitable for the parking of passenger motor vehicles and with minimum dimensions of 10 feet in width and 20 feet in depth.

PERSONAL SERVICE ESTABLISHMENT — An office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a barber, beautician, tailor or dressmaker.

PLANNED COMMERCIAL RECREATION DEVELOPMENT — The development of a parcel of land for recreational use operated for gain in a planned unit concept whereby the area may contain diverse recreational facilities, together with accessory service uses, such as food, lodging, amusement, specialized related rental sales and parking facilities.

PROFESSIONAL OFFICE — When operated as a permitted accessory use in a residence district, a room or rooms on the same lot as the residence of a professional doctor, dentist, engineer, architect or other recognized professional, used as a place of business for such profession in a manner clearly accessory to the dwelling use of the lot.

PUBLIC UTILITY USES — [Added 4-9-1997 by L.L. No. 2-1997]

- A. A private business, person or persons, often a monopoly, which provide services so essential to the public interests as to enjoy certain privileges, such as eminent domain, which are subject to governmental regulations, such as the fixing of rates and standards of service, including regulation by the New York State Public Service Commission, the Federal Communications Commission or other such agency. Characteristics of a public utility include:
 - (1) The essential nature of the service offered must be taken into account when regulations seek to limit expansion of facilities which provide the service;
 - (2) Operation under a franchise, subject to some measure of public regulation; and
 - (3) Logistic problems, such as the fact that the product of the utility must be piped, wired or otherwise served to each user and the supply must be maintained at a constant level to meet minute-by-minute need, and the user has no alternate source, and the supplier commonly has no alternate means of delivery.

- B. Public utility services shall include electric, gas, water, sewer, fuel oil and telephone services.

SEASONAL BASIS — The conducting of a use for a period not exceeding eight months in any calendar year.

SETBACK — The least distance from any building to the front lot line or the adjacent boundary of the existing or platted street or highway or right-of-way, whichever is greater.[Amended 12-8-1998 by L.L. No. 2-1998; 8-14-2007 by L.L. No. 4-2007]

SIGN — Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any structure or surface, but not including signs placed or erected by the Town of Wales, the County of Erie or the State of New York for the purpose of showing street names or traffic directions or regulations or for other public purposes.

SIGN AREA — The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the "area" shall be defined as a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines said sign.

SITE PLAN — A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way and boundaries, all essential dimensions and bearings and any other information deemed necessary by the Town Board.

SPECIAL PERMIT USES — A use requiring the additional standards and approval as specified in Article VII.

STORY — That portion of a building between the surface of any floor and the surface of the floor next

above it or, if there is no floor above it, then the space between any floor and ceiling next above it. A basement shall be counted as a "story" for purposes of height measurement if the ceiling is more than five feet above the average adjoining ground level. A "half-story" is a story under a sloping roof, having a ceiling height of seven feet or more or not exceeding 1/2 the floor area of the uppermost full story in the building.

STRUCTURE — Anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

STRUCTURE ALTERATIONS — Any change in the supporting members of a building or other structure, such as bearing walls, columns, beams or girders.

SUBDIVISION — Any tract of land which is divided into five or more parcels, effective August 1, 1977, along any existing or proposed street(s), highway(s), easement(s) or right(s)-of-way for sale or for rent as residential lots or residential building plots, regardless of whether the lots or plots to be sold or offered for sale or lease for any period of time are described by metes or bounds or by reference to a map or survey of the property or by any other method of description and regardless of whether the lots or plots are contiguous. A tract of land shall constitute a "subdivision" upon the sale, rental or offer for sale or lease of the fifth residential lot or residential building plot therefrom within any consecutive three-year period, and the same shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold, rented or offered for sale or lease, either singly or collectively. The word "tract" shall mean any body of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan. "Residential building plot or lot" shall mean any parcel of land of five acres or less, any point on the boundary line of which is less than 1/2 mile from any point on the boundary line of another such lot in the same tract, unless any such lot may not legally be used for residential purpose. Without limiting the generality of the foregoing, the term "residential" shall include temporary, seasonal and permanent residential use. "Subdivision" does not include any parcel of land acquired as one parcel for the residential purposes as provided in the New York Public Health Law § 1115-a.

TELECOMMUNICATIONS FACILITIES — Towers and/or antennas and their accessory structures together used in connection with the provision of cellular telephone service, personal communications services, digital and/or data communication services, paging services, radio and television broadcast services and similar broadcast services. (Also referred to as "facilities" or "equipment.") The aforementioned accessory structures are nonhabitable buildings or structures being used in conjunction with a tower or other telecommunications facility, and which are usually located on the same lot as those facilities. Examples of such structures include utility or transmission storage sheds or cabinets. **[Added 4-9-1997 by L.L. No. 2-1997]**

TOWER — A structure designed to support antennas. It includes, without limit, freestanding towers, guide wires, monopoles and similar structures which do or which do not employ camouflage technology. **[Added 4-9-1997 by L.L. No. 2-1997]**

TRAVEL OR CAMPING TRAILER — Any New York State Licensed Vehicle permanently licensed and mounted on wheels used exclusively for camping and traveling, either the folding box-type with a tent that opens or a metal shell that can be easily towed by any ordinary automobile on the highway, and shall not be deemed a house trailer under the definitions of this article.

USABLE OPEN SPACE — An area on a lot with a main building, unbuilt on and open to the sky, of such shape, location and character as to be usable for laundry drying, recreational use by small children or other dwelling accessory use, but not to be used for vehicle parking.

USE — The specific purposes for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

WASTE — As provided in § 27-0303, Subdivision 7, and § 27-0901, Subdivision 11, of the New York Environmental Conservation Law.

- A. DISPOSAL — As provided in § 27-0303, Subdivision 1, of the New York Environmental Conservation Law.
- B. INDUSTRIAL-COMMERCIAL WASTE — As provided in § 27-0303, Subdivision 2 of the New York Environmental Conservation Law.
- C. REGULATED WASTE — As provided in § 27-0303, Subdivision 4, of the New York Environmental Conservation Law.
- D. SOLID WASTE — As provided in § 27-0701, Subdivision 1, of the New York Environmental Conservation Law.

YARD, FRONT —

- A. An open space extending the full width of the lot between a main building, structure or portion thereof and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least horizontal distance between the front lot line and the front of such main building.
- B. All corner properties adjacent to a public street, alley or highway shall also be considered as a "front yard" for purposes of this chapter. However, this definition shall specifically not apply for purposes of swimming pool protection.

YARD, REAR — An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least horizontal distance between the rear lot line and the rear of such main building.

YARD, SIDE — An open space extending from the front yard or the rear yard between a main building, structure or portion thereof and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward, except as hereinafter specified. The required width of the "side yard" shall be measured horizontally from the nearest point of the side lot line to the nearest building.

ARTICLE III
Districts

§ 200-6. Establishment of districts.

The Town of Wales is hereby divided into the following types of districts:

- A = Agricultural District
- R = Residential District
- B = Business District
- M = Manufacturing District

§ 200-7. Zoning Map.

Said districts are bounded and defined as shown on a map entitled "Zoning Map, Town of Wales, Erie County, New York," which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.¹ Said Zoning Map shall show the effective date of this chapter and of each subsequent amendment to said map and shall be duly certified by the Town Clerk.

§ 200-8. Interpretation of boundaries.

- A. District boundary lines are intended to follow property lines or the extensions thereof, center lines of streets or highways or other lines located on the map by appropriate descriptions and dimensions. Boundaries indicated as following railroad lines shall be construed to be midway between main tracks. Boundaries indicated as following stream lines shall be construed to follow the center line of the stream. Boundaries indicated as parallel to or extensions of the above features shall be so construed. Where the district boundary is at a uniform distance from the highway, does not follow lot lines and is not otherwise dimensioned, the boundary shall be construed as 300 feet from the highway right-of-way.
- B. Whenever it shall be unclear as to the exact location of a district boundary line, the Board of Appeals shall determine the location of such boundary line using the provisions of Subsection A and the graphic scale of the Zoning Map.

§ 200-9. Schedule of Area, Lot and Bulk Requirements.²

- A. All development and land use in the Town of Wales shall conform to the dimensional and bulk requirements set forth in the Bulk Schedule Chart. This chart applies uniformly across all zoning districts unless specific exceptions are provided elsewhere in this code. The Bulk Schedule Chart is included as an attachment to the zoning code and is available for public review online and at the Town Clerk's office.
- B. All principal buildings and accessory structures must comply with these setback and height limitations unless otherwise specified.
- C. Maximum lot coverage refers to the percentage of the lot that may be covered by buildings and impervious surfaces.
- D. Exceptions may be granted through a variance where appropriate.

ARTICLE IV
Regulations Applicable in All Districts

§ 200-10. Compliance with regulations required.

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.
- B. Building, site development, or activities related to the use, occupation of property, and the improvement thereof is not permitted until the issuance of all required permits have been filed and approved, including, but not limited to, building permits, special use permits and permits subject to development of the property. [Added 10-11-2011 by L.L. No. 4-2011; 10-13-2020 by L.L. No. 3-2020]

§ 200-11. Compliance with restrictions required.

Except as hereinafter provided, no building shall hereafter be erected or altered to a greater height, to accommodate or house a greater number of families, to have any yard or setback less in width or depth or to have lesser floor area, in the case of dwellings, than is specified herein for the district in which such building is located.

§ 200-12. Yards and open space to be separate.

No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

§ 200-13. Reduction of required areas prohibited.

No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the minimum required under this chapter. If already less than the minimum required under this chapter, said area, dimension or capacity shall not be further reduced.

§ 200-14. Foundations and basements.³ [Amended 12-8-1998 by L.L. No. 2-1998]

- A. Habitable dwellings must be constructed on a continuous fully enclosed foundation extending below the frost line in accordance with the New York State Fire Prevention and Building Code and designed to be insect and vermin protective.
- B. A basement without superstructure shall not be considered a habitable dwelling and may not be granted a certificate of occupancy.

§ 200-15. Preservation of topsoil and other natural features.

- A. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building or paved parking area on such premises and excavation or grading incidental thereof; provided, however, that the Town Board may, by special permit, grant an application for such stripping where it finds such will not be detrimental to the adjoining land and building development.
- B. Existing natural features, including brooks and drainage channels, shall be retained. Whenever such features interfere with the proposed use of such property, a retention of the maximum amount of such

features consistent with the use of the property shall be required.

C. No structure shall be built within 50 feet of the bed of a stream or on land subject to periodic overflow.

§ 200-16. Lot frontage on proposed rights-of-way.

Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

§ 200-17. Storage of equipment in front yards.

No front yard shall be used for the open storage of boats, vehicles, travel trailers or any other equipment except for vehicular parking on driveways.

§ 200-18. Business displays in front yards.

Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this chapter.

§ 200-19. All required areas to be in zone of permitted use.

All yards, open space, off-street parking and required landscaping must be contained within the zone in which the use is permitted.

§ 200-20. Parking of commercial vehicles.

Not more than one commercial vehicle shall be parked out of doors overnight or on Sunday in conjunction with a residential property in a residential zone except pickup trucks one ton or less used for personal transportation. No display vehicles for commercial purposes shall be parked in any district.

§ 200-21. Corner and through lots.

For the purpose of regulating the locations of accessory buildings on corner lots and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.

§ 200-22. Principal buildings. [Amended 12-8-1998 by L.L. No. 2-1998]

- A. No lot shall have erected upon it more than one principal building without a special use permit.
- B. Every principal building shall be built upon a lot with appropriate frontage for that zone on a public street improved to meet the Town's requirements.

§ 200-23. Accessory buildings. [Amended 10-11-2016 by L.L. No. 3-2016]

An accessory building attached to a principal building shall comply in all respects with the yard requirements for the principal building. Detached accessory buildings located less than 300 feet from the front lot line shall be located to the rear of the front building line of the principal building. Accessory buildings located more than 300 feet from the lot line may be constructed in front of the principal building and in conformance with building setbacks listed elsewhere in this code. Detached accessory buildings, if located in a side yard area, shall conform to the side yard requirements of this chapter.

§ 200-24. Subdivisions. [Amended 12-8-1998 by L.L. No. 2-1998]

A subdivision of land must be carried out in such a manner as will not infringe upon any of the provisions of this chapter, whether with respect to any existing structure or use or any proposed structure or use subject to the following:

- A. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building.
- B. No existing lot shall be so divided which will result in a lot or lots which are not in compliance with the Schedule of Area, Lot and Bulk Requirements for the district in which the property is located.⁴
- C. Any subdivision of property must be certified to comply with the Schedule of Area, Lot and Bulk Requirements for the district in which the property is located by the Code Enforcement Officer prior to transfer.

§ 200-25. Public utilities. [Amended 4-9-1997 by L.L. No. 2-1997]

The provisions of this chapter shall not apply to the customary local utility distribution, transmission or collection lines for water, gas, fuel oil, sewer, electric or telephone services. However, facilities such as pumping stations, repeater stations, electric substations, towers, antennas and telecommunications facilities which are located above grade may be permitted with a special permit. The siting of telecommunications facilities shall be governed by Chapter 100.

§ 200-26. Individual mobile homes.

Individual mobile homes on individual lots outside a mobile home court may be permitted in an A or R District, provided that such lots are in conformity with the applicable lot, yard and similar regulations for single-family residences within the zone in which the mobile home is located, and provided that the following regulations are met:

- A. A permit shall be applied for to the Town Board. Such permit shall include the exact location, together with the name and address of the owner or owners of the land at such location as appearing on the deed to such landowners, together with the book and page where such deed is recorded and such other information as may be required by the Town Board. A permit may be issued only if the applicant evidences an intent to construct a one-family dwelling on the subject premises and has received a building permit from the Building Zoning Officer. Said permit shall not be granted for more than one year.
- B. A permit for the mobile home will not be issued until provisions for a potable water supply and a sewage disposal system approved by the Erie County Health Department are in place and functional.
- C. In the event that the construction of a residence has been substantially completed except for the issuance of a certificate of occupancy, the Town Board may, upon good cause shown, extend the permit on a month-to-month basis, subject to termination upon the issuance of a certificate of occupancy for the constructed dwelling.
- D. The Town Board may, upon notice and proper hearing, revoke or suspend any permit issued pursuant to the terms of this section for a violation of any provisions hereof. Upon the revocation of any such permit, the mobile home covered thereby shall forthwith be removed from the subject premises.
- E. Upon completion of construction of the permanent dwelling and issuance of a certificate of occupancy for the constructed dwelling, the mobile home shall forthwith be removed from the subject premises.

§ 200-27. Farm operations and animal housing.⁵ [Amended 12-8-1998 by L.L. No. 2-1998; 6-11-2013 by L.L. No. 1-2013]

For purposes of this section, "animals" are defined as domestic animals, such as cows, horses, pigs, sheep,

goats, etc.

- A. Farms over 10 acres. Within 100 feet of any property line of a lot in any A, R or B District, no storage of manure or other odor- or dust-producing substance or use shall be hereafter established, and no building or pen shall be hereafter erected or changed in use to house or contain horses or other farm animals, more than 30 chickens or other fowl or a dog kennel. Within 250 feet of any residence on adjacent property, no fur farm, hog pen or commercial livestock feed lot shall be hereafter established or extended.
- B. Farms under 10 acres. Special use permits for animal housing shall be required from the Town Board subject to such conditions as the Town Board may impose regulating housing of animals, storage of manure or other odor- or dust-producing substances and consideration of neighbors and such similar restrictions as the Town Board may deem proper under the circumstances.

§ 200-27.2. Aesthetic provisions.

- A. In keeping with the desire of the overwhelming majority of residents of the Town of Wales to maintain the rural character of the Town, the following regulations are hereby incorporated into the Zoning Code of the Town of Wales, NY.
 - (1) All new or updated construction or development in the B or M Districts of the Town of Wales shall be commensurate with and complementary to the existing rural character of the Town.
 - (2) Design, construction materials, landscaping, buffering and overall appearance shall be reasonably aesthetically pleasing to the eye and compatible with the immediate surrounding area as well as the overall rural nature of the Town.
 - (3) All considerations, including but not limited to building size, shape, paint, exterior displays and adornments, as well as signage and lighting must comply with the appropriate regulations as listed elsewhere in this Code, with the additional consideration of aesthetic compatibility with the nature of the community.
 - (4) Builders and developers of any new or updated construction shall recognize and respect the need to maintain and preserve, where practically possible, open green space within their project.
 - (5) The final determination of satisfactory compliance with these aesthetic regulations shall be at the discretion of the Wales Town Board.

ARTICLE V
District Regulations

§ 200-28. R-Residential District.

- A. Permitted principal uses shall be as follows: **[Amended 12-8-1998 by L.L. No. 2-1998]**
 - (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Government buildings or uses deemed necessary and appropriate by the Town Board: schools (public or private nonprofit) accredited by the New York State Education Department.
 - (4) Farms
- B. Permitted accessory uses shall be as follows:

- (1) Private garages or storage buildings. No accessory building shall be occupied as a dwelling.
 - (2) Animal shelters for domestic house pets.
 - (3) Swimming pools.
 - (4) Home occupations.
 - (5) Professional offices in connection with the residence: i.e., lawyer, doctor, dentist, professional engineer and architect.
 - (6) One sign not larger than 15 square feet for churches or other nonprofit institutions or agencies and not larger than six square feet for any other purpose.
 - (7) Farming and gardening. Gardens, truck gardens, nurseries or greenhouses and any other crop farming, excluding farm animal operations and housing. **[Added 6-11-2013 by L.L. No. 1-2013⁶]**
 - (8) Roadside sales or display of vehicles or equipment for a period not to exceed 30 consecutive days and not to exceed two such thirty-day periods in each calendar year. Such sale or display is limited to items owned by the owner of the property upon which the display and sale takes place. **[Added 6-11-2012 by L.L. No. 2-2012]**
- C. Special permit uses shall be as follows: **[Amended 4-9-1997 by L.L. No. 2-1997; 12-8-1998 by L.L. No. 2-1998]**
- (1) Farm animal operations and housing on less than 10 acres. **[Amended 6-11-2013 by L.L. No. 1-2013]**
 - (2) Telecommunications facilities, which shall be governed by the provisions of Chapter 100.
 - (3) Schools (public or private nonprofit) accredited by the New York State Education Department.
 - (4) Churches and other similar places of worship, parish houses and other such facilities of recognized religious groups.
 - (5) Other uses which in the opinion of the Town Board and upon recommendation of the Planning Board are similar in nature to those permitted uses.

§ 200-29. A-Agricultural District.

- A. Permitted principal uses shall be as follows: **[Amended 12-8-1998 by L.L. No. 2-1998]**
- (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Farms and gardening. Farms, truck gardens, dairies, nurseries or greenhouses, farm structures and all other customary incidental agricultural occupations are permissible. Farms may consist of one or more parcels of owned or rented land, which parcels may or may not be contiguous with each other. **[Amended 6-11-2013 by L.L. No. 1-2013]**
 - (4) Recreational areas maintained by the State of New York, County of Erie or Town of Wales.
 - (5) Government buildings or uses deemed necessary and appropriate by the Town Board.
- B. Permitted accessory uses shall be as follows:

- (1) Private garages or storage buildings. No accessory building shall be occupied as a dwelling.
- (2) Animal shelters for domestic house pets.
- (3) Swimming pools.
- (4) Home occupations.
- (5) Professional offices in connection with the residence: i.e., lawyer, doctor, dentist, professional engineer and architect.
- (6) Roadside stands for sale of farm or home occupation products produced by the farm.
- (7) One sign not larger than 15 square feet for churches or other nonprofit institutions or agencies and not larger than six square feet for any other purpose.
- (8) ⁷Roadside sales or display of vehicles or equipment for a period not to exceed a period of 30 consecutive days and not to exceed two such thirty-day periods in each calendar year. Such sale or display is limited to items owned by the owner of the property upon which the display and sale takes place. **[Added 6-11-2012 by L.L. No. 2-2012]**

C. Special permit uses shall be as follows: **[Amended 4-9-1997 by L.L. No. 2-1997; 12-8-1998 by L.L. No. 2-1998]**

- (1) Farm animal operations and housing on less than 10 acres. **[Amended 6-11-2013 by L.L. No. 1-2013]**
- (2) Telecommunications facilities, which shall be governed by the provisions of Chapter 100.
- (3) Private airports.
- (4) Schools (public or private nonprofit) accredited by the New York State Education Department.
- (5) Churches and other similar places of worship, parish houses and other such facilities of recognized religious groups.
- (6) Nursing homes.
- (7) Veterinary hospitals or clinics.
- (8) Cemeteries.
- (9) Outdoor commercial recreation.
- (10) Other uses which, in the opinion of the Town Board and upon recommendation of the Planning Board, are similar in nature to those permitted uses.
- (11) Hospitality events. **[Added 10-11-2016 by L.L. No. 3-2016]**

§ 200-30. B-Business District.

A. All of the following uses, except one-family, two-family dwellings, and farms shall require a special permit in the B-Business District and shall be governed by the approved site development plan referenced in Article VII, Special Permit Uses: **[Amended 5-14-1996 by L.L. No. 3-1996]**

- (1) Schools (public or private nonprofit) accredited by the New York State Education Department.
- (2) Churches and other similar places of worship, parish houses, convents and other such facilities

of recognized religious groups.

- (3) Government buildings or uses deemed necessary and appropriate by the Town Board.
- (4) Nursing homes.
- (5) Veterinary hospitals or clinics.
- (6) Libraries.
- (7) Stores for retail merchandising and customary services incidental to retail sales, including repair service.
- (8) Banks, businesses or professional offices.
- (9) Assembly halls, auditoriums and membership clubs.
- (10) Tailor shops, dry-cleaning shops and self-service laundries.
- (11) Restaurants or other establishments serving food and/or beverage.
- (12) Commercial and recreational establishments such as bowling, dance, skating or theater.
- (13) Hotels, motels and lodging or boarding houses.
- (14) Automotive repair garages.
- (15) Personal-service shops such as barbershops or beauty parlors.
- (16) Undertaking establishments or funeral homes.
- (17) Telecommunications facilities, which shall be governed by the provisions of Chapter 100. **[Added 4-9-1997 by L.L. No. 2-1997]**
- (18) The maximum floor area (square feet) for any facility in the B-Business District shall be 50,000 square feet, determined by the building area as defined by the New York Uniform Fire Prevention and Building Code, as now enacted or hereafter amended. **[Added 6-25-2013 by L.L. No. 2-2013⁸]**
- (19) Other uses which, in the opinion of the Town Board and upon recommendation of the Planning Board, are similar in nature to those permitted uses. **[Added 12-8-1998 by L.L. No. 2-1998]**

B. Permissible accessory uses shall be as follows:

- (1) Parking areas, off-street.
- (2) Professional offices in connection with the residence: i.e., lawyer, doctor, dentist, professional engineer and architect.
- (3) Signs, as limited in § 200-55.
- (4) ⁹Garage for commercial vehicles. **[Added 12-8-1998 by L.L. No. 2-1998]**

§ 200-31. M-Manufacturing District.

A. All of the following uses shall require a special permit in the M-Manufacturing District and shall be governed by the approved site development plan referenced in Article VII, Special Permit Uses, provided that, to protect adjacent residential and commercial areas, it causes no dissemination of dust,

effluents, smoke, smog, radiation, observable gas, fumes or odors, waste accumulation, atmospheric pollution, objectionable noise, glare, vibration or other objectionable environmental condition, and, further, that it causes no hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site of the use: **[Amended 4-9-1997 by L.L. No. 2-1997; 12-8-1998 by L.L. No. 2-1998]**

- (1) Shops for custom work, such as cabinetmaking, carpentry, electrical and mechanical trades, plumbing, printing and similar light fabrication.
- (2) Light manufacturing; assembly and design of products, fabricating and assembly of materials, such as but not limited to cloth, plastic, paper, leather, metals, stone or wood.
- (3) Telecommunications facilities, which shall be governed by the provisions of Chapter 100.
- (4) Adult uses as indicated in § 76-1 of the Code of the Town of Wales.
- (5) Lumber yards and building materials yards.
- (6) Tool and die operations, machine and sheet metal shops.
- (7) Demolition and junkyards as indicated in Chapter 120 of the Code of the Town of Wales.
- (8) Other uses which, in the opinion of the Town Board and upon recommendation of the Planning Board, are similar in nature to those permitted uses.

B. Permitted accessory uses shall be as follows: **[Amended 10-1-1996 by L.L. No. 5-1996]**

- (1) Parking areas, off-street.
- (2) Professional offices in connection with the permitted use. **[Amended 12-8-1998 by L.L. No. 2-1998]**
- (3) Signs, as limited in §§ 200-55 and 76-3.
- (4) ¹⁰ Garage for commercial vehicles in connection with the permitted use. **[Added 12-8-1998 by L.L. No. 2-1998]**

§ 200-32. (Reserved)¹¹

§ 200-33. Prohibited uses. [Amended 12-8-1998 by L.L. No. 2-1998]

Notwithstanding the provisions of any other section of this chapter, the following shall be prohibited in all districts:

- A. Acetylene gas and oxygen manufacture.
- B. Celluloid manufacture.
- C. Disinfectant or insecticide manufacture.
- D. Asphalt manufacture or refining.
- E. Coal or tar distillation, including manufacture or treatment.
- F. Steel furnace or blast furnace.
- G. Soap manufacture. (Excluding on-farm manufacturing of products from ingredients produced on the farm.)

- H. Chlorine or hydrochloric, nitric, picric or sulfuric acid manufacture, or its derivatives.
- I. Manufacture or storage of explosives.
- J. Glue, size or gelatin manufacturer, where the process includes refining or recovery of products of fish, animal refuse or offal.
- K. All residential uses, including group homes and nursing homes.
- L. Garbage, rubbish or refuse dumps.
- M. Bulk storage of gasoline or other fuels without proper federal, state and local permitting.
- N. Other uses which, in the opinion of the Town Board and upon recommendation of the Planning Board, are similar in nature to those permitted uses.

ARTICLE VI
Multifamily Dwellings

§ 200-34. Additional requirements.

Where multifamily uses are permitted, they shall be subject to the following additional requirements:

- A. Site plan submission. A detailed site plan shall be submitted, and no construction shall thereafter ensue except in accordance with the detailed site plan approved by the Town Board. Said site plan shall show sufficient detail in order that the conformance or lack of conformance of said plan to the following requirements can be ascertained.
- B. Usable open space. There shall be 250 square feet of usable open space for each dwelling unit.
- C. Dwelling unit floor area. There shall be no less than 600 square feet of interior floor space, excluding common halls and nondwelling space, for each dwelling unit.
- D. Conformance to other regulations. The proposed buildings shall conform to all other Town, county and state requirements with respect to dwelling safety, sanitation, equipment, construction and design.
- E. Traffic safety. The proposed arrangements of vehicular access and egress shall be approved by the Town Board as being free from any unusual hazard to pedestrians or vehicles in the public street.
- F. Parking area for new construction. In the case of multifamily dwellings in new buildings, there shall be two off-street parking spaces provided for each dwelling unit.
- G. Parking area in required yards. Required off-street parking area for multifamily use may be located in a required side or rear yard, provided that any side yard so used shall contain a ten-foot-wide landscaped buffer strip between the lot line and the parking area.
- H. Minimum lot size. Lot area for multiple dwellings not served by public sanitary sewer must be at least 20,000 square feet for each family or dwelling unit and, where served by public sanitary sewer, must be at least 5,000 square feet for each family or dwelling unit.

ARTICLE VII
Special Permit Uses

§ 200-35. Where required.

Special use permits are required for any use other than the listed permitted uses.

§ 200-36. Purpose.

The necessity for certain specific uses is recognized, at the same time appreciating the fact that they or any one of them may be or become inimical to the public health, safety and general welfare of the community if located without consideration to the existing conditions and surroundings. The following standards and proceedings are hereby established which are intended to provide the Town Board with a guide for the purpose of reviewing certain uses not otherwise permitted in this chapter.

§ 200-37. Permit required; general standards.

- A. The uses listed may be permitted, provided that a special use permit is obtained from the Town Board under the terms and specifications herein. **[Amended 12-8-1998 by L.L. No. 2-1998]**
- B. In addition to the specific standards set forth for each use, the Town Board shall consider the following basic general standards when passing on each application for special use permit:
 - (1) Conformity with the Master Plan.
 - (2) Conformity with existing zoning regulations.
 - (3) Effect on adjacent property values.
 - (4) Aesthetic impact.
 - (5) Ecological impact.
 - (6) Traffic and parking limitations.
 - (7) Presence of odors, dust, smoke, refuse, vibration, noise, outside lighting, safety hazards or other environmental factors incidental to the comfort, peace, enjoyment health or safety of the surrounding area.
 - (8) Impact on the quantity and/or quality of groundwater available to private water supply wells and/or public water supply. **[Added 12-8-2020 by L.L. No. 4-2020]**

§ 200-38. Dimensional requirements. [Amended 12-8-1998 by L.L. No. 2-1998]

All development and land use in the Town of Wales shall conform to the dimensional and bulk requirements set forth in the Bulk Schedule Chart. This chart applies uniformly across all zoning districts unless specific exceptions are provided elsewhere in this code. The Bulk Schedule Chart is included as an attachment to the zoning code and is available for public review online and at the Town Clerk's office.

§ 200-39. Application procedure.

- A. Procedure. **[Amended 8-26-2008 by L.L. No. 11-2008]**
 - (1) All applications for special use permits shall be obtained from the Office of the Building Inspector. The Building Inspector may review the requirements in the application with the applicant or refer them to other Town Representatives.
 - (2) When the application is submitted to the Town, it will be returned to the Town Building

Inspector. The Building Inspector will review the contents for completeness and notify the applicant to submit the appropriate fee to the Town Clerk. In the event the application is not in complete form, the Building Inspector will notify the applicant of what is required in order to properly complete the application.

- (3) When the payment has been received by the Town Clerk, the Town Clerk will distribute initial copies to the Supervisor, Town Board members, Building Inspector, Town Attorney, Town Engineer, and others who have been designated to receive a copy of the application by the Building Inspector.
- (4) The Town Clerk will number each of the documents and create a document list of the application.
- (5) The application submitted to the Supervisor will be placed on the agenda at the next available Town Board meeting. The Town Clerk will notify the applicant of the date to present the proposal to the Town Board.
- (6) The Town Board shall review the application, formally accept it, and advise the Town Clerk to forward copies to the Planning Board and Conservation Board.
- (7) Upon receipt of a Special Use Permit application referral from the Town Board, the Planning Board and Conservation Advisory Board shall place the item on the agenda of their next scheduled meetings. The Applicant is expected to attend these two individual meetings to discuss the project with each board. At those meetings, each board shall review the application, solicit questions of the applicant, and prepare an advisory report to be provided to the Town Board. This report shall include suggested conditions to be placed upon the Special Use Permit. These reports shall be forwarded to the Town Board.
- (8) The Town Board shall be responsible for initiating the State Environmental Quality Review (SEQR) process, including coordinated review when applicable, in accordance with the New York State Environmental Conservation Law. The Town Board shall also refer the application to the County Planning Agency pursuant to § 239-m of New York State Town Law, when required.
- (9) The concept plan may be submitted to the Town Engineer for review and advisement.
- (10) The Town Board shall schedule a public hearing with proper notice to be conducted on said application.
- (11) Upon direction of the Town Board, the Town Clerk shall publish said notice of the public hearing, and send copies of such notice to all adjacent property owners.
- (12) Within 62 days following the date of the public hearing, and the completion of the SEQR process, the Town Board shall approve or disapprove the application based its own findings, as well as the advisory opinions and recommendations submitted by the Planning Board and Conservation Board, and may include any appropriate conditions in the Special Use Permit.
- (13) If the application is approved, the Town Clerk will be furnished with a copy of the resolution together with any conditions, and shall issue the special use permit. The applicant must sign the permit acknowledging an agreement to the conditions presented. The Town Board may establish the length of time allowed for completion of all conditions prior to the issuance of a certificate of compliance. The Town Clerk shall provide a copy of the approval to the Assessors.
- (14) In the event that the application is disapproved, a letter of denial will be forwarded to the applicant along with a copy of the appropriate minutes or other information indicating such determination.

- (15) Upon issuance of the Special Use Permit, the applicant shall proceed to obtain site plan approval from the Planning Board and apply for any necessary variances from the Zoning Board of Appeals.

B. Application details.

- (1) Each application for a special use permit shall be made in triplicate and an electronic version with an accompanying concept plan. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use or building. As a minimum, the application shall include the following information and plans:
 - (a) The applicant shall provide a detailed written narrative describing the nature and scope of the proposed use. At a minimum, the narrative shall include:
 - i. A description of the proposed use and its primary activities, including hours of operation, number of employees, and services or functions to be offered or conducted on-site.
 - ii. An explanation of how the proposed use meets the intent and requirements of the zoning district in which it is located, as well as how it aligns with the purpose and intent of the Special Use Permit process.
 - iii. A discussion of compatibility with surrounding land uses, including anticipated impacts, if any, on neighboring properties with respect to traffic, noise, lighting, odors, and other potential nuisances.
 - iv. A description of any mitigation measures proposed to minimize potential adverse impacts on adjacent properties or the community.
 - v. A summary of compliance with applicable local, state, or federal regulations, and identification of any permits or approvals that are required from other agencies.
 - (b) The location, use, design, dimensions and height of each structure and building, as well as the relationship of the proposal to the topography.
 - (c) The location and arrangement of vehicular accessways and the location, size and capacity of all areas used for off-street parking, loading and unloading.
 - (d) The location and dimensions of walkways and other areas established for pedestrian use.
 - (e) The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices and all areas to remain in their natural state.
 - (f) A written description and plans for water supply, sewage disposal and storm drainage.
 - (g) Such other data and plans as the Building Inspector, Town Engineer, and Town Board may require to properly take action on the application.
 - (h) The special use permit application fee as set forth from time to time by resolution of the Town Board.
- (2) The Code Enforcement Officer shall inspect all properties on or about the anniversary date of the issuance of a special use permit to determine compliance and shall file with the Town Clerk a report stating whether the special use permit is in full compliance or, if not, those items of noncompliance. **[Added 8-26-2008 by L.L. No. 5-2008]**

- C. Amendments to the special use permit that, in the opinion and upon recommendation of the Code Enforcement Officer, do not essentially change the original intent and use, may be approved by the Town Board upon review. Changes that are deemed to significantly change the original intent and use

will require the filing of a new or amended application. [Added 12-8-1998 by L.L. No. 2-1998; amended 8-26-2008 by L.L. No. 11-2008]

D. Approval and conditions. [Added 8-26-2008 by L.L. No. 11-2008]

- (1) In the approval and issuance of a special use permit, the Town Board may set for a condition requiring the completion of the application with a certificate of compliance within a period of time to be determined by the Board. In the event that the certificate of compliance is not issued within the predetermined time, the applicant can request an extension to the Town Board for good cause shown.
- (2) Any special use permit which was approved prior to this amendment will be required to obtain a certificate of compliance as previously determined by the Town Board, or as the Town Board upon review may so require. In the event that the certificate of compliance is not issued within the predetermined time, the applicant can request an extension to the Town Board for good cause shown.

ARTICLE VIII
Site Plan Regulations

§ 200-40. Purpose.

The steps in obtaining a site plan approval outlined in this chapter are deemed necessary to promote the health, safety and general welfare of the Town. A clean and attractive environment is also declared to be of importance to the health and safety of the inhabitants of the Town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.

§ 200-41. Authority.

The Planning Board has been granted the authority to review and approve site plans in accordance with New York State Law Section 7-725B, and the relevant provisions of this chapter.

§ 200-42. Application Procedure.

A. Procedure.

1. The applicant shall submit a complete site plan application, together with all required supporting documentation, to the Code Enforcement Officer. Upon determining that the submission is complete, the Code Enforcement Officer shall forward the application to the Planning Board for review.
2. The Planning Board shall place the application on the agenda of its next regularly scheduled meeting following receipt of the complete application materials.
3. The Planning Board may, at its discretion, refer the application to the Conservation Board, the Town Engineer, or other relevant boards, departments, or consultants for advisory review and comment.
4. A public hearing may be held at the discretion of the Planning Board. Notice of such hearing shall be provided in accordance with applicable statutory requirements, including publication in the official newspaper and mailed notice to neighboring property owners.
5. If a SEQRA decision has not already been rendered, prior to rendering a site plan decision, the Planning Board shall comply with all applicable requirements of the New York State Environmental Quality Review Act (SEQRA), including the determination of lead agency status, classification of the action, and completion of any required environmental assessments.
6. The Planning Board shall render a decision to approve, approve with conditions, or deny the site plan application based on its conformance with the standards and requirements set forth in this

Zoning Law. The Planning Board may impose such conditions as it deems necessary to ensure compliance with applicable regulations and to mitigate potential impacts, including but not limited to conditions related to access, traffic circulation, screening, buffering, drainage, lighting, hours of operation, and other site-specific concerns.

7. Ensure the project remains in full compliance with the approved Special Use Permit, including adherence to all conditions or requirements imposed as part of the permit approval.
8. The final decision of the Planning Board, including any conditions of approval, shall be filed with the Town Clerk and provided in writing to the applicant.

B. Site Plan Application Requirements.

1. **Application Form.** A completed application form, signed by the property owner or authorized representative.
2. **Application Fee.** Payment of the required application fee in accordance with the Town's adopted fee schedule.
3. **Site Plan Drawing(s).** A site plan prepared by a licensed professional (engineer, architect, or surveyor, as appropriate) when applicable, drawn to scale, and including the following information:
 - a. Title block, north arrow, scale, and date of preparation
 - b. Boundaries of the property with dimensions and area
 - c. Existing and proposed structures with setbacks from lot lines
 - d. Driveways, parking areas, loading zones, sidewalks, and access points
 - e. Existing and proposed topography (if applicable)
 - f. Utilities and stormwater management systems
 - g. Landscaping, screening, and buffer areas
 - h. Lighting locations and specifications
 - i. Signage (if applicable)
4. **Project Narrative.** A written description of the proposed use, including hours of operation, number of employees, expected traffic, and any other relevant operational details.
5. If the SEQRA review process has not been completed, the applicant shall submit a completed Short Environmental Assessment Form (SEAF) or Full Environmental Assessment Form (FEAF), as required under the State Environmental Quality Review Act (SEQRA).
6. **Other Supporting Materials.** Any other documents or studies deemed necessary by the Planning Board or Code Enforcement Officer to evaluate the application, such as traffic studies, drainage reports, or architectural renderings.
7. **Waiver Requests (if any).** A list of any specific application requirements the applicant is requesting to be waived, with justifications for each.

**ARTICLE IX
Supplementary Regulations**

§ 200-43. Applicability to all districts. [Amended 12-29-2005 by Ord. No. 2-2005]

- A. The provisions of Articles III, IV, V and VI shall be subject to additional requirements, limitations and exceptions in accordance with the remaining sections of this article. Unless otherwise specified, such supplementary regulations shall apply in all districts.
- B. Water districts are subject to connection size restrictions for future taps to be developed for properties not in existence at the time of the district formation. Future connections of the water facilities of a

water district will be prohibited where the maximum branch line tap or pipeline size is greater than three inches in diameter and/or require a maximum design water flow of greater than 200 gallons per minute. This restriction is not intended to limit the Town Board's ability to authorize connections to serve individual publicly owned facilities, or for connections intended for the sole purpose of providing fire protection to individual structures.

§ 200-44. Completion of structure.

Any structure which is intended for human occupancy, not limited to a dwelling, shall be completed and finished on both the interior and exterior within the term of the building permit or any renewal thereof before a certificate of occupancy is issued.

§ 200-45. Accessory use limitations.

- A. In no case shall an accessory use dominate, in extent or purpose, the principal use of land or building, except that required accessory uses such as vehicle parking areas may be larger than the building area.
- B. In any R, A or B District, no private garage or other accessory building shall be erected before the main building has been started, and under no condition shall a garage or other accessory building be used for living quarters unless attached to a dwelling.
- C. In any R, A or B District, the permitted accessory uses shall not include the establishment of any new access driveway to business or industrial premises, the storage of flammable liquids of Class I or Class II in quantities greater than 300 gallons on any lot or any home occupation which is noxious or offensive by reason of dust, fumes, gas, noise, odor, refuse matter, smoke, vibration, unreasonable use of lights or nighttime operation.¹²

§ 200-46. Lots in two districts.

Where a district boundary line divides a lot in single or joint ownership of record at the time such line is established, the regulations for the less-restricted portion of such lot shall extend not more than 30 feet into the more-restricted portion, provided that the lot has frontage on a street or highway in the less-restricted portion.

§ 200-47. Off-street parking requirements.

- A. At the time any main building is erected or altered or any new use of land commenced, off-street parking spaces as hereinafter specified shall be provided on the same lot therewith and shall be furnished with necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner. All parking areas, passageways and driveways, except where provided in connection with one-family residences, shall be surfaced with a dustless, durable all-weather pavement, clearly marked for car spaces, and shall be adequately drained, all subject to the approval of the Town.
- B. For the purpose of this chapter, a parking space shall be an area 10 feet wide and 20 feet long, exclusive of passageways and driveways appurtenant thereto and providing access thereto.
- C. None of the off-street parking facilities as required in this chapter shall be required for any existing building or use unless said building or use shall be enlarged.
- D. The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately, and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users.

- E. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
- F. Off-street parking areas located in commercial zones and which provide parking for 20 or more vehicles shall be provided with shade trees of a type approved by the Town Engineer and located not greater than 60 feet on center.
- G. Minimum parking space requirements. Minimum parking space requirements shall be as follows. (Where there are no specific requirements specified in this subsection, the Town Board shall determine the requirements using the following as a general guide.)
- (1) Automobile and gasoline service station: at least one space for each gasoline pump, grease rack or similar service area, and one additional space for each 500 square feet of gross floor area of the shop or garage, with a minimum of five spaces.
 - (2) Automobile sales establishment, flower or plant nursery or landscape gardener's business: at least one space for every 1,000 square feet of the area used for such purposes.
 - (3) Boarding- or rooming house: at least one space for each rental unit, plus one additional space for the owner or manager, plus one additional space for every two units, for guests. **[Amended 12-8-1998 by L.L. No. 2-1998]**
 - (4) Church or other place of worship: at least one space for each four seats or equivalent accommodation provided.
 - (5) Commercial or personal service establishment: at least one space for each 150 square feet of gross floor area, plus one additional space for each 200 square feet of additional gross floor area.
 - (6) Educational institution, public or private: at least one space for each two employees, including teachers and administrators; sufficient off-street parking space for the safe and convenient loading and unloading of students; and additional facilities for student parking, taking into consideration the total number of students driving automobiles. The requirements for stadium, gymnasium and auditorium use shall be in addition to these requirements.
 - (7) Nursing home or eleemosynary or philanthropic institution: at least one space for each two employees, plus such additional facilities for residents and visitors as shall be deemed necessary by the Planning Board.
 - (8) Home occupation or home professional office: at least one parking space in addition to the requirement for the dwelling unit, plus one additional space for every full-time employee, except that in the case of doctors and dentists, three parking spaces in addition to the requirement for the dwelling unit, plus one space for every full-time employee, shall be required.
 - (9) Industrial or manufacturing establishment: one space for each 400 square feet of floor area, exclusive of storage space, but need not exceed one parking space for each person employed.
 - (10) Medical or dental practitioner's office: at least five spaces for each professional person occupying or using each office, plus an additional space for each employee.
 - (11) Mortuary or funeral home: at least one parking space for each eight seats in the chapel, one additional space for each resident family and one additional space for each funeral vehicle.
 - (12) Motel, hotel, auto court, motor lodge or tourist court: at least one space for each guest or sleeping room, plus one space for each employee.

- (13) Multifamily dwelling: at least two spaces for each dwelling unit.
- (14) Office building, professional building or similar building or similar use: at least one space for each 200 square feet of gross floor area.
- (15) One- or two-family detached dwelling: at least two spaces per dwelling unit.
- (16) Private club or union hall: at least one space for each 100 square feet of gross floor space.
- (17) Publicly owned or operated building and use, such as a library, museum or post office: at least one space for each 100 square feet of gross floor space.
- (18) Restaurant or similar place dispensing food, drink or refreshments: at least one space for each 50 square feet of floor area devoted to patron use.
- (19) Shopping center: at least seven parking spaces for each 1,000 square feet of gross leasable area.
- (20) Roadside farm produce stand: adequate parking to eliminate traffic hazards.
- (21) Bowling alley: five spaces per bowling lane.

§ 200-48. Public utilities.

The provisions of this chapter shall not be construed to limit or interfere with the construction or operation for public utility purposes of water and gas pipe, electric light and power transmission and distribution lines, communication lines, oil pipelines, sewers and incidental appurtenances or with any highway or railroad right-of-way existing or hereafter authorized by the Town of Wales, County of Erie or State of New York. The above exceptions shall not be construed to permit service yards, repair garages or other service or storage structures or uses by said public utilities, except as otherwise permitted by this chapter.

§ 200-49. Sand and gravel pits and rock quarries.

The excavation or quarrying, stockpiling and sale of sand, gravel, rock, shale, clay or other natural mineral deposits (except topsoil) may be permitted in an A District if approved by special permit of the Town Board, subject to conditions which, in the opinion of the Town Board, will protect nearby property owners and occupants against unreasonable nuisances and hazards during the period of operations and will assure such final grading and other treatment as will produce a safe and useful area when operations have been discontinued. The Town Board may require the filing of an acceptable bond to guarantee compliance. A New York State Department of Environmental Conservation mining permit is also required for all sand and gravel pit and rock quarry operations.

§ 200-50. Garbage and rubbish.

- A. Dumping of garbage or rubbish shall be permitted only in locations and under conditions approved by the Erie County Department of Health or appropriate governmental agency. Any new or modified facilities for the treatment, storage or disposal of sewage, including excreta, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of the New York State and Erie County Departments of Health.
- B. No tankage, garbage or other noxious products shall be brought into, stored or used in the Town of Wales for hog feeding or any other purpose that creates foul or noxious odors or creates a nuisance, without the consent of the Town Board.

§ 200-51. Construction and demolition debris.

All construction and demolition debris must be disposed of in compliance with New York State Department

of Environmental Conservation rules and regulations.

§ 200-52. Storage of flammable liquid or gas.

No storage of Class 1 and Class 2 flammable liquids or gas shall hereinafter be established, except in a district where permitted in conformance with the requirements of the National Board of Fire Underwriters, as certified by the appropriate Fire Chief, and 20 feet or more from any property line.

§ 200-53. Height exceptions.

The height limitations of this chapter shall not apply to chimneys, church spires and belfries, customary farm structures, water tanks or necessary mechanical features not occupying more than 1/10 of the roof area.

§ 200-54. Location of accessory buildings in R-Residential District.

A. In any residence district, no accessory building shall be erected or altered so as to be in any front yard, in any required side yard or nearer than 10 feet to any dwelling unless attached thereto and considered part thereof for purposes of yard measurements. Accessory buildings may occupy a total of not more than 25% of the required rear yard area on any lot in any R District.

B. Accessory buildings used for the sale of farm products, where such use is clearly incidental to the overall use of the premises as a farm, shall be permitted to be placed in the front yard off the road right-of-way. Such permitted use shall be temporary in nature and cease when no such products are offered for sale. When not in use for the sale of products, such accessory buildings must be stored on the subject premises in conformity with this Zoning chapter. The construction of the accessory

building shall be limited to the ordinary and customary construction for the use or sale of such farm products. Under no circumstances shall such farm use be construed to permit any use other than sale of normal farm products on a temporary basis.

§ 200-55. Area and width requirements for lots of record. [Amended 12-8-1998 by L.L. No. 2-1998]

The requirements of this chapter with respect to lot area and width shall not be construed to prevent the erection of a one-family dwelling on any lot which was a legal lot of record on or before November 11, 1994, provided that the yard and setback requirements are complied with, and provided further that the owner of such lot does not own other contiguous land which, together with the lot in question, would permit compliance with said lot area and or width requirements. Additionally, for any permitted nondwelling use in a B-Business District, the above procedures shall be applied where the owner or applicant can present evidence of Health Department approval.

§ 200-56. Frontage on street or right-of-way required.

No dwelling shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway or right-of-way in accordance with the Schedule of Area, Lot and Bulk Requirements for all districts.

§ 200-57. Clear sight triangles.

No fence, wall, hedge, shrub planting or tree foliage, building or any other structure which obstructs sight lines at elevations between two and six feet above the roadway or sidewalk shall be placed on any corner lot in the triangular area formed by intersecting street property lines and a line connecting them at points 50 feet distant from their intersection or, in the case of a rounded cutoff corner, from the intersection of such lines extended.

§ 200-58. Fences.

- A. Building permits are required for all fences described herein.
- B. The following fences shall be allowed within required yards:
 - (1) A wall or fence not over four feet high in any front yard or side street side yard.
 - (2) A wall or fence not over seven feet high in any other yard.
 - (3) Fencing of a temporary nature erected in season to prevent the drifting of snow as long as it conforms to § 200-53 and does not adversely affect adjoining yards.
- C. Any fence erected under this chapter shall be placed at least six inches from any property line or upon property lines as mutually agreed upon by adjoining owners. Any fence erected in a front yard shall be placed at least one foot back from the sidewalk, but in no event may it be less than one foot back from the front line and/or property line.
- D. The following fences and fencing materials are specifically prohibited, except for agricultural uses:
 - (1) Barbed wire.
 - (2) Short, pointed fences.
 - (3) Canvas fences.
 - (4) Cloth fences.
 - (5) Electrically charged fences.
 - (6) Poultry fences.
 - (7) Turkey wire.
 - (8) Any fence contrary to the character of the area.
- E. All chain link fences erected shall be erected with the closed loop at the top of the fence.
- F. All entrances or gates shall open into the property.
- G. Notwithstanding the provisions of this section, the Building Zoning Officer may issue a permit for the construction of a security fence for commercial and industrial properties, upon due application to and approval by the Building Zoning Officer of the Town of Wales. The Building Zoning Officer may deny such application if it is found that the application for such fence is not appropriate. Upon such denial, the applicant may appeal the Building Zoning Officer's decision to the Zoning Board of Appeals of the Town of Wales in accordance with the appeals procedure of this chapter.
- H. All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or to interfere with vehicular or pedestrian traffic or to interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.
- I. Swimming pools. An enclosure shall be provided around outdoor swimming pools which surrounds the pool. Such enclosure shall be at least four feet in height and shall limit accessibility to the pool. Aboveground pools with at least 46 inches between the pool decking or pool top and adjoining grade are exempt from this requirement, provided that access is restricted. A portable wading pool shall be exempt from this requirement.

- J. Powers and duties of Building Zoning Officer and Zoning Enforcement Officer. The Building Zoning Officer and the Zoning Enforcement Officer shall have the authority to direct the removal, trimming or modification of any shrubs, bushes, plants, trees, flowers or other vegetation, fences, wall hedges or other structures on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections or curbs.

§ 200-59. Signs.

- A. The provisions of this subsection shall govern outdoor signs and display structures with respect to location, size and maintenance.
- (1) No outdoor sign or display structure erected prior to the effective date of this section shall be rebuilt or relocated except in conformity with the provisions of this chapter. The requirements of this subsection shall not, however, be interpreted to prevent repairing or restoring to a safe condition any of the structural supports or the performance of maintenance operations on any existing sign, and further, at such time that such maintenance is performed, no change in the existing sign shall be accomplished to make the sign nonconforming or nonconforming to any greater degree than at the time of adoption of this section.
 - (2) When any outdoor sign or display structure or a substantial part thereof is blown down, destroyed, taken down or removed for any purpose other than maintenance, any replacement shall be in conformity with all the requirements of this chapter.
 - (3) No bills, signs or posters shall be posted nor shall any such medium be affixed in any location of such size as may be in violation of any of the provisions of this chapter.
 - (4) Projecting signs are prohibited over any public way except when hung from the underside or ceiling of a covered walkway related to the exterior of an individual business establishment.
 - (5) No outdoor sign or display structure shall be erected, constructed or maintained so as to create or be a traffic hazard by obstructing the view of traffic at any intersection, curve or bend of any roadway or by obstructing or confusing the view to traffic signals, railroad crossing lights or other permanent traffic controls and warning lights.
 - (6) No outdoor sign or display structure shall be of such character or marking as to duplicate or appear to duplicate any traffic control or highway sign.
 - (7) Where specific building lines are established or street widening is contemplated, the Building Zoning Officer may limit the projection or signs in relation to the intended relocation of the curbline in that area.
 - (8) Temporary signs shall conform to the provisions of this section. In addition, cloth, banner and other similar signs shall be included in the temporary permissiveness of this section with special building zoning permits issued by the Building Zoning Officer to be valid for a period of not exceeding 30 days for any one sign to announce special events, sales or circumstances where a permanent display would involve undue expense, provided that such signs meet the following requirements:
 - (a) The area of such sign must first be permitted in the zoning district where such use is desired.
 - (b) No such temporary sign shall be erected as a roof sign.
 - (c) Not more than one such temporary sign shall be erected on any lot at the same time, and no more than two permits shall be issued for any lot or use in any calendar year.

- (d) No such temporary sign shall be erected or maintained in place without a valid building zoning permit.
 - (e) No such temporary sign shall be erected or placed in excess of 10 days prior to the event advertised nor in excess of 24 hours after the conclusion of the event. **[Added 6-11-2012 by L.L. No. 2-2012]**
 - (f) Such temporary signs erected or placed by approved not-for-profit organizations must comply with all the provisions of this chapter less any otherwise applicable fees. These signs are limited in number to two per year per organization, unless specifically permitted by the appropriate Town of Wales officials. **[Added 6-11-2012 by L.L. No. 2-2012]**
- (9) Christmas displays and other similar temporary displays erected without advertising shall not be subject to the rules and regulations of this chapter, but they shall, however, conform to the safety standards of the Town of Wales and have the approval of the Building Zoning Officer.
- (10) Building zoning permits shall be required for all types of signs or other outdoor advertising, except as otherwise exempted by this chapter. The following conditions and regulations shall apply to the issuance of such documents:
- (a) No outdoor sign or display structure shall hereafter be erected, affixed, attached to, suspended from, supported, painted or otherwise utilized without a building zoning permit issued by the Building Zoning Officer.
 - (b) Except as provided under this section, a building zoning permit shall be secured for all sign installations.
 - (c) No building zoning permits shall be required for the following signs:
 - [1] Signs painted or affixed to the inside surfaces of windows or doors which pertain to the business conducted therein.
 - [2] Reposting of bills, signs or posters on signs legally erected and maintained for such purpose.
 - [3] Municipal street, traffic emergency control and railroad crossing signs.
 - [4] Legal notices and house numbers.
 - [5] Temporary signs or displays authorized by municipal authorities.
 - [6] One sign not over three square feet in area for personal identification or home and home professional occupations.
 - [7] One unlighted real estate sign advertising the sale, rental or construction on only the premises on which it is maintained, not exceeding a total area of 12 square feet. Such sign shall be removed upon completion of the project or within 90 days, whichever occurs first.
 - [8] All signs may be subject to review by the Town Board.
 - (d) The computed area of all signs shall be measured by the smallest rectangle which will contain the entire area of the sign or other form of outdoor advertising, exclusive of the structural supports but inclusive of architectural features.
- (11) In the B District, one permanently installed sign for the purpose of identification and/or

advertisement of a business may be erected subject to the following: **[Added 6-11-2012 by L.L. No. 2-2012]**

- (a) A plan showing the design, layout, dimensions and overall height, along with a description of the proposed location of the sign, shall be submitted in duplicate to the Building Inspector prior to the commencement of the installation.
 - (b) The overall height of the sign is not to exceed seven feet from the ground.
 - (c) The sign is not to exceed 32 square feet of total face area as viewed from any direction.
 - (d) The sign is to be located not less than five feet from the road right-of-way and not less than 20 feet from any property line.
 - (e) The sign shall comply with all other applicable regulations within this chapter.
- B. Signs for nonconforming uses.
- (1) Directional or name signs or signs pertaining to or advertising products sold on the premises of a nonconforming building or use may be continued only when the nonconforming use is permitted to continue, and any such signs shall not be expanded in area, height, number or illumination.
 - (2) New signs for a nonconforming use in a business or manufacturing district not exceeding 30 square feet of exterior surface shall be permitted and may be erected only after all other signs are removed.
- C. Permitted signs for applicable uses.
- (1) In A and R Districts wherein a building zoning permit shall be required, except for Subsection C(1)(a), as follows:
 - (a) Farms shall be permitted a sign area of not over 20 square feet to identify each such farm and an additional sign area of 20 square feet for advertising such products as are raised on said farm and sold from a stand located upon said farm.
 - (b) One illuminated bulletin board or identification sign not exceeding 40 square feet for any school, hospital or public or semipublic use shall be permitted.
 - (c) Multifamily residences shall be permitted one sign not exceeding six square feet in area.
 - (d) One unlighted sign not over three square feet in area shall be permitted for personal identification of a home and home professional occupation.
 - (2) B Districts.
 - (a) Size. A face sign on the front of a building shall not exceed 20% of the total surface of such face on one story, including areas occupied by doors and windows. Signs on each additional face shall not exceed 10% of the total surface of the front of the building, provided further that no sign shall exceed 20% of the face to which it is attached.
 - (b) Shopping centers (where permitted).
 - [1] Each use or business within the shopping center may erect a sign containing not over 10 square feet of area on either of two faces.
 - [2] The shopping center as a unit may erect no more than two signs to advertise the center

as such, so long as the aggregate area of such signs is not over 1,000 square feet and no single sign is over 500 square feet on either of two faces.

- (c) All illuminated signs shall require approval of the Town Board, which reserves the right to establish special conditions.

(3) M District.

- (a) Size. Signs shall not exceed 400 square feet for each use or any one manufacturing building.

D. Limitations.

- (1) The limitations on signs as set forth for the various zones by this section shall not apply to any sign or directional device erected by the federal, state, county or local government or agency thereof.
- (2) The limitations on sign area as set forth by this section for the business and manufacturing zones shall not apply to parking lot markers, directional signs, entrance and exit signs and other such signs which are erected on the premises, provided that such signs use only one side and do not contain any advertising of the use on the premises.
- (3) No animated, flashing, scrolling or electronically controlled signs shall be permitted. **[Amended 6-11-2012 by L.L. No. 2-2012]**
- (4) No signs shaped or resembling traffic signs shall be used for advertisement purposes.

E. Directional signs.

- (1) Directional signs, at the discretion of the Building Zoning Officer, may be permitted in instances where the location of the business off the main arteries of traffic necessitates such a sign. **[Amended 6-11-2012 by L.L. No. 2-2012]**
- (2) A plan showing design, layout, dimensions and heights, along with the description of the proposed location of the sign, shall be submitted in duplicate to the Building Zoning Officer. These signs shall be:
 - (a) Self-supporting, with mounting posts at a depth below the frost level.
 - (b) Not to exceed two feet high by two feet wide.
 - (c) Erected and maintained by the person or persons to whom the permit is issued.
 - (d) Strategically located to effect the purpose of this subsection.
 - (e) Directional in nature only.
 - (f) Permitted on New York Routes 16 and 78 and U.S. Route 20A in the Town of Wales.
- (3) No more than one directional sign shall be permitted on the property of any individual owner. **[Amended 6-11-2012 by L.L. No. 2-2012]**
- (4) The Town Board reserves the right to vary any terms of this subsection, in its sole discretion.
- (5) The foregoing sign limitations shall not apply to directional signs in use for a period of 24 hours or less.
- (6) Permits will be issued on a temporary but renewable basis to include the requirements of this subsection and such other provisions as the Building Zoning Officer may deem necessary.

[Amended 6-11-2012 by L.L. No. 2-2012]

- F. Vehicular signs. **[Added 6-11-2012 by L.L. No. 2-2012]**
- (1) Any advertisement, announcement, direction or communication produced by painting or posting on or placing any printed, lettered or pictured material on any vehicle, is to be construed, for purposes of this chapter, as a temporary sign and is subject to the regulations thereof.
 - (2) Any vehicular signage not in conformance with the provisions of this chapter shall be placed to the rear of the frontal plane of the primary structure of the property.
- G. The Town Board shall have the power to grant variances to the provisions of this section as it shall deem necessary and adequate to address the provisions and limitations of this section and, at the same time, preserve and protect the character of the neighborhood, minimizing any adverse impact such variance may have on the neighborhood or community, with reasonable conditions and restrictions directly related to and incidental to the proposed variance of the property. **[Added 12-30-2013 by L.L. No. 3-2013]**

§ 200-60. Public rest rooms.

Any business engaged in the sale and dispensing of gasoline or other motor fuel to the public shall provide rest rooms available to the public.

§ 200-60.1. Noise. [Added 8-14-2007 by L.L. No. 4-2007]

In no case shall a permitted, accessory or special use of property cause unreasonable inconvenience or annoyance which is deemed to be intolerable to any reasonable person.

§ 200-60.2. Lot standards. [Added 8-14-2007 by L.L. No. 4-2007]

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

- A. No yard or lot existing at the time of passage of this section shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this section shall meet at least the minimum requirements established by this section.
- B. Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory building(s) on any lot, except in appropriate zoning districts which permit a lot to contain both residential and commercial uses in one or more principal structures or within the same structure.
- C. Nothing in this section shall be deemed to require any change in the plans, construction or designed use of any building or structure upon which a building permit was secured prior to the adoption of this section, so long as said building permit remains valid.

§ 200-60.3. Basements.¹³ [Added 8-14-2007 by L.L. No. 4-2007]

All single or multiple dwellings shall have a full basement or a minimum four-foot crawl space, both in regard to height and area, constructed in accordance with the standards of Chapter 84, Building Construction.

§ 200-60.4. Portable temporary storage units. [Added 3-12-2019 by L.L. No. 1-2019; amended 5-14-2019 by L.L. No. 3-2019]

- A. Portable temporary storage units, also known as PODs, SAMs, etc., are defined as a portable (temporary) transportable container, trailer, storage unit, shed-like container or other portable structure, used for the temporary storage of building materials, household items, personal property or other materials, for a limited time.
- B. Intended use is for temporary storage of building materials, household goods, personal items or other materials off-site.
- C. The duration of use is limited in accordance with the following:
 - (1) Temporary storage units may be placed on or at a property in the Town, without fee, for a time period of 30 calendar days. At the end of the thirty-day period, the unit must be removed from the premises within a ten-day grace period. The time period begins on the date of delivery of the unit to the property site. In the event the applicant wishes to extend the time period that is granted initially, under this section, an extension may be issued by permit by the Code Enforcement Officer if requested, and upon payment to the Town of Wales of a permit extension fee as listed in the Fee Schedule, as set forth by resolution of the Town Board. Extension requests must be made prior to the expiration of the ten-day grace period. In no case shall a temporary storage unit be placed on or at a property for more than 60 consecutive days or more than 60 days in a calendar year unless special circumstances arise as listed in Subsection C.
 - (2) The following circumstances shall grant an applicant a permit for the placement of a temporary storage unit on or at a property for a period of time which exceeds the period set in Subsection C(1) above:
 - (a) In the event of fire or other natural disaster which causes substantial damage to the primary structure of the property, a temporary storage unit may be placed on or at the property for a period of time while repairs are made and as determined necessary by the C.E.O. Once repairs have been made, the temporary storage unit shall be removed from the property within 10 days. In the event the applicant wishes to extend the time granted past that allowed under these circumstances, a new application for a permit pursuant to Subsection C(1) must be submitted. In this instance, applicable fee(s) may be waived by the C.E.O.
 - (b) The renovation, expansion or other alteration to an existing permanent structure may require the removal of personal property from the structure and/or storage of said personal property outside of the structure. The period of time the temporary storage unit may be located on or at said property shall be determined by the C.E.O., based on the type of work being performed and/or 10 days after the building permit issued for the required work expires.
 - (c) Applicant must obtain a temporary storage unit permit prior to obtaining and placing a unit on or at a property in the Town, without fee, for a time period of 30 calendar days. At the end of the thirty-day period, the unit must be removed from the premises within a ten-day grace period. Any temporary storage unit which is not removed at the end of the initial time period permitted under this section or granted under the permit issued will be subject to a daily fine as set by the Town Board until the matter is resolved by the owner or property manager of the property in violation of the Town of Wales Code. If the temporary storage unit is not removed after 10 days from the initial notice of the violation by the C.E.O., or if the unit poses a threat to the health, safety or welfare of the residents and visitors, the Town may have it removed without notice, with the cost of such removal, as well as the cost associated with the administration of its removal, assessed against the property.
- D. Temporary storage units shall be no greater than 320 square feet in area and eight feet in height.

- E. Only one temporary storage unit may be located on a property at any given time unless special circumstances arise, such as those listed in Subsection C(2).
- F. The placement of any temporary storage unit shall be subject to the following requirements:
 - (1) The unit must be placed on the driveway or a hard-packed surface of the property and must adhere to the rear and side setback requirements of the respective zoning district.
 - (2) No temporary storage unit may be placed in a public right-of-way (ROW) or on the front yard of the property unless permitted by the C.E.O., due to unusual circumstances (i.e., no driveway, no back or side yard, etc.). Different regulations may be applied under these circumstances, such as the amount of time the unit may be stored on the property, etc.
- G. No signage other than the signage indicating the owner of the temporary storage unit may be allowed on the structure.
- H. Storage of hazardous materials within temporary storage units is strictly prohibited. A violation of this stipulation will result in the immediate revocation of any permission or permits issued under any subsection of this section, and the immediate removal of the temporary storage unit(s) from the property. If removal of said unit(s) must be done by the Town, any expenses incurred in such removal may be assessed to the property owner where said unit(s) is/are located.

ARTICLE X
Nonconforming Uses

§ 200-61. Continuation of existing uses.

Except as provided in this section, any lawful nonconforming use of any structure or land existing on the effective date of this chapter may be continued.

§ 200-62. Discontinuance.

In any district, whenever a nonconforming use of land, premises, building or structure has been discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished, and all future use shall be in conformity with the provisions of this chapter.

§ 200-63. Change in use.

Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the classification, and, when so changed to a more restricted classification, such use thereafter shall not be changed to a less restricted classification.

§ 200-64. Extension of use.

A nonconforming use shall not be extended except within the same building or on the same lot, in the case of uses not located within buildings, which it partially occupied on the effective date of this chapter.

§ 200-65. Alterations and restoration.

A building devoted to a nonconforming use may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 75% of the equalized assessed value (full value) of the building on the effective date of this chapter unless said building is changed to a conforming use. No building damaged by fire or other causes to the extent of more than 75% of its equalized assessed value shall be repaired or rebuilt except in conformity with the regulations of this chapter unless completely rebuilt on the original

foundations within a period of two years from the date of such damage.

§ 200-66. District boundary changes.

Whenever the boundaries of a district shall transfer an area from one district to another district of a different classification or whenever the text of this chapter shall be changed with respect to the uses permitted in a district, the foregoing provisions shall also apply to any nonconforming uses existing therein.

ARTICLE XI
Board of Appeals

§ 200-67. Establishment.

A Board of Appeals is hereby established in accordance with the provisions of the Town Law applicable thereto.

§ 200-68. Appointment; terms of office.

The Board of Appeals shall consist of five members appointed by the Town Board who shall be residents of the Town of Wales, each to serve for a term of five years, except that of the members first appointed one shall hold office for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years. The Chairman shall be designated by the Town Board.

§ 200-69. Rules and regulations.

Such Board of Appeals shall, consistent with the Town Law and this chapter, determine its own rules and procedure, and all its deliberations, resolutions and orders shall be in accordance therewith; provided, however, that all hearings shall be public and that the Board shall keep complete minutes of its proceedings, showing its findings and reasons for its decisions, and said minutes shall be a public record.

§ 200-70. Powers and duties.

The Board of Appeals shall have the powers and duties prescribed by Article 16, § 267, of the Town Law of the State of New York and by this chapter, which are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Variances. To vary or adopt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of this chapter shall be granted by the Board of Appeals unless it finds that:
 - (1) There are special circumstances or conditions, fully described in the findings of the Board, applying to such land or buildings and not applying generally to land or buildings in the neighborhood and that said circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or buildings.
 - (2) For reasons fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the

minimum variance that will accomplish this purpose.

- (3) The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (4) A use variance when granted, shall be limited to the specific use as stated in the original application for the variance and any conditions included in the approval by the Board. Failure to exercise or implement the use variance within one year shall result in the variance expiring and shall no longer be in effect. [Added 8-14-2007 by L.L. No. 4-2007]
 - (5) An area variance when granted, shall be limited to the specific use as stated in the original application for the variance and any conditions included in the approval by the Board. In the event that the area variance requires a building permit, such permit must be obtained within one year following the approval, with the completion within one year following the issuance of the building permit. [Added 8-14-2007 by L.L. No. 4-2007]
- C. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

§ 200-71. Appeal and application procedure.

- A. The Board of Appeals shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board and available from the Building Zoning Officer. Every appeal or application shall refer to the specific provision of this chapter involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted as the case may be. At least 30 days before the date of the hearing on an application or appeal to the Board of Appeals, the Secretary of said Board shall transmit to the Planning Board a copy of this notice of the aforesaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Failure to submit such report shall constitute approval of said application or appeal by the Planning Board.
- B. Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. The Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examination and other official actions.

§ 200-72. Filing of records.

The office of the Town Clerk shall be the office of the Board of Appeals, and every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by Article 16, § 267, of the Town Law of the State of New York.

§ 200-73. Notice of hearings.

The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing at least five days prior to the date thereof and shall, at least five days before such hearing, mail notices thereof to the parties and to the Regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and shall decide the same within 60 days after the

final hearing. The applicant shall, at least seven days prior to the date of the hearing, give notice, in writing, by registered mail or by service in person, with adequate proof of contact thereof to all property owners within 200 feet of the property to be affected by said appeal and/or to all property owners of contiguous land or properties adjoining said property to be affected, and other interested property owners as may be designated by the Board of Appeals.

ARTICLE XII Amendments

§ 200-74. Power to amend provisions.

The Town Board may, from time to time on its own motion or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter after public notice and hearing.

§ 200-75. Procedure.

- A. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:
- (1) A notice, at least 10 days prior to the time and place of such hearing, shall be published in a newspaper of general circulation in the Town.
 - (2) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of the Town of Wales shall be given to the Clerk of such municipality and to the County Clerk at least 10 days prior to the date of such hearing.
 - (3) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commission having jurisdiction over such state park or parkway at least 10 days prior to the date of such hearings.
- B. In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of that immediately adjacent extending 100 feet therefrom or of that directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

§ 200-76. Zoning Map amendments.

Before approving any amendment of the Zoning Map so as to create a new or enlarged B or M District, the Town Board may require the submittal of development plans including the location and character of proposed structures and conditions of use for the premises concerned, and in approving any such amendment, the Town Board may specify that no building permit or certificate of occupancy may be issued with respect to said premises under the amended district classification except in accordance with said plans and conditions of use as submitted or as revised to meet the requirements of the Town Board in furthering the purposes of this chapter. At the end of six months from the date when it became effective, any zoning amendment which has been approved subject to conformity with development plans and conditions of use shall be nullified, and the zoning classification of the premises affected shall revert to that which applied immediately before such amendment unless within such period of six months an application for a building permit covering the approved structures has been duly filed. The Town Board may require a performance

bond to assure that a project which has been approved subject to conformity with development plans will, if started, be either completed within a reasonable time limit or abandoned and the premises returned to their previous condition.

ARTICLE XIII
Enforcement and Penalties

§ 200-77. Enforcement officer.

The Building Inspector of the Town of Wales is hereby designated to administer and enforce the Zoning Ordinance of the Town of Wales.

§ 200-78. Penalties for offenses.

- A. A violation of this chapter is an offense punishable by a fine not exceeding \$250 or imprisonment for a term not to exceed 15 days, or both.
- B. Each day's violation shall constitute a separate offense and shall be punishable as such.
- C. The imposition of any penalty for violation of this chapter shall not excuse the violation or permit it to continue.

§ 200-79. Complaints.

In the event of an alleged violation of this chapter, an aggrieved person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Enforcement Officer, who thereafter shall investigate the complaint and report thereon to the Town Board, if appropriate.

§ 200-80. Proceedings by aggrieved persons.

An aggrieved person or persons, company or corporation may initiate any proceedings provided by the New York Town Law regarding the enforcement of this chapter. For purposes of this article and chapter, an "aggrieved person" is defined as one whose land is substantially affected and materially depreciated by a decision of the Board of Zoning Appeals or by a person charged with the enforcement of this chapter.