TOWN OF WALES

LOCAL LAW INTRO NO. 10 -2008

LOCAL LAW NO. 12 -2008

A LOCAL LAW, TO AMEND LOCAL LAW 1-1993 KNOWN AS "ADOPTION OF CODE", ADOPTED BY THE TOWN BOARD OF THE TOWN OF WALES ON MAY 11, 1993, BY AMENDING CHAPTER 150, OPEN DEVELOPMENT AREA.

BE IT ENACTED BY THE TOWN BOARD AS FOLLOWS:

1. SECTION LEGISLATIVE INTENT

This Local Law amends a prior Local Law known as "Adoption of Code" adopted by the Town of Wales on May 11, 1993, as amended, relating to the administrative, legislative and general legislation of Codes within the Town of Wales as therein set forth.

SECTION 2. CHAPTER 150, OPEN DEVELOPMENT AREA

Chapter 150 is amended by repealing in its entirety the present provisions of Chapter 150 and substituting and replacing it with the following:

Section 150-1. Purpose.

A. Pursuant to 280-a of the Town law, the Town Board, in order to maintain the rural character of the Town and to provide relief to landowners who wish to subdivide land that lacks adequate public road frontage for standard lot development or for

more efficient utilization of rear yard space, may, by resolution, establish an open development area or areas within the Town. An open development area is not an as-of-right use and must be designed to maintain the rural character of the Town as well as to meet the conditions as herein established.

B. The erection of any building or improvement which does not have immediate frontage on an existing state, County or Town highway or a street shown upon a plat approved by the Town as provided in §276 and §277 of the Town Law shall require an open development area permit as provided herein.

Section 150-2.Submission of development plan.

A. Application procedure. The applicant shall file a development plan for the approval of an open development area, which shall include:

(1) Description of all land which the applicant proposes to develop as well as all lands owned by the applicant adjacent to the area proposed and a copy of the recorded Deed of the applicant describing the subject premises.

(2) The location of property with respect to surrounding property and streets.

(3) The location and approximate dimensions of all existing property lines.

(4) All pertinent features, such as existing structures, streets and other information that may influence the design of the plan.

(5) The location, width and approximate grade of all proposed access roadways.

(6) The approximate location, dimensions and area of all proposed or existing lots.

(7) The names of all property owners of record adjacent to and abutting the proposed open development area.

(8) The name and address of the owner(s) of the land to be developed, the name and address of the developer(s), if other than the owner, and the name of the land surveyor.

(9) The acreage of the tract to be developed to the nearest 1/10 of an acre.

(10) Any other appropriate information.

(11) Specifications for a private right-of-way and a plan for maintenance.

(12) Fee schedule payable to the Town Clerk, as determined by the Town Board, for each proposed lot within the open development area.

(13) The application shall be presented to the Town Clerk at least ten (10) days

prior to a regular meeting of the Board.

B. Health approval. The application must contain a letter of recommendation by the State and/or County Health Department indicating compliance with the standards of the applicable sanitary code, Public Health Law or the applicable health codes. In the event that the proposed open development area does not require approval of the State and/or County Health Departments, a statement to this effect must be submitted with the application and verified by the State and/or County Health Department.

C. New York State Environmental Quality Review Act. All requirements of the State Environmental Quality Review Act shall be complied with by the applicant prior to consideration by the Town Board.

D. Development plan. Plans submitted to the Town Board shall be prepared in appropriate scale and shall show all lots, rights-of-way, drainage plans, public utilities, sewage disposal and any other information deemed appropriate and required by the Town.

E. Submission date. The date of submission shall be the date of the next general meeting of the Town Board after receipt of the same by the Town Clerk.

Section 150-3.Review and approval of development plan.

A. Referral. The Town Board shall refer the open development plan to the Town

Engineer, Building Inspector, Town Attorney and the Planning Board for their review, advice and recommendations, including all the terms and provisions of §150-2 of this Chapter.

B. Planning Board meeting. The applicant shall be prepared to attend the next regular meeting of the Planning Board after the official submission date and any subsequent meetings deemed necessary by the Planning Board to discuss the preliminary open development area plan.

C. Planning Board action. Within 45 days after submission to the Planning Board, said Planning Board shall take action to recommend to the Town Board a conditional approval, with or without modification, or disapproval of such open development plan, with the ground for disapproval stated upon the records of the Planning Board. Failure of the Planning Board to act within such 45-day period shall constitute a "no recommendation" of the plan.

D. Town Board action. Before the Town Board acts on the plan, it may schedule a public hearing to be determined at the first meeting subsequent to receiving the recommendation of the Planning Board. Upon mutual consent of both the Town Board and the applicant, the public hearing may be delayed. If any zoning changes are to be requested at the time of the approval of the open development area plan, a public hearing must be held thereon. The two public hearings may be

held at the same time.

E. Public hearing. The Town Board may within 45 days from the date of the public hearing approve, modify or disapprove such plan. The grounds for such action shall be stated in the minutes. The Town Board may require additional information prior to acting on the plan. The approval of such development plan may include additional requirements.

Section 150-4.Required improvements and agreements.

A. Improvements and performance bond. Prior to any action by the Town Board approving an open development area plan, the applicant may be required to complete, in accordance with the Town Board's decision and to the satisfaction of the appropriate Town department, all the street, sanitary and other improvements specified in the action approving said plan, or as an alternative, to file with the Town Board a performance bond in an amount estimated by the Town Engineer to secure to the Town the satisfactory construction and installation of the incomplete portion of the required improvements. Such amount shall equal an estimated 100% of the cost of such improvements. A period of one year or such other period as the Town Board my determine appropriate within which required improvements must be completed shall be specified by the Town Board and expressed in the bond. Also provide a 100% maintenance bond upon acceptance of facilities. All required improvements shall be made by the applicant at his expense without reimbursement by the Town or any district thereof. Said

improvements include at least the following:

(1) Access roadways.

(2) Directional signs.

(3) Electrical, telephone and utility lines.

B. Inspection of improvements. The Town Engineer shall act as agent for the Town and Planning Boards for the purpose of overseeing the satisfactory completion of improvements as required by the Town Board and shall determine an amount to defray costs of inspection. The applicant shall pay the Town the costs of inspection before the open development area plan is signed for filing. This cost shall be in addition to the fees required. If the Town Board or its agent finds, upon inspection, that any of the required improvements have not been constructed in accordance with the Town Board recommendations or the approved construction detail sheet, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications.

Section 150-5. Filing of approved plan.

Upon completion of all requirements set forth in the action approving the open development area plan and the approval by the Town Board, the plan shall have the certification of the Town Clerk as follows:

> "Approved by resolution of the Town Board of the Town of Wales, New York, on the ____ day of _____ , ____

subject to all requirements and conditions of said attached resolution. Any change, erasure, modification or revision of this plan, as approved, shall void this approval. Signed this ____ day of _____, 20___, by _____." (and notation to that effect upon said plan, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Town Board and shall be filed in the office of the Town Clerk, the Town Building Department and the Highway Superintendent.)

Section 150-6. Time frame for land sales or initiation of construction.

Upon posting of the performance bond in accordance with this Chapter and after approval and filing of the open development area plan as required, the developer may initiate land sales or construction of the open development area itself.

Section 150-7. Development standards.

The Town Board, in considering an application for an open development area plan, shall be guided by the following considerations and standards:

A. General.

(1) Character of land. Land to be developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

(2) Conformity to Official Map and Comprehensive Plan. The open development area shall conform to the streets and parks shown on the Official Map as may be adopted and shall be properly related to the Comprehensive Plan as it is developed and adopted by the Planning Board.

B. Design standards.

(1) Access roadways.

(a) Access roadways shall be designed either with a cul-de-sac or circular way to preclude any use other than access to or exit from property in the development.

(b) All access roadway widths shall be measured at right angles or radial to the center line of the municipally owned street and shall not be less than a 50-foot right-of-way with a gravel surface not less than 20 feet. (meet International building code requirements).

(c) All access roadway widths and street pavements shall be measured at right angles or radial to the center line of the street.

(d) The specifications for construction and maintenance of the right-of-way shall be established by the Town Engineer and must be submitted with the preliminary development area plan for recommendation by the Planning Board and Town Engineer and final approval by the Town Board. If the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, or where the circumstances of a case do not

require the structure to be related to existing or proposed streets or highways, the Board may make any
reasonable exception and issue the permit subject to conditions that will protect any further street or highway layout.

Section 150-8.Modification of standards.

The Town Board may modify the specification requirements in any open development area plan where, in the Board's judgment, such modification is in the public interest or will avoid the imposition of unnecessary individual hardship as stipulated in this Chapter.

Section 150-9.Improvements.

The developer, before the approval of the open development area plan, shall complete improvements to the satisfaction of the Town Engineer or post a performance bond sufficient to insure the satisfactory completion of the following required improvements, except where waivers may be required, and the Town Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of public health, safety and general welfare:

A. Streets.

B. Storm drains, culverts and catch basins. (SWPP)

C. Drainage plan.

D. State Environmental Quality Review Act requirements.

Section 150-10. Variances and waivers.

A. Where the Town Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variances will not have the effect of nullifying the intent and purpose of this open development area plan.

B. Where the Town Board finds that due to special circumstances of a particular plan the provisions of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities and adjacent to or in proximity to the proposed plan, it may waive such requirements subject to appropriate conditions.

C. In granting variances and modifications, the Town Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

Section 150-11. Deed restrictions.

All deeds and easements of all or part of the real property subject to the requirements and conditions of the Open Development Law approved herein shall contain the following provision:

"This conveyance is made and accepted subject to the open development area plan approved by the Town Board of the Town of Wales on the ____ day of _____, 20___."

SECTION 3. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York Secretary of State.