

Town of Wells, ME
Thursday, April 24, 2014

Chapter 145. LAND USE

[HISTORY: Adopted by the Town of Wells 11-2-1993. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 53.
Building construction — See Ch. 91.
Floodplain management — See Ch. 115.
Historic preservation — See Ch. 132.
Residential growth — See Ch. 174.
Subdivision of land — See Ch. 260.

Article I. General Provisions

§ 145-1. Title.

This chapter shall be known and cited as the “Land Use Ordinance of the Town of Wells, Maine,” and will be referred to as “this chapter.”

§ 145-2. Authority.

This chapter is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of 30-A M.R.S.A. § 2691 (Board of Appeals), 30-A M.R.S.A. § 3001 (Home Rule), 30-A M.R.S.A. § 4312 et seq. (Growth Management Law), 30-A M.R.S.A. § 4351 et seq. (Land Use Regulation) and 38 M.R.S.A. § 435 et seq. (Mandatory Shoreland Zoning Act).

§ 145-3. Applicability.

The provisions of this chapter shall govern all land and all structures within the boundaries of the Town of Wells, including any structure built on, over or abutting a water body, a tributary stream or a wetland.

§ 145-4. Purpose.

The purposes of this chapter are to:

- A. Implement the provisions of the Town’s Comprehensive Plan;
- B. Encourage growth in the identified growth areas of the community and to limit growth in the rural areas;
- C. Promote the health, safety and general welfare of the residents of the community;
- D. Promote traffic safety;
- E. Promote safety from fire and other elements;
- F. Manage and conserve natural resources;
- G. Protect buildings and lands from flooding and accelerated erosion;
- H. Protect archaeological and historic resources; and
- I. Conserve natural beauty and open space and visual access to them.

§ 145-5. Conflicts with other laws.

Whenever a provision of this chapter conflicts with or is inconsistent with another provision of this chapter or of

any other ordinance, regulation or statute, the more restrictive provision shall control, unless otherwise indicated.

§ 145-6. Amendments.

[Amended 11-5-2013]

A. Initiation of proposed amendments.

- (1) A proposed amendment to either the text of this chapter or to a zoning district boundary may be initiated by petition of at least 10% of the votes cast in the last gubernatorial election in the Town.
- (2) Proposed amendments to the text of this chapter may be initiated by the Board of Selectmen, the Planning Board, or by an individual, corporation, or other entity having right, title and interest in property within the Town of Wells to be affected by said proposed amendment.
- (3) Proposed amendments to a zoning district boundary may be initiated by the Board of Selectmen, the Planning Board, or by an individual, corporation or other entity having right, title, and interest in a property and concurrence from 75% of all properties that are the subject of the zoning district boundary amendment request.

B. All requests for amendments to the text of this chapter, or for changes in zoning district boundaries, initiated by other than the Board of Selectmen, by petition, or the Planning Board, shall be accompanied by a non-refundable application fee as set by the Board of Selectmen and shall be submitted to the Office of Planning and Development. No such request or proposal shall be referred to the Board of Selectmen or Planning Board unless and until the fee is paid. In addition, the applicant shall pay all expenses in connection with the requested amendment application by submitting funds for deposit into a Town-established escrow account. These expenses may include, but are not limited to, costs associated with amending the Official Zone Map, printing and copying costs, website updates, postage, and public hearing ads. Any funds that remain in the escrow account once all expenses associated with the amendment application have been paid shall be refunded to the applicant.

C. Review processes.

- (1) The applicant shall submit to the Office of Planning and Development an application form, along with the supporting materials, as required in § 145-6E. If the amendment involves changes to zoning district boundaries, the addresses of abutters shall be obtained from the Town of Wells Tax Assessor's records, and within 10 days of receipt of an application by the Office of Planning and Development, the Office of Planning and Development shall notify abutters of the amendment application.
- (2) The abutters' notification shall include a copy of the application form and an explanation of the purpose of the notification. The location, time, and date of the meeting in which the application is to be received by the Board of Selectmen shall also be included in the notification, and said notification shall be sent or delivered by first-class mail at least 10 days before the meeting.
- (3) An applicant, or an applicant's designated representative, shall be notified of any meetings at which the applicant's proposed amendment application will be reviewed. The applicant or the applicant's designated representative must be present at any meetings at which the amendment application is scheduled to be reviewed.
- (4) It is the responsibility of the Board of Selectmen to determine if the application has adequately addressed the considerations as outlined in § 145-6D within 60 days of receipt of the amendment application by the Board of Selectmen. If the amendment application is found to adequately address the considerations as outlined in § 145-6D, it shall be placed on an agenda for presentation to the Planning Board. If the application is found to not adequately address the considerations as outlined in § 145-6D, the applicant shall be notified, in writing, of the additional information needed to complete the application. If the additional information or a written request for an extension is not submitted within 60 days of the notification, the application shall be considered to be withdrawn. The application fee for a withdrawn or denied application shall not be refunded.
- (5) Within 35 days of presentation of the amendment application to the Planning Board, the Planning Board shall hold a public hearing for the amendment application.
 - (a) In scheduling public hearings under this section, the Planning Board shall publish notice of the hearing at least two times in a newspaper of general circulation in Wells. The date of the first publication must be at least 12 days before the hearing, and the date of the second publication must be at least seven days before the hearing. The applicant shall be responsible for paying the cost of such notices.
 - (b) If the proposed amendment involves changes to zoning district boundaries, the Planning Board shall notify, by certified mail, the applicant and all abutters of the lot(s), including owners of lots on the opposite side of the street, at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing. If the amendment application involves changes to the text of this chapter, the Planning Board is not required to notify abutters.

- (c) Procedures for public hearings of the proposed amendment applications filed under the provisions of this section shall follow the requirements of § **145-74D(5)**.
- (6) Within 35 days of the Planning Board public hearing or a period of time agreed to by the applicant and the Planning Board, the Planning Board shall prepare written recommendations based on the considerations found in § **145-6D**, the requirements found in § **145-6E**, on the evidence presented at the public hearing by members of the public, the applicant, and Town staff. The Planning Board shall inform the applicant and the Board of Selectmen, in writing, within seven days of its recommendations. Within 35 days of receipt of the Planning Board recommendations, the Board of Selectmen shall consider the Planning Board's recommendations on the proposed amendment and shall vote either to deny the application or to accept the application and include the proposed amendment on the next Town Meeting ballot.
- D. The Board of Selectmen must receive and review the proposed amendment application in accordance with the following considerations:
- (1) The proposed amendment will not be materially detrimental to the public welfare or injurious to the subject property or properties in the vicinity;
 - (2) The proposed amendment is warranted because of changed circumstances or because of a need for additional property in the proposed zoning district;
 - (3) The subject property is suitable for development in general conformance with zoning standards under the proposed zoning district;
 - (4) The property shall have the ability to be served by adequate facilities, including roads, water, fire protection, sewer disposal facilities and storm drainage facilities for the intensity to which it is being rezoned;
 - (5) The proposed amendment is in accord with the Wells Comprehensive Plan; and
 - (6) The proposed amendment complies with all other applicable regulations of the Town and with all state and federal statutes.
- E. Amendment application requirements. Applications that propose amendments to a zoning district boundary or text changes to this chapter shall submit information as required in Subsection **E(1)** and **(2)**, respectively.
- (1) All applications for proposed amendments to a zoning district boundary shall include, at a minimum the following:
- (a) Address or location of the subject property, the location and dimensions of any changed zoning district boundary, and a location map that shows the relationship of the location to the surrounding area. Any proposed zoning district boundary changes shall be shown on the appropriate Assessor's Tax Map and shall indicate Tax Map and lot number(s);
 - (b) Name and address of property owner(s) to be included within the proposed zoning district boundary change;
 - (c) Name and address of the applicant(s);
 - (d) A list of names and addresses of abutters to the properties included within the proposed zoning district boundary change;
 - (e) Statement regarding existing and proposed land use;
 - (f) Existing and proposed zoning district designations;
 - (g) Statement regarding the way in which the proposed amendment or change complies with § **145-6D**;
 - (h) Documentation of right, title or interest;
 - (i) If the proposed change is contingent on or would affect the Wells Sanitary District's sewer system, a letter from the Sanitary District stating that adequate line and plant capacity to dispose of the generated sewer will be available; and
 - (j) If the proposed change is contingent on or would affect the Kennebunk, Kennebunkport and Wells Water District water system, a letter from the Water District stating that adequate line and supply capacity will be available.
- (2) All applications for proposed amendments to the text of this chapter shall include, at a minimum, the following:
- (a) Name and address of the applicant(s);
 - (b) Copies of sections of this chapter in which text changes are proposed;
 - (c) Draft text changes to be considered or a written summary describing the changes proposed;
 - (d) Statement regarding the way in which the proposed amendment complies with § **145-6D**;
 - (e) Documentation of right, title or interest for property within the Town of Wells;
 - (f) If the proposed amendment is contingent on or would affect the Wells Sanitary District's sewer system, a letter from the Sanitary District stating that adequate line and plant capacity to dispose of the generated sewer will be available; and
 - (g) If the proposed amendment is contingent on or would affect the Kennebunk, Kennebunkport and Wells

Water District water system, a letter from the Water District stating that adequate line and supply capacity will be available.

- F. Technical assistance. The Planning Board or Board of Selectmen may, at its discretion, forward a copy of the application, the plans and all supporting documentation to any appropriate technical expert for review. The review may include traffic impact, roadway capacity as well as any other concerns of the reviewing authority. The applicant shall pay for the employment of any such experts and all associated costs.
- G. Within 10 days of the adoption of any amendment enacted pursuant to the Mandatory Shoreland Zoning Act, *Editor's Note: See 38 M.R.S.A. § 435 et seq.* copies of the amendment attested and signed by the Town Clerk shall be sent to the Commissioner of the Maine Department of Environmental Protection for review and approval. Such an amendment shall not be effective until approved by the Commissioner or in 45 days from the date received by the Commissioner, whichever shall come first. Any application submitted to the Code Enforcement Officer, Zoning Board of Appeals or Planning Board within the forty-five-day period shall be governed by the terms of the proposed amendment if the amendment is approved by the Commissioner of the Department of Environmental Protection or if the Commissioner fails to take action.

§ 145-7. Effective date.

The effective date of this chapter shall be January 1, 1994.

§ 145-8. Repealer.

- A. Chapter 138 of the Code of the Town of Wells (Zoning Ordinance) as adopted on March 8, 1985, with amendments through November 2, 1993, is hereby repealed.
- B. Chapter 101 of the Code of the Town of Wells (Noise Ordinance) as adopted on November 8, 1983, with amendments through November 2, 1993, is hereby repealed.
- C. Chapter 125 of the Code of the Town of Wells (Site Review Ordinance) as adopted on November 8, 1983, with amendments through November 2, 1993, is hereby repealed, except that the Site Review Board shall continue to meet as long as needed to complete its review of complete site plan applications filed prior to January 1, 1994.

Article II. Word Usage and Definitions

§ 145-9. Word usage.

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "shall" is always mandatory.

§ 145-10. Definitions.

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

ABUTTER

A person who owns adjacent land or land across a street right-of-way from the subject lot.

ACCESSORY USE

A use which is both incidental and subordinate to the principal use.

ACRE

A measure of land area containing 43,560 square feet.

AGGRIEVED PERSON

The Planning Board or a person whose land or structure is or would be adversely affected by the granting or denial of a permit or variance under this chapter or a person whose land abuts land for which a permit has been granted.

AGRICULTURE

The business of producing or raising plants and crops, including gardening as a commercial operation, greenhouses which are not used for raising plants as a wholesale business, tree farms and nurseries. Agriculture does not include timber harvesting. The extraction of water for use in plant, crop or livestock irrigation is not agriculture, but rather an accessory use to agriculture or animal husbandry.

[Amended 4-28-1995]

ANIMAL HUSBANDRY

The boarding of animals, the practice of veterinary medicine or the growing and raising of livestock and poultry for commercial purposes, i.e., sale to consumers, wholesalers or retailers.

AQUACULTURE

The growing and cultivation of water plants or animals.

ARCHITECTURAL DETAIL (See also SIGNABLE AREA, WALL AND ROOF SIGNS)

Any projection, relief, cornice, column, change of building material, window, or door opening on any building.

[Added 11-6-2007]

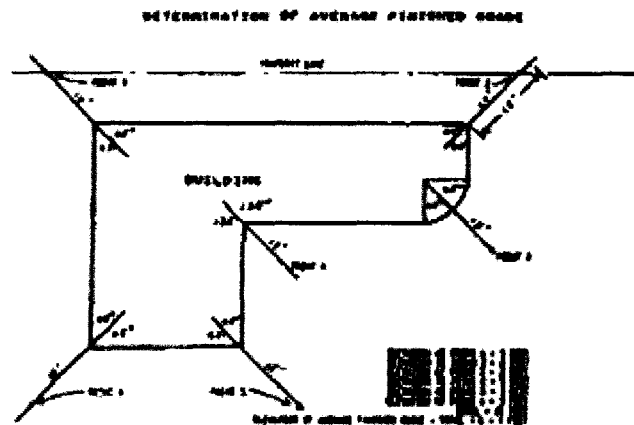
AUTOMOBILE GRAVEYARD

A yard, field or other area used to store three or more unserviceable, discarded, worn out or junked motor vehicles as defined in 29-A M.R.S.A. § 101, Subsection 42, or parts of such vehicles. "Automobile graveyard" does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. (See "recycling facility.")

[Amended 11-7-2000]

AVERAGE FINISHED GRADE

The average of the elevations of the points located 15 feet or at the lot line (whichever is closer to the building) from each exterior corner of a building measured on the extension of a line which bisects the angle of the corner or, in the case of a circular building, by averaging the elevations of the points located 15 feet or at the lot line (whichever is closer to the building) measured on an extension of a line which bisects each quadrant of a building or remaining portion thereof. The Code Enforcement Officer may require additional points to be used in the determination of the averaged finished grade if, in his opinion, the grading has been done in a manner to circumvent the height limit.

**AWNING**

A cloth, plastic, or other nonstructural covering that either is permanently attached to a building or can be raised or retracted to a position against the building when not in use.

[Added 11-6-2007]

BANK

A business engaged in receiving, keeping, storing, lending or exchanging money.

BANNER

A sign composed of a logo or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.

[Added 11-6-2007]

BED-AND-BREAKFAST/SMALL INN

A business conducted in a building containing a dwelling unit occupied by the owner or resident manager and his/her family in which fewer than nine bed-and-breakfast/small inn room units, none of which have their own kitchen facilities, are offered and rented to transient guests or to a lodging unit owner for no more than 14 days in a calendar year and in which meals may be available only to the occupants/transient guests.

[Amended 11-5-2013]

BED-AND-BREAKFAST/SMALL INN OFFICE

An area on the property and within a building where assistance is provided such as receiving and processing reservations, maintaining occupancy records, coordinating services, managing room key inventory and processing account statements. The bed-and-breakfast/small inn office shall be of a size that is equal to or larger than the

average room size in that bed-and-breakfast/small inn. The bed-and-breakfast/small inn office must be open and staffed a minimum of eight hours per day when the bed-and-breakfast/small inn is occupied. All registration, rentals, collection of state or local lodging taxes shall be conducted by and through the bed-and-breakfast/small inn office. The bed-and-breakfast/small inn office shall comply with the requirements of Article X (entitled Lodging Facilities) of Chapter 150 of the Wells Code.

[Added 11-5-2013]

BED-AND-BREAKFAST/SMALL INN ROOM FOOTPRINT

The gross area of a unit as measured from the interior wall faces which define the bed-and-breakfast/small inn room boundaries. Projections no greater than 12 inches horizontally and four feet vertically shall not be included in the gross area.

[Added 11-5-2013]

BED-AND-BREAKFAST/SMALL INN ROOM UNIT

A room or combination of rooms to accommodate transient guests or a lodging unit owner. The bed-and-breakfast/small inn unit footprint shall not exceed 470 square feet. A deck or enclosed porch not exceeding 100 square feet shall also be permitted.

[Added 11-5-2013]

BEDROOM

A room in a dwelling unit intended for sleeping, separable from other rooms by a door.

BOTTLE REDEMPTION CENTER

See "business, service."

[Added 4-28-1995]

BUILDING

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or personal property.

BUILDING HEIGHT

The vertical distance measured from the average finished grade surrounding a building to the highest point of the roof.

[Amended 4-18-1998; 4-14-2000]

BUS DEPOT

A business that stores, services, and/or dispatches busses.

[Added 4-16-2004]

BUSINESS

Any use or activity conducted for financial gain or any use or activity in which fees are charged, other than municipal, religious or community-based nonprofit organizations.

BUSINESS, CONTRACTOR

A business engaged in the provision of a service off premises but which has an office and equipment/materials stored on the premises.

BUSINESS, HOME

Any activity conducted for financial gain which is carried on in a dwelling unit or structure accessory to a dwelling unit.

BUSINESS, OFFICE

A business which provides administrative, professional or clerical services (e.g., lawyer, insurance agent, accountant, surveyor, planner, engineer, etc.). The term "business office" excludes medical and doctors' offices.

BUSINESS, PERSONAL SERVICE

A business engaged in the provision of personal services, such as but not limited to a doctor, hairdresser, barber, beautician, masseuse or tanning salon.

BUSINESS, RETAIL

A business engaged in the sale, rental or lease of goods to the ultimate consumer for his or her use or consumption and not for resale. So-called wholesale clubs at which members pay a yearly fee but are primarily ultimate consumers are considered retail uses. The maximum size of retail businesses in the General Business District shall not exceed 40,000 square feet.

[Amended 4-14-2000]

BUSINESS, SERVICE

A business engaged in the provision of an actual service on the premises, such as but not limited to cleaning or repairing personal property, training or teaching people, a small animal veterinary practice, pet grooming, the redemption of beverage containers or a funeral home. Service businesses does not include a self-storage facility.

[Amended 5-20-2003]

BUSINESS, WHOLESALE

A business engaged in the sale of merchandise to retailers and not to the ultimate consumer.

CEMETERY

A site used for the interment of the human dead.

CHURCH

A tax-exempt religious institution of any denomination that people regularly attend to participate in or hold services, meetings and other activities.

CLUB

Any association of persons organized for social, benevolent, recreational, literary, scientific or political purposes, whose facilities, including a clubhouse, are open to members and occasionally to the general public and which is not usually engaged in activities customarily carried on by a business or for financial gain.

CODE ENFORCEMENT OFFICER

The person or persons, appointed by the Town of Wells Board of Selectmen, responsible for the enforcement of this chapter within the Town of Wells.

CONGREGATE CARE FACILITY

A facility providing congregate housing, together with the associated personal service businesses and amenities necessary for independent or semi-independent living. A congregate care facility may include single-family detached dwelling units, duplex or other multifamily units, or buildings that contain multiple congregate dwelling units that exceed the multifamily limits under the Code of the Town of Wells, together with administrative offices and auxiliary buildings necessary for the care and maintenance of the property. A congregate care facility may include a nursing home (as defined herein or by Maine law) or skilled care facility but such nursing care facility shall be licensed properly in accordance with the prescribed level of care to be provided by such nursing or skilled care facility. A congregate care facility may include a physician's office and a pharmacy but such office as well as the personal service businesses referred to above shall only be offered to residents of the congregate care facility and may not be open to the public at large. Congregate care facilities shall include facilities for common dining, including on-site kitchen facilities suitable for preparation of meals for common dining. The common dining room shall be capable of providing seating for at least 60% of the total number of residents at the congregate care facility, less the number of such residents who may be living in a nursing home or skilled care facility and do not take meals other than in their rooms or some other supervised dining arrangement. Congregate care facilities containing three or more dwelling units or three or more congregate dwelling units shall be considered and reviewed as subdivisions under the Code of the Town of Wells. *Editor's Note: See Ch. 202, Subdivision of Land.*

[Added 6-8-2010]

CONSERVATION EASEMENT

A nonpossessory interest in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic or open space values of real property; ensuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

CONVENIENCE STORE

A retail business containing less than 5,000 square feet of gross floor area selling convenience merchandise, including but not limited to items such as foodstuffs, nonprescription medical supplies, sanitary supplies, newspapers, emergency home repair articles, household cleaners, toiletries, other household items and motor vehicle fuels, and which may include a fast-food restaurant as an integrated part of the business operation.

[Added 4-16-2004]

CUL-DE-SAC

A circular turnaround located at the end of a street.

CUT-OFF FIXTURE

An outside lighting fixture that is designed to minimize the amount of light that is not directed towards the ground. In order to be considered a cut-off fixture a minimum of 90% of the total lamp lumens must be directed below 80° from vertical and no more than 2.5% of the total lamp lumens may be allowed above a horizontal line from the bottom of the fixture. A cut-off fixture may be either a pole-mounted or wall-mounted fixture.

[Added 4-16-2004]

DAY-CARE CENTER

A business which provides temporary care, protection and supervision of more than six people for up to 18 hours a day. The term "day-care center" does not include the term "day-care home."

DAY-CARE HOME

A business conducted within a dwelling unit where temporary care, protection and supervision of no more than

10 people is provided for up to 18 hours a day.

[Amended 4-7-2001]

DAYTIME HOURS

The hours between 7:00 a.m. and 10:00 p.m. Monday through Saturday; and the hours 9:00 a.m. through 9:00 p.m. on Sundays.

[Added 6-14-2011]

DECK

A platform, usually used for seating and/or access to a building, elevated above the ground which may have a railing surrounding it but has no roof or other covering.

DENSITY

The number of dwelling units or lodging units per area of land.

[Amended 4-28-1995]

DIMENSIONAL REQUIREMENTS

Includes lot size, density, street frontage, shore frontage, lot coverage, building height and setback requirements.

DRUG ABUSE SHELTER

A drug abuse shelter is a facility that provides food, lodging and clothing for abusers of alcohol and other drugs, for the purpose of protecting and maintaining life and providing motivation for alcohol and drug treatment. This definition is not intended to apply to off-site meetings of Alcoholics Anonymous, Narcotics Anonymous (or other similar support groups), or to off-site private or group counseling sessions with mental health professionals.

[Added 6-14-2011]

DWELLING, MULTIFAMILY

A residential use consisting of three or more dwelling units in one building. A congregate housing complex or building shall not be considered a multifamily dwelling.

[Amended 6-8-2010]

DWELLING, ONE-FAMILY

A residential use consisting of one dwelling unit, including a community living facility as defined in 30-A M.R.S.A. § 4357-A.

[Amended 11-7-2000]

DWELLING, TWO-FAMILY

A residential use consisting of two dwelling units located in one building.

DWELLING UNIT

One or more rooms designed and equipped for occupancy by only one family containing living, cooking, sleeping, bathing and sanitary facilities.

DWELLING UNIT, ACCESSORY

A dwelling unit which is permitted as an accessory use to an owner-occupied one-family dwelling.

DWELLING UNIT, CONGREGATE

One or more rooms designed and equipped for occupancy by only one family, or by a single individual, containing living, sleeping, bathing and sanitary facilities and which may include cooking facilities.

[Added 6-8-2010]

EGRESS PLATFORM

An area constructed to allow emergency access to a building, including stairs, ramps and railings. The platform area shall be clear of obstructions and shall not be permitted to be used for seating, grilling, cooking, or storage.

[Added 6-12-2012]

ELDERLY HOUSING

Housing units intended for and occupied solely by persons 55 years of age or older or an elderly couple one of whom is 55 years of age or older. Elderly housing may have the same common amenities as congregate housing.

[Amended 4-26-1996]

ELECTRONIC MESSAGE CENTER (aka "ELECTRONIC MESSAGE BOARD")

An electrically activated sign whose message content, either in whole or in part, may be changed by means of electronic programming. The message content may be displayed as pixels on a display surface, which pixels may consist of incandescent lamps, reflective disks, light-emitting diodes (LEDs), liquid crystal components (LCDs), neon or plasma light segments, or various combinations of the above.

[Added 6-8-2010]

EMERGENCY VEHICLE

Any motor vehicle authorized by a town, county, state or federal authority to have sound warning devices such as sirens and bells, which can lawfully be used when responding to an emergency.

[Added 6-14-2011]

EMERGENCY WORK

Work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

[Added 6-14-2011]

ESTUARINE AND MARINE RESEARCH FACILITIES

Facilities where research or educational activities of or relating to the sea, estuaries or marine life occur.

[Added 4-14-2000]

EXCESSIVE, UNNECESSARY OR UNREASONABLE NOISE

Any sound that is plainly audible for a distance from the source as set forth in § 145-45 of the Wells Code which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensibilities. If the sound source under investigation is a sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music may be sufficient to constitute excessive or unreasonable noise.

[Added 6-14-2011]

FACADE

The side of a building below the eaves.

[Added 11-6-2007]

FAMILY

One or more persons related by blood, marriage, adoption or under approved foster care; or a group of not more than five unrelated individuals living together in a dwelling unit; or a group of individuals living together in a community living arrangement as defined by 30-A M.R.S.A § 4357-A.

[Amended 4-7-2001]

FOOTCANDLE METER

A device designed to measure the illuminance of a sign.

[Added 6-8-2010]

FOOTPRINT

The portion of a lot covered by all portions of any structure, including decks, porches, cantilevered sections and roof eaves exceeding 12 inches.

[Added 4-18-1998; amended 6-12-2012]

FOUNDATION

The supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts or frost walls.

FREESTANDING RESIDENTIAL DETOXIFICATION PROGRAM (ASAM LEVEL III 7-D/MEDICALLY MONITORED INPATIENT DETOXIFICATION)

A freestanding residential detoxification program provides care to persons whose withdrawal signs and symptoms indicate the need for twenty-four-hour residential care. Services include a biopsychosocial evaluation, medical observation, monitoring, and treatment, counseling, and follow-up referral. However, the full resources of an acute care general hospital or a medically managed intensive inpatient treatment program are not necessary. Services must be conducted in a freestanding or other appropriately licensed healthcare or addiction treatment facility. This definition is not intended to apply to off-site meetings of Alcoholics Anonymous, Narcotics Anonymous (or other similar support groups), or to off-site private or group counseling sessions with mental health professionals.

[Added 6-14-2011]

FUNCTION HALL

A business in which a room or rooms may be rented out to a variety of different groups for public and private meetings, gatherings, dances, conferences or parties.

GAMBLING

That process in which one stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he, she or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

[Added 11-5-2002]

GAMBLING CASINO

A building, structure or other facility used to allow, conduct, hold, maintain, or operate a game of chance, game of skill, electronic video machine, roulette, high stakes beano or bingo, slot machines or any other type of gambling activity. A gambling casino shall not be construed to include a building structure or other facility when used incidentally by any bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organizations, or a volunteer fire department or other public safety nonprofit organizations when used for the conduct of any beano, bingo, raffles, games of chance or other activities specifically permitted by Maine state statute, provided that such nonprofit organizations do not exist primarily to operate such activities and that all requirements of state statute, including all requirements for licensing by the Chief of the Maine State Police, are strictly met.

[Added 11-5-2002]

GAMBLING DEVICE

Any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition.

[Added 11-5-2002]

GAME OF CHANCE

Any game, contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value; the rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill. As used in this definition, "an event that result of which is determined by chance" includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or simulations of any of these. A shuffle of a deck or decks of cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance, that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance.

[Added 11-5-2002]

GAME OF SKILL

Any game, contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value and that is not a game of chance.

[Added 11-5-2002]

GREAT POND

Any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres. For the purposes of regulation in the Town of Wells, Ell Pond and Hobbs Pond shall be considered great ponds.

[Added 4-27-2007]

GROSS FLOOR AREA

The sum of the areas of all the floors of all roofed portions of a building, as measured from the exterior faces of the exterior walls, plus the horizontal area of any unenclosed roofed portions of a structure, such as porches. Within buildings, areas having headroom of less than 6 1/2 feet and areas designed and used for motor vehicle parking in order to meet the parking requirements of this chapter shall not be counted as gross floor area. Elevators and stairwells shall be counted at each floor.

HABITABLE

Any portion of a building designated for human occupation which has a ceiling height greater than 6.5 feet or which is climate controlled.

[Amended 6-12-2012]

HEIGHT OF A SIGN

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the same lot, whichever is nearer.

[Added 11-6-2007]

HIGH-WATER LINE

A. NONOCEANFRONT TIDAL WATERS — The land elevation at which periodic tidal action causes vegetation changes from predominantly salt-tolerant to terrestrial plants. In places where vegetation is not present or where it is not possible to identify plant types, the high-water line shall be the identifiable debris line left by nonstorm tidal action. Salt-tolerant vegetation includes but is not limited to salt marsh cord grass, ditch grass, eel grass, orache, salt marsh sedge, salt marsh bull rush and arrow grass.

B. INLAND WATERS — That line on the shores and banks of nontidal waters which is apparent because of visible markings, different character of the soil due to the prolonged action of the water or changes in vegetation and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands next to rivers and great ponds, the high-water line is the upland edge of the wetland where the vegetation changes from predominantly aquatic plants to predominantly terrestrial plants. Aquatic plants include but are not limited to the following: water lily, pickerelweed, cattail, wild rice, sedges, rushes and marsh grasses.

C. OCEANFRONT WATERS — That line on the shore of tidal waters reached by the shoreward limit of the spring tide or the base of the sea wall where one exists, whichever is more seaward, or in areas with natural sand dunes the seaward reach of dune vegetation.

HOLIDAY

For purposes of site plan approval in Article X, the days that the United States Postal Service is not open for business, other than Saturday afternoons and Sundays.

[Added 4-28-1995]

HOSPITAL

An institution providing medical and surgical services for humans primarily on an inpatient basis. It may include emergency treatment facilities, outpatient facilities, training facilities and other related support services.

HOTEL/MOTEL

A business consisting of a building or group of buildings, excluding housekeeping cottage complexes, which hotel/motel units are rented to and occupied by transient guests or by a lodging unit owner for no more than 14 days in a calendar year.

[Amended 11-5-2013]

HOTEL/MOTEL OFFICE

An area on the property and within a building where assistance is provided such as receiving and processing reservations, maintaining occupancy records, coordinating services, managing room key inventory and processing account statements. The hotel/motel office shall be of a size that is equal to or larger than the average unit size in that hotel/motel and shall have a public restroom facility. The hotel/motel office must be open and staffed a minimum of 12 hours per day when the hotel/motel is occupied. All registration, rentals, collection of state or local lodging taxes shall be conducted by and through the hotel/motel office. The hotel/motel office shall comply with the requirements of Article X (entitled Lodging Facilities) of Chapter 150 of the Wells Code.

[Added 11-5-2013]

HOTEL/MOTEL UNIT

A room or combination of rooms to accommodate transient guests or a lodging unit owner. The hotel/motel unit footprint shall not exceed 470 square feet. A deck or enclosed porch not exceeding 160 square feet shall also be permitted.

[Added 11-5-2013]

HOTEL/MOTEL UNIT FOOTPRINT

The gross area of a hotel/motel unit as measured from the interior wall faces which define the hotel/motel unit boundaries. Projections no greater than 12 inches horizontally and four feet vertically shall not be included in the gross area.

[Added 11-5-2013]

HOUSEKEEPING COTTAGE

A one-story building containing a single unit made up of a room or group of rooms containing facilities for eating, sleeping, bathing and cooking rented to transient guests for a period usually not exceeding 28 days. Such a unit shall not be occupied between January 10 and April 1.

HOUSEKEEPING COTTAGE COMPLEX

A business consisting of one or more housekeeping cottages.

HOUSING, CONGREGATE

A residential facility occupied exclusively by elderly persons that provides shared community space and shared as well as individual in-apartment dining facilities and normally also provides residents with housekeeping services, personal care and assisted living, transportation assistance, recreation activities and/or specialized shared services

such as medical support services and physical therapy. By "elderly" persons it is meant a person 55 years or older or a couple that constitutes a household and at least one of whom is 55 years or older. By "shared community space" is meant space designed to be used in common for the enjoyment and leisure of residents of the facility, such as reading rooms, sitting rooms, recreational rooms, rooms for entertaining guests and exercise rooms. By "shared dining facilities" is meant a room or rooms designed for the serving of meals to residents sitting together plus the kitchen facilities required to prepare the meals. Congregate housing buildings may include congregate dwelling units, and dwelling units in the same building. Congregate dwelling units and buildings containing only congregate dwelling units are not subject to the six dwelling unit per building restriction found in § 145-48 of the Wells Code.

[Amended 4-26-1996; 6-8-2010]

ILLUMINANCE

The measure of the amount of light that is intercepted by an object that is a distance away from the sign. That is, the lighted sign face illuminates objects that are away from it, and the lighting level produced by the sign on a particular object is measured in footcandles (fcs).

[Added 6-8-2010]

ILLUMINATION, EXTERNAL

Illumination of a sign that is effected by an artificial source of light not contained within the sign itself.

[Added 11-6-2007]

ILLUMINATION, INTERNAL

A light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface. Neon signs are considered to be internally illuminated.

[Added 11-6-2007]

INCIDENTAL

Minor or secondary to something.

JUNKYARD

A field, yard or other area used to store:

- A. Discarded, worn out or junked plumbing, heating supplies, household appliances and furniture;
- B. Discarded, scrap and junked lumber;
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
- D. Garbage dumps, waste dumps and sanitary fills.

KENNEL

A business in which three or more dogs or cats over the age of six months are boarded, raised or bred. Pet grooming is considered an accessory use to a kennel.

[Amended 4-14-2000]

KITCHEN FACILITIES

A space used for cooking or the preparation of food, which may contain kitchen equipment including any heating devices to cook food, such as a portable or fixed stove, a dishwasher machine, or a refrigerator.

[Added 11-5-2013]

LIFE CARE FACILITY

A facility for the transitional residency of elderly persons, which includes all of the following: elderly housing, congregate housing and nursing home.

[Amended 4-26-1996]

LIGHTING FIXTURE

The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output, control, such as a reflector (mirror) or refractor (lens), the ballast, housing and the attachment of parts.

[Added 6-8-2010]

LODGING FACILITY

Includes hotels, motels, bed-and-breakfasts/small inns seasonal cottage complexes and housekeeping cottage complexes.

[Amended 4-12-2003]

LODGING UNIT

A room or group of rooms in a lodging facility containing facilities for eating, sleeping, bathing and cooking.

[Added 4-19-1997; amended 11-5-2013]

LODGING UNIT OWNER

A person or persons or any entity who have right, title and/or interest to a lodging unit or lodging facility.

[Added 11-5-2013]

LOT

An area of land in one ownership with identifiable lot lines established by deed, plan or other instrument of record.

LOT COVERAGE

That portion of a lot occupied by structures, parking lots, patios, sidewalks, except sidewalks located in an easement granted to the Town for sidewalk purposes, or other areas which were devegetated and which are not to be revegetated.

[Amended 4-12-2003]

LOT LINE

That real or imaginary line along the ground surface and its vertical extension which separates a lot from an abutting lot or from a street right-of-way.

LOT OF RECORD

A lot which was legally created by plan or deed and recorded in the York County Registry of Deeds which met the requirements of the zoning ordinance in effect at the time of recording or a lot which is located in a subdivision approved by the Planning Board and recorded at the York County Registry of Deeds.

LUMINANCE

The measure of the brightness of the sign face.

[Added 6-8-2010]

MANUFACTURED HOME

A structure built in a manufacturing facility, designed to be transported in two or fewer sections, to be used as a dwelling unit and, if built after June 15, 1976, certified as a manufactured housing unit by the United States Department of Housing and Urban Development.

MANUFACTURING

A business of making goods and articles by hand or machinery. "Manufacturing" shall include assembling, fabricating, finishing, packaging, or processing.

[Amended 6-12-2012]

MARIJUANA PARAPHERNALIA

Marijuana paraphernalia shall be defined in the same way as defined by the Maine Department of Health and Human Services in its Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, § 1.24, as amended.

[Added 6-14-2011]

MARINA

A business which provides one or more of the following: boat storage, boat launching or mooring. The term "marina" shall include related boat sales and service, snack bars, chandleries, fish sales and processing and marine-related retail sales.

MARKET VALUE

The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both familiar with the property and with prevailing general price levels.

MEDICAL CARE FACILITY

A business or institution, such as a hospital, convalescent home or hospice, which provides overnight and long-term health services.

[Amended 4-26-1996]

MEDICAL CLINIC

A business or institution which provides medical care on only an outpatient basis. For the purposes of this chapter any such use shall be defined and regulated as a personal service business.

MEDICAL USE OF MARIJUANA

Medical use of marijuana means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's debilitating medical condition or symptoms associated with the registered patient's debilitating medical condition. See also Maine Department of Health and Human Services' Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, § 1.21, as amended.

[Added 6-14-2011]

MINERAL EXTRACTION

A business (including any accessory storage, crushing, screening or segregating) engaged in the mining or excavation of loam, clay, sand, gravel, stone, mineral or other similar material for use off the premises. The following activities shall not be considered to be mineral extraction:

A. The removal or filling of material incidental to construction, alteration or repair to a structure or in the grading or landscaping incidental to a permitted use.

B. The removal or filling of material incidental to the construction, alteration or repair of a public or private road or public utility.

MOBILE HOME PARK

A parcel of land under unified ownership approved by the Town of Wells to accommodate three or more manufactured homes.

MOBILE HOME PARK SITE

The area of land within a mobile home park on which an individual manufactured home is situated and which is reserved for the exclusive use of the occupants of that home.

MULTIFAMILY DEVELOPMENT

Any combination of buildings containing a total of three or more dwelling units on one lot. The term "multifamily development" does not include a mobile home park, or any congregate housing facility.

[Amended 6-8-2010]

MUNICIPAL FACILITY

A use undertaken by the Town of Wells.

MUSEUM

A profit or nonprofit institution operated to preserve and exhibit objects of historical, cultural, scientific or artistic interest and which may also engage in incidental retail sales.

NEIGHBORHOOD CONVENIENCE STORE

A business containing less than 2,500 square feet of gross floor area (for the purposes of this definition, gross floor area shall not include any floor area located in an area not defined as a story) intended to serve the day-to-day needs of a residential area primarily with the sale of merchandise, including but not limited to items such as foodstuffs, nonprescription medical supplies, sanitary supplies, newspapers, emergency home repair articles, household cleaners, toiletries, other household items and motor vehicle fuels.

NET AREA

A measure of land area (measured on a horizontal plane) which excludes any land below the high-water line of a water body or below the upland edge of a wetland or any land beneath a street right-of-way.

NIGHTTIME HOURS

All hours other than daytime hours as defined.

[Added 6-14-2011]

NONCONFORMING

Something which lawfully exists but does not meet the current requirements of this chapter because it was established or constructed before the adoption or amendment of this chapter or complied with the zoning ordinance or a Planning Board approval at the time it was established or constructed.

[Amended 4-18-1998; 4-16-1999; 11-7-2000]

NONCONFORMING DEVELOPMENT

A use permitted within a district which does not conform to one or more of the standards within this chapter regulating the use.

NONCONFORMING LOT OF RECORD

A lot of record which does not meet the minimum lot size or minimum street frontage requirements of the district in which it is located.

NONCONFORMING STRUCTURE

A structure that does not meet the setback, lot coverage, architectural or height requirements of the district in which it is located but which met the requirements when it was built or erected.

NONCONFORMING USE

A use of land or a structure(s) which is not currently permitted in the district but which was a permitted use at the time the use was established.

NURSERY SCHOOL

A business which provides daily care, supervision and education of children under the age of seven.

NURSING HOME

A facility with beds licensed by the Maine Department of Human Services and in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care but do require licensed nursing supervision and related medical services.

[Amended 4-26-1996]

OPEN SPACE

Land within or associated with a development which is set aside, dedicated, or reserved for public or private use or enjoyment, protection of natural or historic features, protection of abutting property owners, or to provide areas suitable for active or passive recreation, as approved by the Planning Board.

[Added 11-7-2006; amended 6-11-2013]

PARKING LOT, COMMERCIAL

A business providing outside storage of registered motor vehicles.

PHYSICALLY DISABLED PERSON

An individual that has a physical condition that substantially limits one or more of the major life activities as further defined in 5 M.R.S.A. § 4553.

[Added 4-18-1998]

PLAINLY AUDIBLE

Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound.

[Added 6-14-2011]

PRINCIPAL USE

The use to which the lot is primarily devoted. Multiple principal uses may exist on a single lot.

PRIVATE NON-MEDICAL INSTITUTION (PNMI)

A private non-medical institution means a substance abuse treatment program, billing under the MaineCare Benefits Manual, 10-144 CMR Chapter 101, Ch. II and Ch. III, § 97, and which meets additional requirements, as outlined herein. This definition is not intended to apply to off-site meetings of Alcoholics Anonymous, Narcotics Anonymous (or other similar support groups), or to off-site private or group counseling sessions with mental health professionals.

[Added 6-14-2011]

PUBLIC TRANSPORTATION SHELTER

A freestanding roofed structure used as a passenger waiting area for pick up and drop off of passengers using trolleys and/or buses.

[Added 11-6-2007]

PUBLIC UTILITY FACILITY

A building or structure necessary for the furnishing of publicly regulated utility services primarily within the Town of Wells, excluding subsurface or aerial transmission lines. The principal use of any such facility shall be for such things as, but not limited to, switching stations, relay stations, treatment facilities and pumping stations.

[Amended 4-28-1995]

RECREATION, ACTIVE

Any noncommercial recreational activities which require some degree of permanent structural or mechanical components for participation in the activity, such as ball fields, playgrounds and tennis courts.

RECREATIONAL VEHICLE

A vehicle that:

- A. Is built on a single chassis;
- B. Contains 400 square feet or less of floor area;
- C. Is self-propelled or towed by a passenger car or light-duty truck; and
- D. Is designed as temporary living quarters for recreational, camping, travel or seasonal use, not as a dwelling unit.

RECREATIONAL VEHICLE ACCESSORY ENCLOSURE

A factory-manufactured rigid metal or vinyl enclosure, with the dimensions not exceeding eight feet in width nor the length of the recreational vehicle, and designed for use with recreational vehicles. The term shall not include decks, patios, awnings, awning tents, screen panels or unenclosed roof projections.

[Amended 4-18-1998]

RECREATIONAL VEHICLE, PARK MODEL

A recreational vehicle containing between 320 and 400 square feet of floor area, not counting recreational vehicle accessory enclosures.

RECREATION, HIGH-INTENSITY COMMERCIAL

A business which provides an indoor or outdoor recreational activity, such as miniature golf, playing of video games, showing of movies and the exhibition of any of the performing arts, but not including powered apparatus, such as Ferris wheels, water slides and devices usually found in amusement parks or motorized vehicles that produce fumes, bright lights or noise.

[Amended 6-11-2013]

RECREATION, LOW-INTENSITY COMMERCIAL

A business which provides a low-intensity, customarily nonspectator, outdoor recreational activity, including but not limited to golfing, cross country skiing, hunting, paintballing, horseback riding and canoeing, kayaking and other recreational uses requiring access to the water. This use shall not include any recreation activity which requires the use of motors or engines for the operation of recreational equipment or for participation in the activity and shall not result in more than 5% of the area on which the recreational activity occurs being unvegetated. Horseback riding and equestrian activities may include an indoor riding facility as an accessory use to the outdoor activity. Target shooting activities may include an indoor, sound diminishing facility, as an accessory use to the outdoor activity.

[Amended 4-14-2000; 4-16-2004; 6-11-2013]

RECREATION, MEDIUM INTENSITY COMMERCIAL

A business which provides an indoor recreational activity such as exercising, dancing, racquetball, tennis or swimming.

[Added 6-11-2013]

RECREATION, PASSIVE

Outdoor recreational activities, such as hiking, fishing and hunting, which involve no structural or mechanical components or facilities or no modification of the landform or landscape.

RECYCLING FACILITY

A business in which materials or products are processed and stored for reuse.

REGISTERED MARIJUANA DISPENSARY

A registered marijuana dispensary means a not-for-profit entity registered pursuant to the Maine Medical Use of Marijuana Program that acquires, possesses, cultivates, manufactures, delivers, transfer, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the registered marijuana dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. See also Maine Department of Health and Human Services' Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, § 1.29, as amended.

[Added 6-14-2011]

RESEARCH AND DEVELOPMENT FACILITY

A business in which new products or processes are created and studied.

RESTAURANT, FAST-FOOD

A business involving the preparation and serving of foods and beverages in edible or disposable containers for consumption on the premises or off the premises, normally requiring a short period of time between ordering and serving during which the customer waits standing at a service counter or in a motor vehicle.

RESTAURANT, STANDARD

A business that serves foods and beverages unpackaged and ready to eat, in individual servings or in nondisposable or nonedible containers, which are consumed while seated on the premises.

RIGHT-OF-WAY

A strip of land over which a person or persons have been given the legal right to pass and/or to install and use facilities, such as roads, streets, utility services and railroads.

ROAD

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of vehicles. The term "road" includes the term "street."

ROTOR DIAMETER

Cross-sectional dimension of the circle swept by the rotating blades.

[Added 11-3-2009]

ROULETTE

A game of chance in which players bet on the compartment of a revolving wheel into which a small ball will come to rest.

[Added 11-5-2002]

SAWMILL

A business in which logs are converted into planks, boards, etc., by machinery for later use in the manufacture of various products.

SCHOOL BUS SHELTER

A freestanding roofed structure not more than 100 square feet in floor area and not more than 10 feet in height used as a waiting area for school children while awaiting pick up by a school bus.

[Added 11-6-2007]

SCHOOL, PUBLIC AND PRIVATE

An institution for education or instruction which is not operated for a profit or as a business or which provides courses of study which are sufficient to qualify attendance in compliance with state compulsory education requirements.

SCHOOL, VOCATIONAL-TECHNICAL

A public or private not-for-profit or commercial institution for the education and training of persons in the widest array of technical trades and service skills and knowledge that can be used in the job market.

[Added 11-8-1994]

SCREEN, VISUAL

An opaque barrier that obstructs a view between adjacent properties at a minimum height of six feet above grade.

[Added 4-16-1999]

SEASONAL COTTAGE

A one-story building containing a single unit made up of a room or group of rooms containing facilities for eating, sleeping, bathing and cooking and that is not occupied and to which water service is turned off between November 1 and April 30.

[Added 4-12-2003]

SEASONAL COTTAGE COMPLEX

A business consisting of one or more seasonal cottages.

[Added 4-12-2003]

SELF-STORAGE FACILITY

A type of business that provides individual spaces for lease or rent to individuals for the storage of personal property.

[Added 5-20-2003]

SETBACK

The shortest horizontal distance from an identified object, line, boundary or feature to the nearest part of a structure's footprint, object, use or feature.

[Amended 6-12-2012]

SEWAGE DISPOSAL SYSTEM

A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s) or other devices and associated piping designed to function as a unit to dispose of wastes or wastewater on or beneath the surface of the earth.

SHOPPING CENTER

A collection of independent retail stores, services, and parking areas constructed and maintained by a management firm as a unit.

[Added 11-2-2010]

SHORE FRONTAGE

The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at the high-water line.

SIGN

A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right-of-way. The term "sign" includes banners, pennants, streamers, moving mechanisms, and lights.

[Amended 11-6-2007]

SIGNABLE AREA

A two-dimensional area that describes the largest square, rectangle, or parallelogram on the facade of a building which is free of architectural details.

[Added 11-6-2007]

SIGN, ABOVE-ROOF

A sign displayed above the peak of a pitched roof or above the parapet of a building with a flat roof.

[Added 11-6-2007]

SIGN, ANIMATED (See also changeable copy)

A sign which displays movement or the optical illusion of movement of any part of its structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; or the automatic changing of all or any part of the sign's facing. The term "animated sign" excludes "electronic message centers."

[Added 11-6-2007; amended 6-8-2010]

SIGN AREA

The total area of the face used to display a sign, not including its supporting poles or structures. If a sign has two

faces that are parallel (not more than two feet apart) and supported by the same poles or structures, the size of the sign is one-half the area of the two faces.

[Added 11-6-2007]

SIGN, AWNING

A sign painted or printed on, or attached to, an awning.

[Added 11-6-2007]

SIGN, CHANGEABLE COPY

Any sign with copy that may be manually changed.

[Added 11-6-2007]

SIGN, DIRECTIONAL

A sign at the exit or entrance of premises with no copy other than indication of such an exit or entrance.

[Added 11-6-2007]

SIGN, GRAND OPENING

A banner displayed on a premises on which a grand opening is in progress.

[Added 11-6-2007]

SIGN, GROUND

A freestanding sign supported by one or more uprights, posts, or braces; or set upon a base; that is permanently affixed in the ground and not attached to any part of a building. It includes a pole sign and a monument sign.

[Added 11-6-2007]

SIGN, MONUMENT

A freestanding ground sign permanently affixed in the ground at its base, supported entirely by a base structure, and not mounted on a pole or poles, uprights, or braces.

[Added 11-6-2007]

SIGN, NONCONFORMING

A sign that was lawfully constructed or installed prior to the adoption or amendment of this ordinance and was in compliance with all of the provisions of this ordinance then in effect, but which does not presently comply with this ordinance.

[Added 11-6-2007]

SIGN, POLE

A freestanding sign that is permanently affixed to the ground by a structure of poles, uprights, or braces and not supported by a building.

[Added 11-6-2007]

SIGN, PORTABLE

A freestanding sign not permanently attached to the ground or a building or not designed to be permanently attached to the ground or a building. A portable sign which has been simply modified by removing its wheels and/or propping it up on blocks shall still be considered as a portable sign for the purposes of this ordinance.

[Added 11-6-2007]

SIGN, PROJECTING

A sign attached to and projecting from the wall of a building and not in the same plane as the wall.

[Added 11-6-2007]

SIGN, ROOF (See also above-roof sign)

A sign that is displayed above the eaves and under the peak of a pitched roof on a building.

[Added 11-6-2007]

SIGN, WALL

A sign painted on or attached to a wall of a structure and substantially in the same plane as the wall.

[Added 11-6-2007]

SIGN, WINDOW

A sign applied, painted or affixed to or in the window of a building. A window sign may be temporary or permanent.

[Added 11-6-2007]

SITE PLAN

A plan for a use of a lot submitted to the Code Enforcement Officer, Staff Review Committee or the Planning Board for approval. The term "approved site plan" shall mean a plan reviewed and approved by the designated reviewing authority.

SLOT MACHINE

Any machine which operates by inserting a coin, token or similar object, setting the internal mechanism of the machine in motion, and by the application of the element of chance may deliver or entitle the person playing or

operating the machine to receive cash, premiums, merchandise, tickets, or something of value.

[Added 11-5-2002]

SOLID WASTE DUMPSTER

A large container for the temporary storage of solid wastes that can be hoisted by a mechanism onto large trash trucks, so-called, for emptying. Solid waste dumpsters that can be truck-borne are not structures, but no dumpster, so-called, can be located closer to any lot line than a structure in the district in which it is located.

[Added 4-28-1995]

SOMETHING OF VALUE:

[Added 11-5-2002]

- A. Any money or property;
- B. Any token, object or article exchangeable for money, property, amusement or entertainment; or
- C. Any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

STAND-ALONE REGISTERED MARIJUANA DISPENSARY

A registered marijuana dispensary which is not operated as part of a hospital, nursing home, hospice, or other medical practice, or which may be operated as part of a hospital, nursing home, hospice, or other medical practice but which is not located at the primary facility of such hospital nursing home, hospice, or other medical practice.

[Added 6-14-2011]

STATE HIGHWAY

Any one of the state-numbered highways (Route 1, Route 9, Route 9A, Route 9B and Route 109).

STORMWATER DETENTION FACILITY

A pond, wetland, basin or structure which collects surface runoff and discharges it at a measured rate as surface runoff.

STORMWATER RETENTION FACILITY

A pond, wetland, basin or structure which collects surface runoff and permits only infiltration of stormwater into the ground, without a surface runoff discharge outlet.

STORY

That portion of a building contained between a floor and the floor or roof above it, but not including any portion of a building so contained if more than 1/2 of such portion is below the average finished grade of the land surrounding the building.

STREAM

See "water body."

STREET

A public or private way which provides the principal means of access to two or more abutting lots. The term "street" does not include the term "road."

STREET FRONTAGE

The horizontal distance along any lot line which abuts a street right-of-way.

STRUCTURE

Anything constructed, assembled or erected having a fixed location uninterrupted for more than 10 days on or in the ground or in the water. Any attachment to a structure shall be considered to be part of the structure. The term "structure" shall not include signs; utility distribution lines; stone walls; fences; embankment retaining walls; culverts; fire cisterns; fire hydrants; mailboxes; vehicles registered for use on public ways; at-grade paving, such as sidewalks, patios, driveways and parking lots; and other items located in the public right-of-way normally and customarily related to a road. The term "structure" shall not include picnic tables and other tables, chairs, benches and other seating, trash cans, bicycle racks and planters each of which can be transported by two or fewer persons without use of mechanical assistance. The term "structure" includes utility transmission lines.

[Amended 4-28-1995; 6-4-1996; 11-5-2002]

SUBDIVISION

The division of a parcel of land into lots as defined in 30-A M.R.S.A. § 4401 or as in acts amendatory thereto.

SUBSTANTIALLY COMPLETED

Completion of all exterior work, if any, on the building and completion of all site grading and landscaping work.

SUBSTANTIALLY STARTED

Completion of the installation and backfilling of the building's foundation.

[Amended 11-7-2006]

SYSTEM HEIGHT

The height above grade of the tower plus wind generator, measured from the pre-construction ground level to

the highest pointed reached by the turbine blades.

[Added 11-3-2009]

TENT AND RECREATIONAL VEHICLE PARK

A business in which two or more sites are provided for occupancy by tents or recreational vehicles for recreation or vacation purposes.

TIMBER HARVESTING

An activity or business which cuts and removes trees from their growing site, which also includes timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, insect and disease control, timber stand improvement, pruning, regeneration of forest stands and the attendant operation of cutting and skidding machinery. Timber harvesting does not include the clearing of land for agricultural use or for approved construction.

TOWER

This includes a monopole, freestanding, or guyed structure that supports a wind energy system.

[Added 11-3-2009]

TRAILER, TRACTOR-TRAILER

A large rectangular container (the trailer) mounted on an undercarriage with wheels that can be hitched to a truck (the tractor) and hauled over the road. The trailer is not a structure while attached to a legally registered tractor.

[Added 4-28-1995]

TRANSIENT GUEST

A person or persons who rent and occupy, for a fee, a lodging unit for a limited duration not to exceed 90 days and do not rent or reoccupy the same or any lodging unit within the lodging facility within 90 days. A transient guest has no right, title or interest in the property. The fee for accommodations must be reasonable in relation to similar lodging facilities in Wells, Maine. Unusually low fees will be considered a circumvention of this definition.

[Added 11-5-2013]

TRANSMISSION TOWER, RADIO

A use which includes the receiving and/or transmitting of information through the air employing equipment mounted high above the ground on a tower.

TRANSPORTATION FACILITY

A use which provides for the interface between different modes of transportation. It may include a terminal building housing retail, service, office, restaurant and other such accessory uses.

TRIBUTARY STREAM

A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this chapter and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

TRUCK TERMINAL

A use that provides facilities for the temporary storage of trucks and trailers at a commercial business. A truck terminal may include the transfer of goods between trailers and the temporary warehousing of goods between shipments. A truck terminal may provide facilities to inspect vehicles, change vehicle fluids, maintain engines, change tires, repair vehicle bodies or for other maintenance on trucks and trailers.

[Added 4-28-1995]

UPLAND EDGE

The boundary between upland and wetland as identified by a change from predominantly wetland vegetation to predominantly terrestrial vegetation.

USE

The purpose for which land or a building is arranged, designed, intended or occupied.

UTILITY DISTRIBUTION LINES

Items used to distribute and/or collect services or products of a utility to or from individual lots but not for the purpose of resale. Such items include, but are not limited to, poles, pole-mounted accessories, wires, cables, conduits, pipes, pumps, manholes, valves, junction boxes, ducts and other incidental items.

[Amended 6-4-1996]

UTILITY TRANSMISSION LINES

Structures used to carry a product or service of a utility but which do not distribute and/or collect the product or service to or from individual lots. Such structures include, but are not limited to, poles, pole-mounted accessories,

wires, cables, conduits, pipes, pumps, manholes, valves, junction boxes and ducts.

[Amended 6-4-1996]

VARIANCE

A relaxation of the terms of this chapter by the Zoning Board of Appeals where the enforcement of this chapter would result in undue hardship.

VEGETATION

All live trees, shrubs, ground cover and other plants.

VOLUME OF A STRUCTURE

The volume of all portions of a structure enclosed by a roof and fixed exterior walls or floors as measured from the exterior faces of these walls, floors and roof.

WAREHOUSING

A business engaged in the storage, wholesale and/or distribution of products, goods, supplies and equipment.

WATER BODY

Includes:

A. **OCEANFRONT AND NONOCEANFRONT TIDAL WATERS** — Any land or water area upon which tidal action occurs.

B. **ELL POND AND ASSOCIATED WETLANDS** — Ell Pond itself and any wetlands contiguous with or adjacent to Ell Pond which during normal high water are connected by surface water to Ell Pond and any wetlands separated from the pond by a berm, causeway or similar feature less than 100 feet in width having a surface elevation at or below the high-water line of Ell Pond.

C. **STREAM** — A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as shown on the following United States Geological Survey (USGS) 7.5 minute series topographic maps to the point where the body of water flows into a great pond or tidal waters. The USGS maps to be used for the purposes of this definition are the Wells quadrangle, photo inspected, 1979; the North Berwick quadrangle, photo revised, 1973; the Kennebunk quadrangle, provisional edition, 1983; and the Alfred quadrangle, provisional edition, 1983.

WATER CROSSING

Any project extending from one bank to the opposite bank of a stream, whether under, through or over the watercourse. Such projects include but are not limited to roads, fords, bridges, culverts, water lines, sewer lines and cables, as well as maintenance work on these crossings.

WATER-DEPENDENT USES

Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels and uses which primarily provide general public access to marine or tidal waters.

WATER EXTRACTION, COMMERCIAL

A business (including any accessory storage on site) engaged in the extraction of groundwater or surface water for transport off site for sale.

[Added 4-28-1995]

WETLAND

Includes the following:

A. **COASTAL WETLAND** — All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of saltwater and occurs primarily in a saltwater or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

B. **FRESHWATER WETLAND:**

(1) Freshwater swamps, marshes, bogs and similar areas, other than such areas dominated by woody vegetation at least 20 feet in height, which are shown on the Overlay District Zone Map and are:

(a) Of 10 or more contiguous acres or of less than 10 contiguous acres and adjacent to a surface water body, excluding a stream or brook, such that in a natural state the combined surface area is in excess of 10 acres; and

(b) Inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

(2) Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to these criteria.

WILDLIFE HABITAT MANAGEMENT

An activity associated with the management or research of wildlife habitats pursuant to a written plan approved by at least one of the following agencies: Maine Department of Inland Fish and Wildlife, Natural Resource Conservation Service, or Wells National Estuarine Research Reserve. However, if the applicant is one of the agencies listed, it may not approve its own plan.

[Added 6-12-2012]

WIND ENERGY CONVERSION SYSTEMS (WECS)

A system of equipment located on a single lot that converts and then stores or transfers energy from the wind into usable forms of energy for use on the same lot as the system, or on an abutting lot in the case of a common system serving more than one principal use or structure. This equipment includes the base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wires, inverter, batteries, or other components used in the systems. Wind energy conversion systems are an accessory use.

[Added 11-3-2009]

WINDMILL

A mill operated by the wind's rotation of large, oblique sails or vanes radiating from a shaft, used as a source of power.

[Added 11-3-2009]

WIND TURBINE

The parts of the wind system including the blades, generator, nacelle and tail.

[Added 11-3-2009]

YARD SALE

An occasional activity held within a building or open area where goods are offered for sale to the general public, including so-called garage sales, porch sales, tag sales and the like, but not including tent sales.

[Amended 4-28-1995]

Article III. Nonconformities

§ 145-11. Intent.

- A. It is the intent of this article to regulate nonconformities so that their adverse impacts on the surrounding properties and on the general public are minimized. Nonconforming uses, structures, lots and developments shall be allowed to continue with an effort made to bring them into compliance when the use is discontinued, when the property is being redeveloped or when there is a proposal to significantly expand the use.
- B. Structures and uses created, altered or enlarged between March 11, 1950, and November 2, 1976, and subject to zoning enacted on March 11, 1950, shall be considered to be in compliance with any land use ordinances in effect during the time period from March 11, 1950, to November 2, 1976.

[Amended 4-16-1999]

§ 145-12. Nonconforming uses.

- A. A nonconforming use may continue to exist although the use does not conform to the requirements of this chapter. The normal upkeep and maintenance, repairs, renovations or modernizations which do not expand the nonconforming use shall be permitted.
- B. If a nonconforming use is replaced by a permitted use, the nonconforming use may be resumed within two years of its discontinuance, except in the Residential A, Residential B, Residential D and Resource Protection Districts, where a nonconforming use may not be resumed once it has been replaced by a permitted use.
- C. An existing nonconforming use may be changed to another nonconforming use if the Zoning Board of Appeals determines that the impact of the proposed use on adjacent lots is equal to or less adverse than that of the existing use. This determination shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors or other impacts likely to result from such change of use. The standards in Article VI (Town-Wide Regulations) and Article VII (Performance Standards) shall apply to the change of one nonconforming use to another nonconforming use.
- D. A nonconforming use which is discontinued for more than two years shall not be resumed, except that a residential use in the Resource Protection or Shoreland Overlay District may be resumed if it has not been

discontinued for more than five years.

- E. A nonconforming use shall not be extended or expanded in land or floor area, except that a nonconforming use may be extended into any existing part of a building or structure for which site plan approval had been granted prior to the use becoming nonconforming.
- F. Mobile home parks outside Mobile Home Park Overlay District.

[Added 11-5-2002]

- (1) Notwithstanding § 145-12E, the Planning Board, acting under Chapter 260 (Subdivision of Land), may permit the expansion of a legally nonconforming existing mobile home park which is located outside the Mobile Home Park Overlay District, subject to the following conditions:
 - (a) The mobile home park was in existence on October 27, 2000.
 - (b) The expansion is limited to the parcel on which the existing mobile home park was located on October 27, 2000, plus any parcels abutting that parcel which are under the same ownership or control as the existing mobile home park.
 - (c) All new mobile home sites developed pursuant to this § 145-12F must comply with the requirements of § 145-34 (Mobile Home Park Overlay District), except that the maximum density shall be as follows:
 - [1] On the parcel on which the existing mobile home park was located on October 27, 2000, the maximum density shall not exceed:
 - [a] The density allowed when the existing mobile home park was approved; or
 - [b] The maximum density allowed currently in the zoning district in which the land is located, if the existing mobile home park was approved at a time when the ordinances of the Town of Wells did not impose a density limit or was developed before any Town approvals were required.
 - [2] On parcels abutting the existing mobile home park which can be developed pursuant to Subsection F(1)(b) above, the density shall not exceed the maximum density allowed currently in the zoning district in which the land is located.
 - (d) If an expansion includes land which was not in the same ownership or control as the existing mobile home park on October 27, 2000, the following additional limitations shall apply:
 - [1] The total number of mobile home sites developed pursuant to this § 145-12F, including any sites added within the parcel on which the existing mobile home park was located on October 27, 2000, plus any sites added on abutting parcels as allowed by Subsection F(1)(b) above, shall never exceed:
 - [a] Forty percent of the number of mobile home sites which were lawfully located in the existing mobile home park on October 27, 2000, provided that the existing mobile home park is served by public water and public sewer.
 - [b] Twenty percent of the number of mobile home sites which were lawfully located in the existing mobile home park on October 27, 2000, if the existing mobile home park is not served by public water and public sewer.
- (2) Notwithstanding anything to the contrary in 1 M.R.S. § 302, this § 145-12F applies to any application under this Chapter or under Chapter 260, whether or not such application has become a pending proceeding as defined in 1 M.R.S. § 302.

§ 145-13. Nonconforming structures.

- A. A nonconforming structure may be repaired, maintained or enlarged in conformity with the requirements of this chapter.
- B. Discontinuance of the use of a nonconforming structure shall not constitute abandonment of the structure. The use of such a structure may be reactivated provided the use is permitted within the district in which the structure is located.
- C. The following modifications to those portions of nonconforming structures located within the required setbacks shall be permitted:
 - (1) The placement of a foundation beneath a nonconforming structure which does not increase the habitable space within any required setback and which does not increase the height of the structure above the height limit of the district.
 - (2) Upward expansion of a nonconforming structure over the existing footprint and under the height limit shall be permitted within the required setbacks from streets, water bodies, tributary streams or wetlands. If any portion of such a nonconforming structure is less than the required setback from a water body, tributary stream or wetland, that portion of the structure may be expanded in floor area or volume by no more than 30% of that which existed on January 1, 1989.

[Amended 4-18-1998]

- D. A nonconforming structure may be replaced, provided that:
- (1) If it was destroyed by fire, flood or other casualty, the reconstruction or replacement work is initiated within 24 months of the original destruction;
 - (2) If the structure is to be removed and replaced, a building permit is obtained prior to the removal of the nonconforming structure; and
 - (3) The new structure is constructed so that the previously existing nonconformities are not increased, except that a nonconforming structure which was less than the required setback from a water body, tributary stream or wetland and which is removed, damaged or destroyed by more than 75% of its market value may be reconstructed or replaced provided the reconstruction or replacement is in compliance with the required setback from a water body, tributary stream or wetland to the greatest practical extent as determined by the Zoning Board of Appeals. In determining whether the building construction or replacement meets the required setback from a water body, tributary stream or wetland to the greatest practical extent the Board shall consider the criteria in Subsection **E** and the physical condition and type of foundation present, if any.
- E. A nonconforming structure may be relocated upon the lot on which the structure is now located if the relocated structure conforms to all setback requirements to the greatest practical extent as determined by the Zoning Board of Appeals. In no case shall the encroachments into the required setbacks be increased in area or in distance. In determining whether the building relocation meets the setbacks to the greatest practical extent, the Zoning Board of Appeals shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the lot and on adjacent lots, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed.
- F. A nonconforming structure which does not comply with the required setback from the edge of any street right-of-way may expand horizontally within that required setback, provided that:
- (1) The proposed expansion is no closer to the edge of any street right-of-way than the nonconforming structure;
 - (2) The proposed expansion is at least 10 feet from the edge of any street right-of-way;
 - (3) If the proposed expansion is within 20 feet of the edge of any street right-of-way, it may not exceed the height of the part of the nonconforming structure located within the required setback from the street right-of-way;
 - (4) The proposed expansion does not encroach into any other required setback;
 - (5) Within the required setback from a street right-of-way, the total of the setbacks from both lot lines which intersect the street right-of-way shall be equal to at least three times the required setback from one lot line;
 - (6) The proposed expansion does not impair the vision along the street or from any roads entering the street. A proposed expansion shall not reduce the minimum sight distance below a distance of 10 feet for every mile per hour of posted speed limit on the street. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3.5 feet above the pavement to an object having a height of object 4.25 feet located within any travel lane in the street; and
 - (7) The proposed expansion does not increase the ground area within the setback covered by the part of the structure existing on January 1, 1994, by more than 200%.

G. Egress.

[Added 4-18-1998]

- (1) The following types of means of egress shall be exempt from the dimensional requirements of this chapter if all of the conditions of Subsection **G(2), (3) and (4)** are met:
 - (a) The construction of a means of egress on a structure that is required by the Building Code of the Town of Wells *Editor's Note: See Ch. 91, Art. 11, Adoption of Building Code.* or that is required to make a structure or use accessible to a physically disabled person; or
 - (b) The expansion of a stairway which is legally nonconforming with regard to space and bulk requirements solely to conform to the Building Code as adopted by the Town of Wells.
- (2) The use or structure was legally in existence on April 25, 1998. Means of egress or access serving structures constructed after April 25, 1998, shall conform to the dimensional requirements of this chapter.
- (3) The requested stairway or ramp is, dimensionally, the minimum structure that will satisfy the Town of Wells Building Code.
- (4) Due to the physical features of the lot or location of structures on the lot, it would not be practical to construct the proposed stairway or ramp in conformance with applicable dimensional requirements.

§ 145-14. Nonconforming lots.

- A. A nonconforming lot of record may be built upon, without obtaining a variance, if new structures or additions to existing structures meet all the requirements of this chapter and the lot conforms to all the provisions of this chapter except for the minimum lot size and/or minimum street and shore frontage requirements.

- B. On a nonconforming lot of record which has less than 75% of the required street frontage, the required setback from lot lines which intersect the street(s) may be reduced by 25%, but in no case shall the setback be reduced to less than 10 feet.

§ 145-15. Nonconforming developments.

- A. A nonconforming development is permitted to continue and to expand in any manner which does not increase the nonconforming aspect(s) of the development if it conforms to all other requirements of this chapter.
- B. A development existing on April 1, 2000, which is nonconforming as to the floor area requirements of § 145-26C may expand the floor area by as much as 25% provided all other applicable requirements of this chapter are met.
[Added 4-14-2000]

Article IV. Zoning Districts

§ 145-16. Establishment of districts.

To implement the provisions of this chapter, the Town of Wells is divided into the following districts:

AP	Aquifer Protection District
GB	General Business District
BB	Beach Business District
H	Harbor District
LI	Light Industrial District
QM	Quarry Manufacturing District
RA	Residential A District
RB	Residential B District
RC	Residential/Commercial District
RD	Residential Drakes Island District
RP	Resource Protection District
R	Rural District
MPO	Mobile Home Park Overlay District
SLO	Shoreland Overlay District
TC	Transportation Center District [Added 4-16-2004]

§ 145-17. Zoning Map.

[Amended 11-7-2000; 4-16-2004]

The districts identified in §145-16 above are shown upon a map entitled "Official Zone Map Town of Wells" dated April 2004. The Official Zoning Map of the Town of Wells (hereafter referred to as "Zoning Map") shall consist of this map and shall be filed in the office of the Town Clerk. This Zoning Map is incorporated in and made a part of this chapter and shall be the final authority as to the current district locations. *Editor's Note: The Official Zone Map of the Town of Wells, prepared by Woodard and Curran, revised to April 2004, has been amended as follows: (1) 4-29-2005: to rezone a portion of the property identified in the Tax Assessor's records as Map 34, Lot 20, owned by Matthew Murach, from Rural to Light Industrial. This rezoning does not affect the boundaries of the Resource Protection District or the Shoreland Overlay District which currently also exist on the subject parcel. This ordinance shall take effect upon adoption. (2) 4-25-2008: to*

rezone the property identified in the Tax Assessor's records as Tax Map 60, Lot 8A, owned by Mark Paquette, from the Residential A District to the Residential/Commercial District. This ordinance shall take effect upon enactment by the Town Meeting. (3) 4-25-2008: to rezone from the Rural District to the Residential A District the following two properties identified in the Tax Assessor's records: (1) Tax Map 55, Lot 22, owned by Shirley M. Chase w/Life Estate, Scott J. Chase, and Corey M. Chase; and (2) Tax Map 55, Lot 22B, owned by Ronald and Shirley Chase, Trustees of the Scott, Cory, and Candace Chase Trust. This ordinance shall take effect upon enactment by the Town Meeting. (4) 11-2-2010: to rezone from the Light Industrial District to the Residential A District certain property owned by TNN Realty, LLC, identified in the Tax Assessor's records as Tax Map 58, Lot 1, and more particularly described in a warranty deed recorded in the York County Registry of Deeds at Book 15085, Page 533, on February 15, 2007. This ordinance shall take effect upon enactment by the Town Meeting. (5) 11-6-2012: to rezone from the General Business District to the Residential A District the following properties located in the Bayview Terrace/Tidal Court neighborhood as identified in the Tax Assessor's records: Tax Map 123: Lots 64 through 72 and 74A; Tax Map 124: Lots 1, 2 and 3; Tax Map 126: Lots 20A, 20B, 24 through 29, 29-1, and 30 through 32; and Tax Map 127: Lot 2. This ordinance shall take effect upon enactment by the Town Meeting.

§ 145-18. Interpretation of district boundaries.

Where uncertainty exists concerning district boundaries as shown upon the above maps, the following rules shall apply:

- A. Unless otherwise indicated, district boundary lines are lot lines existing as of April 1, 1992, or the center lines, plotted at the time of adoption of this chapter, of streets, roads, waterways or rights-of-way of public utilities and railroads or such lines extended.
- B. Unless otherwise indicated, other district boundary lines which are not listed in Subsection **A** shall be considered as lines paralleling a street, waterway, shoreline or lot line and at distances from the center lines of such streets, waterways, shorelines or lot lines as indicated by the Zoning Map. In the absence of a written dimension, the graphic scale on the Zoning Map shall be used.
- C. The depictions of the Resource Protection District and the Shoreland Overlay District are merely illustrative of their general location. The boundaries of these districts and any district abutting the Resource Protection District, where it so abuts, shall be the actual location of the high-water line of the water body, the upland edge of wetland vegetation for freshwater wetlands or the limits of vegetation tolerant of saltwater for coastal wetlands or the location of the sea wall adjacent to the ocean, regardless of the location of the boundary shown on the map.

§ 145-19. Lot divided by district boundary.

[Amended 11-6-2001]

- A. To allow for the fact that zoning district boundaries cannot always follow individual lot lines, when a lot of record is divided by a zoning district boundary, other than those specified below, the regulations set forth in this chapter for either district may be deemed to govern the opposite side of such zoning district boundary to an extent not more than 100 linear feet. This provision shall not apply to land located within or directly abutting the Resource Protection District, Aquifer Protection District, Mobile Home Overlay District, or the Shoreland Overlay District.
- B. If a lot lies within two zoning districts, the regulations of each district shall apply to the portion of the lot located within said district, except:
 - (1) As otherwise provided for in § 145-19A;
 - (2) If a use is permitted within both districts and located in the lower-density district, the maximum density requirements of the lower-density district shall apply to the entire lot;
 - (3) If a use is permitted within both districts and located in the higher-density district, the total number of units permitted shall be the sum of the number of units permitted in the higher-density district and the number of units permitted in the lower-density district; and
 - (4) The minimum street frontage for the entire lot shall be the greater of the minimum street frontage requirement of the district or districts where the lot abuts a street or streets.

§ 145-20. Overlay districts.

Overlay districts are special purpose zoning districts in which additional regulations, beyond those set forth in the underlying district(s), apply. The regulations of the underlying district(s) shall remain in effect unless specified otherwise in the overlay district(s).

Article V. District Regulations

§ 145-21. Residential A District.

- A. Purpose. The purposes of the Residential A District are to provide areas for medium-density residential development that are or can readily be served by the public water and sanitary sewer systems and to provide areas for concentrations of residential development within the rural portions of the Town along major transportation routes. Nonresidential uses should be limited to agricultural uses, forestry uses, low-intensity noncommercial recreational uses and public uses.
- B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:
- (1) Agriculture, limited to the raising of crops and plants out of doors.
 - (2) Cemetery having an area less than 20,000 square feet and containing no buildings.
 - (3) Dwelling, one-family. (See also § 145-55.)
 - (4) Dwelling, two-family.
 - (5) Dwelling, multifamily. (See § 145-48.)
 - (6) Recreation, passive.
 - (7) Timber harvesting.
- C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:
- [Amended 4-18-1995; 4-26-1996; 6-8-2010]**
- (1) Animal husbandry on lots larger than 25 acres.
 - (2) Cemetery larger than 20,000 square feet in area.
 - (3) Church.
 - (4) Congregate care facility.
 - (5) Day-care home.
 - (6) Elderly housing.
 - (7) Housing, congregate.
 - (8) Life care facility.
 - (9) Medical care facility, excluding hospitals.
 - (10) Municipal facility.
 - (11) Museum not exceeding 5,000 square feet in floor area.
 - (12) Nursing home.
 - (13) Public utility facility.
 - (14) Recreation, active.
 - (15) Recreation, low-intensity commercial.
 - (16) School, public and private.
 - (17) School, vocational-technical served by public water and sewer and located west of Route 1, north of Buzzel Road, east of the turnpike and south of Route 109.
- D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are accessory uses.
- E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.
- F. Dimensional requirements.
- (1) Minimum lot size: 20,000 square feet of net area if served by public sewer; 40,000 square feet of net area if not served by public sewer or if located west of the Maine Turnpike.
 - (2) Maximum density:
 - (a) One dwelling unit for each 20,000 square feet of net area if served by public sewer.
 - (b) One dwelling unit for each 40,000 square feet of net area if not served by public sewer or if located west of the Maine Turnpike.
 - (3) Maximum lot coverage: 40% (20% within the Shoreland Overlay District) or 2,000 square feet, whichever is greater.
 - (4) Minimum street frontage per lot served by public sewer: 100 feet or 75 feet if entirely on a cul-de-sac.
 - (5) Minimum street frontage per lot not served by public sewer or per lot located west of the Maine Turnpike: 125 feet or 100 feet if entirely on a cul-de-sac.

- (6) Maximum building height: 30 feet, not to exceed three stories. (See § 145-35L.)
- (7) Setbacks.
 - (a) All structures shall be at least:
 - [1] Fifteen feet from any lot line.
 - [2] Twenty-five feet from the boundary of any cemetery.
 - [3] Twenty-five feet from any lot line abutting any street right-of-way.
 - [4] Forty feet from any lot line abutting the right-of-way of any state highway.
 - (b) All structures and parking lots shall be at least 200 feet from the high-water line of the Merriland River, the Webhannet River and the Ogunquit River.
 - (c) All structures and areas of land used for animal husbandry shall be located at least 100 feet from any lot line.

Note: See also §§ 145-13, Nonconforming structures, 145-14, Nonconforming lots, 145-33, Shoreland Overlay District, 145-48, Multifamily developments, 145-49, Residential cluster development, and 145-54, Affordable housing.

§ 145-22. Residential B District.

- A. Purpose. The purpose of the Residential B District is to retain the family resort character of Wells Beach and Moody Beach by ensuring that future development is similar to the existing development in style and scale. Nonresidential uses should be limited to noncommercial recreational uses and public uses.
- B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:
 - (1) Agriculture, limited to the raising of crops and plants out of doors.
 - (2) Dwelling, one-family.
 - (3) Dwelling, two-family.
 - (4) Recreation, passive.
- C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:
 - (1) Day-care home.
 - (2) Municipal facility.
 - (3) Public utility facility.
 - (4) Recreation, active.
- D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are accessory uses.
- E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.
- F. Dimensional requirements.
 - (1) Minimum lot size: 5,000 square feet of net area.
 - (2) Maximum density: one dwelling unit for each 5,000 square feet of net area.
 - (3) Minimum street frontage per lot: 50 feet.
 - (4) Maximum lot coverage: 60% (40% within the Shoreland Overlay District) or 2,000 square feet, whichever is greater.
 - (5) Maximum building height: 30 feet, not to exceed three stories. (See § 145-35L.)
 - (6) Setbacks. All structures shall be at least:
 - (a) Six feet from any lot line.
 - (b) Fifteen feet from any lot line abutting any street right-of-way.
 - (c) Twenty-five feet from the boundary of any cemetery.
 - (d) Twenty feet from the sea wall or the line which is an extension of the existing sea wall.

Note: See also §§ 145-13, Nonconforming structures, 145-14, Nonconforming lots, 145-33, Shoreland Overlay District, and 145-48, Multifamily developments.

§ 145-23. Residential D District.

- A. Purpose. The purpose of the Residential D District is to retain the family resort character of Drakes Island by ensuring that future development is similar to the existing development in style and scale. Nonresidential uses

should be limited to noncommercial recreational uses and public uses.

B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:

- (1) Agriculture, limited to the raising of crops and plants out of doors.
- (2) Dwelling, one-family.
- (3) Recreation, passive.

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

- (1) Day-care home.
- (2) Municipal facility.
- (3) Public utility facility.
- (4) Recreation, active.

D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are accessory uses.

E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.

F. Dimensional requirements:

- (1) Minimum lot size: 7,500 square feet of net area.
- (2) Maximum density: one dwelling unit for each 7,500 square feet of net area.
- (3) Minimum street frontage per lot: 75 feet.
- (4) Maximum lot coverage: 60% (40% within the Shoreland Overlay District) or 2,000 square feet, whichever is greater.
- (5) Maximum building height: 30 feet, not to exceed three stories. (See § 145-35.)

G. Setbacks. All structures shall be located at least:

- (1) Ten feet from any lot line.
- (2) Twenty feet from any lot line abutting any street right-of-way.
- (3) Twenty feet from the sea wall or the line which is an extension of the existing sea wall.
- (4) Twenty-five feet from the boundary of any cemetery.

Note: See also §§ 145-13, Nonconforming structures, 145-14, Nonconforming lots, 145-33, Shoreland Overlay District, and 145-48, Multifamily developments.

§ 145-24. Residential-Commercial District.

A. Purpose. The purpose of the Residential-Commercial District is to provide areas for the economic use of older residential areas along highways while preserving the character and architectural scale of the areas.

B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:

- (1) Agriculture, limited to the raising of crops and plants out of doors.
- (2) Cemetery having an area less than 20,000 square feet and containing no buildings.
- (3) Dwelling, one-family. (See also § 145-55.)
- (4) Dwelling, two-family.
- (5) Dwelling, multifamily. (See § 145-48.)
- (6) Recreation, passive.
- (7) Timber harvesting.

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

- (1) Bank.
- (2) Bed-and-breakfast/small inn.
- (3) Business, contractor.
- (4) Business, office.
- (5) Business, personal service.
- (6) Business, retail, including the manufacturing of any goods offered for sale on the premises.

[Amended 11-7-2000]

- (7) Business, service.
- (8) Business, wholesale.

- (9) Cemetery larger than 20,000 square feet in area.
- (10) Church.
- (11) Club.
- (12) Congregate care facility.

[Added 6-8-2010] *Editor's Note: This ordinance also renumbered former Subsection C(12) through (27) as Subsection C(13) through (28), respectively.]*

- (13) Day-care home.
- (14) Day-care center/nursery school.
- (15) Drug abuse shelter. (Note: A drug abuse shelter will only be permitted on a lot within this district which lot either has frontage along Route One, or is located within 150 feet of Route One.)

[Added 6-14-2011] *Editor's Note: Ordinances adopted 6-14-2011 added several permitted uses to § 145-24C. As a result, some subsections were renumbered in order to maintain the alphabetical organization of the subsection.]*

- (16) Elderly housing.
- (17) Freestanding residential detoxification program. (Note: A freestanding residential detoxification program facility will only be permitted on a lot within this district which lot either has frontage along Route One, or is located within 150 feet of Route One.)

[Added 6-14-2011]

- (18) Function hall without commercial-type cooking facilities.
- (19) *Editor's Note: Former Subsection C(19), Housekeeping cottage complex, was repealed 11-5-2013. This ordinance also redesignated former Subsection C(20) through (32) as Subsection C(19) through (31), respectively. Housing, congregate.*
- (20) Medical care facility, excluding hospitals.
- (21) Municipal facility.
- (22) Museum.
- (23) Neighborhood convenience store, excluding sale of motor vehicle fuels and including a restaurant area not exceeding 15 seats.
- (24) Nursing home.
- (25) Private non-medical institution (PNMI).

[Added 6-14-2011]

- (26) Public utility facility.
- (27) Recreation, active.
- (28) Recreation, medium intensity commercial.

[Added 6-11-2013] *Editor's Note: This ordinance also redesignated former Subsection C(29) through (33) as Subsection C(30) through (34), respectively.]*

- (29) Registered marijuana dispensary (Note: A registered marijuana Dispensary will only be permitted on a lot within this district which lot either has frontage along Route One, or is located within 150 feet of Route One.)

[Added 6-14-2011]

- (30) Restaurant, standard, containing 36 seats or fewer and located west of Route 1 and east of the turnpike on Route 109.
- (31) School, public and private.

[Amended 10-6-1998]

- (32) *Editor's Note: Former Subsection C(33), Seasonal cottage complex, added 4-12-2003, which immediately preceded this subsection, was repealed 11-5-2013. This ordinance also redesignated former Subsection C(34) as Subsection C(32). Stand-alone registered marijuana dispensary.*

[Added 6-14-2011]

- D. Accessory uses. Accessory uses are permitted when they are clearly incidental to permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are accessory uses.
- E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.
- F. Dimensional requirements:
 - (1) Minimum lot size: 20,000 square feet of net area if served by public sewer; 40,000 square feet of net area if not served by public sewer.
 - (2) Maximum density:
 - (a) One dwelling unit for each 20,000 square feet of net area if served by public sewer.
 - (b) One dwelling unit for each 40,000 square feet of net area if not served by public sewer.
 - (c) Four housekeeping cottages or seasonal cottages per acre of net area.

[Amended 4-28-1995; 4-12-2003; 6-13-2006 *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.* **]**

- (3) Minimum street frontage per lot: 100 feet.
- (4) Maximum lot coverage: 60% (20% within the Shoreland Overlay District) or 2,500 square feet, whichever is greater.
- (5) Maximum building height: 30 feet, not to exceed three stories. (See § 145-35I.)
- (6) Setbacks. All structures shall be located at least:
 - (a) Fifteen feet from any lot line.
 - (b) Twenty-five feet from the boundary of any cemetery.
 - (c) Twenty-five feet from any lot line abutting any street right-of-way.
 - (d) Forty feet from any lot line abutting the right-of-way of any state highway.
 - (e) Each housekeeping cottage or seasonal cottage shall be placed at least 25 feet from any other housekeeping or seasonal cottage on the site.

[Added 6-13-2006 *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.* **]**

Note: See also §§ 145-13, Nonconforming structures, 145-14, Nonconforming lots, 145-48, Multifamily developments, and 145-49, Residential cluster development.

G. Special provisions.

- (1) No building shall contain more than 5,000 square feet of gross floor area, except that a building located in the section of the Residential-Commercial District running along both sides of Route 109 located west of Route 1 and east of the Maine Turnpike containing a medical clinic may contain more than 5,000 square feet of gross floor area, provided that it is located on a lot larger than five acres of land.

[Amended 4-16-1999]

- (2) Within any building existing on January 1, 1994, an accessory dwelling unit shall be permitted as regulated in § 145-55, except that the provisions of § 145-55B shall not apply. All other dimensional requirements, except residential density, of the district, including minimum lot size, shall be met.
- (3) All business uses and related storage, except for the sale of vegetables, fruits, plants and natural Christmas trees and wreaths, shall be located entirely within an enclosed structure.
- (4) Within 500 feet of Route 1, the following architectural requirements shall apply:
 - (a) Reconstruction of exterior facades and additions to existing buildings shall be in the architectural style of the original building, and the materials used shall duplicate the original or be similar in appearance to the original materials or materials commonly used in the Town when the building was constructed.
 - (b) New construction shall preserve the character of the district by using external building features which are similar to those buildings in the district constructed in the 18th and 19th centuries. Modern materials which duplicate the appearance of materials used in construction in the 18th and 19th centuries may be used on any buildings.
 - (c) Any new building shall have a gable, hip, saltbox or mansard roof.
 - (d) The siding on new buildings shall be wooden clapboard or wooden shingles or materials which duplicate these in shape, texture and appearance.
 - (e) The roofs on all buildings shall be shingled.
 - (f) If visible from U.S. Route 1, glass panes in windows and doors, if larger than nine square feet, shall be divided by construction or application into panes smaller than one square foot.
- (5) If a building is located less than 70 feet from a street right-of-way, no parking serving a business shall be located in the area between the building and the street right-of-way.

§ 145-25. Beach Business District.

A. Purpose. The purpose of the Beach Business District is to provide lodging facilities and other services for the tourists and residents living at the beach.

B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:

- (1) Dwelling, one-family. (See also § 145-55.)

- (2) Dwelling, two-family.
 - (3) Recreation, passive.
- C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:
- (1) Bed-and-breakfast/small inn. (See § 145-52.)
 - (2) Business, office.
 - (3) Business, personal service.
 - (4) Business, retail.
 - (5) Business, service.
 - (6) Day-care home.
 - (7) Day-care center/nursery school.
 - (8) Function hall.
 - (9) Hotel/motel. (See § 145-52.)
 - (10) *Editor's Note: Former Subsection C(10), Housekeeping cottage complex, was repealed 11-5-2013. This ordinance also redesignated former Subsection C(11) through (21) as Subsection C(10) through (20), respectively.* Municipal facility.
 - (11) Museum.
 - (12) Neighborhood convenience store.
 - (13) Parking lot, commercial.
 - (14) Public transportation shelter.
- [Added 11-6-2007** *Editor's Note: This ordinance also redesignated former Subsection C(15) through (21) as Subsection C(16) through (22), respectively.* **]**
- (15) Public utility facility.
 - (16) Recreation, active.
 - (17) Recreation, high-intensity commercial.
 - (18) Recreation, low-intensity commercial.
 - (19) Restaurant, standard.
 - (20) Restaurant, fast-food. *Editor's Note: Former Subsection C(22), Seasonal cottage complex, added 4-12-2003, which immediately followed this subsection, was repealed 11-5-2013.*
- D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are permitted accessory uses.
- E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.
- F. Dimensional requirements:
- (1) Minimum lot size: 5,000 square feet of net area.
 - (2) Maximum density:
- [Amended 11-6-2001]**
- (a) One dwelling unit for each 5,000 square feet of net area.
 - (b) Four housekeeping cottages or seasonal cottages per acre of net area.
- [Amended 4-12-2003; 6-13-2006** *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.* **]**
- (c) Twenty hotel/motel units per acre of net area.
- (3) Minimum street frontage per lot: 50 feet.
 - (4) Maximum lot coverage: 90%.
 - (5) Maximum building height: 34 feet, not to exceed three stories. (See § 145-351.)
 - (6) Setbacks. All structures shall be located at least:
 - (a) Six feet from any lot line other than the edge of a street right-of-way.
 - (b) Four feet from the edge of any street right-of-way.
 - (c) Twenty feet from the sea wall or the line which is an extension of the existing sea wall.
 - (d) Each housekeeping cottage or seasonal cottage shall be placed at least 15 feet from any other housekeeping or seasonal cottage on the site.
- [Added 6-13-2006** *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.* **]**

Note: See also §§ **145-13**, Nonconforming structures, 145-14, Nonconforming lots, 145-33, Shoreland Overlay District, and 145-48, Multifamily developments.

- G. Special provisions. No individual business use, except lodging facilities, shall occupy more than 5,000 square feet of gross floor area.

§ 145-26. General Business District.

A. Purpose. The purpose of the General Business District is to provide areas for a wide range of business and commercial uses which serve the entire Town and for lodging and related facilities which serve the tourists.

B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:

- (1) Agriculture, limited to the raising of crops and plants out of doors.
- (2) Cemetery having an area less than 20,000 square feet and containing no buildings.
- (3) Dwelling, one-family. (See also § **145-55**.)
- (4) Dwelling, two-family.
- (5) Dwelling, multifamily. (See § **145-48**.)
- (6) Recreation, passive.
- (7) Timber harvesting.

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

- (1) Agriculture which includes any structures.
- (2) Bank.
- (3) Bed-and-breakfast/small inn. (See § **145-52**.)
- (4) Business, contractor.
- (5) Business, office.
- (6) Business, personal service.
- (7) Business, retail, including the manufacturing of any goods offered for sale on the premises.
- (8) Business, service.
- (9) Business, wholesale, having a gross floor area of less than 5,000 square feet.
- (10) Cemetery larger than 20,000 square feet in area.
- (11) Church.
- (12) Club.
- (13) Congregate care facility.

[Added 6-8-2010] *Editor's Note: This ordinance also renumbered former Subsection C(13) through (38) as Subsection C(14) through (39), respectively.]*

- (14) Day-care home.
- (15) Day-care center/nursery school.
- (16) Drug abuse shelter.

[Added 6-14-2011] *Editor's Note: Ordinances adopted 6-14-2011 added several permitted uses to § 145-26C. As a result, some subsections were renumbered in order to maintain the alphabetical organization of the subsection.]*

- (17) Elderly housing.

[Amended 4-26-1996]

- (18) Freestanding residential detoxification program.

[Added 6-14-2011]

- (19) Function hall.
- (20) Hotel/motel. (See § **145-52**.)

- (21) *Editor's Note: Former Subsection C(21), Housekeeping cottage complex, was repealed 11-5-2013. This ordinance also redesignated former Subsection C(22) through (43) as Subsection C(21) through (42), respectively.* Housing, congregate.

- (22) Life care facility.

[Amended 4-26-1996]

- (23) Medical care facility.
- (24) Municipal facility.
- (25) Museum.
- (26) Neighborhood convenience store.
- (27) Nursing home.

[Amended 4-26-1996]

- (28) Parking lot, commercial.
- (29) Private non-medical institution (PNMI).

[Added 6-14-2011]

- (30) Public transportation shelter.

[Added 11-6-2007] *Editor's Note: This ordinance also redesignated former Subsection C(27) through (37) as Subsection C(28) through (38), respectively.]*

- (31) Public utility facility.
- (32) Recreation, active.
- (33) Recreation, high-intensity commercial.
- (34) Recreation, low-intensity commercial.
- (35) Recreation, medium intensity commercial.

[Added 6-11-2013] *Editor's Note: This ordinance also redesignated former Subsection C(36) through (44) as Subsection C(37) through (45), respectively.]*

- (36) Registered marijuana dispensary.

[Added 6-14-2011]

- (37) Restaurant, standard.
- (38) Restaurant, fast-food.
- (39) Sawmill producing less than 100,000 board feet of lumber per year.
- (40) School, public and private.
- (41) Tent and recreational vehicle park. (See § 145-50.)
- (42) Transportation facility.

- (43) *Editor's Note: Former Subsection C(44), Seasonal cottage complex, added 4-12-2003, which immediately preceded this subsection, was repealed 11-5-2013. This ordinance also redesignated former Subsection C(45) as Subsection C(43). Stand-alone registered marijuana dispensary.*

[Added 6-14-2011]

- D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are permitted accessory uses.
- E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.
- F. Dimensional requirements:

- (1) Minimum lot size: 20,000 square feet of net area if served by public sewer; 40,000 square feet of net area if not served by public sewer.
- (2) Maximum density:
 - (a) One dwelling unit for each 20,000 square feet of net area if served by public sewer.
 - (b) One dwelling unit for each 40,000 square feet of net area if not served by public sewer.
 - (c) Four housekeeping cottages or seasonal cottages per acre of net area.

[Amended 4-28-1995; 4-12-2003; 6-13-2006] *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.]*

- (d) Twenty hotel/motel units per acre of net area.

[Amended 4-28-1995]

- (3) Minimum street frontage per lot: 100 feet, which may be reduced to 75 feet for frontage entirely on a cul-de-sac.
- (4) Maximum lot coverage: 65% (20% within the Shoreland Overlay District) or 2,500 square feet, whichever is greater, except that the maximum lot coverage shall be 40% of the entire lot on any lot that was legally created prior to January 1, 1994, if at least 75% of the lot is located within the Shoreland Overlay District.

[Amended 4-14-2000]

- (5) Maximum building height: 34 feet, not to exceed three stories. (See § 145-35I.)
- (6) Setbacks.
 - (a) All structures shall be at least:
 - [1] Fifteen feet from any lot line.
 - [2] Twenty-five feet from the boundary of any cemetery.
 - [3] Twenty-five feet from any lot line abutting any street right-of-way.
 - [4] Forty feet from any lot line abutting the right-of-way of any state highway.

- (b) All structures and parking lots shall be at least 200 feet from the high-water line of the Webhannet River, Merriland River and the Ogunquit River.
- (c) Each housekeeping cottage or seasonal cottage shall be placed at least 25 feet from any other housekeeping or seasonal cottage on the site.

[Added 6-13-2006 *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.* **]**

Note: See also §§ 145-13, Nonconforming structures, 145-14, Nonconforming lots, 145-33, Shoreland Overlay District, and 145-48, Multifamily developments.

- G. Special provisions. If a person owns parcels of land on the east and west sides of Route 1 within the General Business District, the parcels may be treated as a single lot of land, provided that he grants the Town a conservation easement over a portion of the land on the east side of Route 1. The easement shall cover a land area which, in conjunction with the parcels on the west side of Route 1, is adequate to support the proposed use as regulated in the district. The lot on the west side of Route 1 shall meet the minimum lot size requirement. Any proposed easement shall be reviewed and approved by the Planning Board.

§ 145-27. Harbor District.

- A. Purpose. The purpose of the Harbor District is to provide areas for commercial and recreational marine uses, aquaculture, environmental research, recreational activities and cultural activities.
- B. Permitted uses. The following uses shall be permitted with the approval of the Board of Selectmen upon obtaining any required permits from the Code Enforcement Officer:

[Amended 4-14-2000]

- (1) Aquaculture without structures.
- (2) Concerts.
- (3) Public gatherings.
- (4) Fairs/bazaars.
- (5) Recreation, passive.
- (6) Recreation, low-intensity commercial (limited to uses requiring access to the water).
- (7) Shows (boat, craft, antique, etc.).

- C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

- (1) Aquaculture involving any structures.
- (2) Estuarine and marine research and educational facility.
- (3) Marina.
- (4) Municipal facility.
- (5) Public transportation shelter.

[Added 11-6-2007 *Editor's Note: This ordinance also redesignated former Subsection C(5) through (7) as Subsection C(6) through (8), respectively.* **]**

- (6) Public utility facility.
- (7) Recreation, active.
- (8) Restaurant, standard.

- D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot or leased area as the permitted use being served.
- E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections C, D and E are prohibited within this district.
- F. Dimensional requirements:
 - (1) Minimum lot size: 5,000 square feet.
 - (2) Minimum street frontage per lot: 50 feet.
 - (3) Maximum lot coverage: 90% of lot area.
 - (4) Maximum building height: 34 feet, not to exceed two stories. (See § 145-35I.)
- G. Setbacks. All structures shall be located at least:
 - (1) Six feet from any lot line other than the edge of a street right-of-way.
 - (2) Four feet from the any lot line abutting any street right-of-way.

Note: See also §§ **145-13**, Nonconforming structures, and **145-14**, Nonconforming lots.

§ 145-28. Light Industrial District.

A. Purpose. The purpose of the Light Industrial District is to provide areas for a wide range of light industrial and large-scale business uses which are clean and nonpolluting.

B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:

- (1) Agriculture, limited to the raising of crops and plants out of doors.
- (2) Recreation, passive.
- (3) Timber harvesting.

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

[Amended 4-28-1995]

- (1) Agriculture, including wholesale greenhouses.
- (2) Business, contractor.
- (3) Business, office.
- (4) Business, service.
- (5) Business, wholesale.
- (6) Manufacturing.
- (7) Motor vehicle rental.
- (8) Municipal facility.
- (9) Parking lot, commercial.
- (10) Public transportation shelter.

[Added 11-6-2007] *Editor's Note: This ordinance also redesignated former Subsection C(10) through (20) as Subsection C(11) through (21), respectively.]*

- (11) Public utility facility.
- (12) Recreation, medium intensity commercial.

[Added 6-11-2013] *Editor's Note: This ordinance also redesignated former Subsection C(12) through (21) as Subsection C(13) through (22), respectively.]*

- (13) Research and development facility.
- (14) Recycling facility.
- (15) Restaurant, standard.
- (16) Restaurant, fast-food.
- (17) School, vocational-technical.
- (18) Transmission tower, radio.
- (19) Transportation facility.
- (20) Truck terminal.
- (21) Warehousing.
- (22) Self-storage facility.

[Added 5-20-2003]

D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses, as regulated in § **145-51**, are permitted as accessory uses.

E. Uses prohibited. Except as permitted in § **145-12**, Nonconforming uses, and in Article **VI**, Town-Wide Regulations, uses not identified in Subsections **B**, **C** and **D** are prohibited within this district.

F. Dimensional requirements:

- (1) Minimum lot size: 40,000 square feet of net area.
- (2) Maximum density: none.
- (3) Minimum street frontage per lot: 100 feet.
- (4) Maximum lot coverage: 65% (20% within the Shoreland Overlay District) or 2,500 square feet, whichever is greater.
- (5) Maximum building height: 45 feet, not to exceed three stories. (See § **145-35I**.)
- (6) Setbacks. All structures shall be located at least:

[Amended 4-12-2003]

- (a) Twenty-five feet from any lot line except a railroad right-of-way line, if the structure is used for a use

related to the railroad.

- (b) Twenty-five feet from the boundary of any cemetery.
- (c) Forty feet from any lot line abutting any street right-of-way.

Note: See also §§ **145-13**, Nonconforming structures, 145-14, Nonconforming lots, and 145-33, Shoreland Overlay District.

G. Special provisions.

- (1) All liquid waste, other than wastewater as defined in the State of Maine Subsurface Wastewater Disposal Rules, shall be delivered to and disposed of by the Wells Sanitary District or by a licensed disposal facility.
- (2) After January 1, 1996, all recycling facility operators, except the Town of Wells, who began operations at their current site after the effective date of this subsection shall provide one of the performance guaranties required in § 145-56.

[Amended 4-28-1995]

§ 145-29. Quarry Manufacturing District.

A. Purpose. The purpose of the Quarry Manufacturing District is to provide areas for the mining of earth materials and the manufacture of related products in an environmentally safe manner without adversely affecting local streets and residential neighborhoods.

B. Permitted uses. The following uses shall be permitted upon obtaining any required permits from the Code Enforcement Officer:

- (1) Agriculture.
- (2) Timber harvesting.
- (3) Recreation, passive.

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

[Amended 4-16-1999]

- (1) Business office for a mineral extraction use.
- (2) Business office in any building existing on January 1, 1999, and formerly occupied by a business office for a mineral extraction use.
- (3) Mineral extraction, including processing. (See § 145-53.)
- (4) Manufacturing of asphalt and concrete products.
- (5) Municipal facility.
- (6) Public utility facility.
- (7) Storage and repair of equipment used in a mineral extraction use.

D. Accessory uses. Accessory uses are permitted when they are clearly incidental to permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served.

E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.

F. Dimensional requirements:

- (1) Minimum lot size: 200,000 square feet.
- (2) Minimum street frontage per lot: 200 feet.
- (3) Maximum lot coverage: 70% (20% within the Shoreland Overlay District) or 2,500 square feet, whichever is greater.
- (4) Maximum building height: 45 feet, not to exceed three stories. (See § 145-35I.)
- (5) Setbacks. All structures shall be located at least:
 - (a) One hundred feet from any lot line other than those abutting the edge of a street right-of-way or a cemetery.
 - (b) Forty feet from any lot line abutting any street right-of-way.
 - (c) Twenty-five feet from the boundary of any cemetery.

Note: See also §§ **145-13**, Nonconforming structures, and 145-14, Nonconforming lots.

§ 145-30. Rural District.

A. Purpose. The purpose of the Rural District is to maintain the open, rural character of the land within the district.

Open uses of the land, such as forestry and agricultural uses, should be encouraged and large-scale residential uses discouraged. Residential development should be clustered so that significant areas of the development can be maintained as open space and, where applicable, used to buffer the development from existing Town ways.

B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code

Enforcement Officer:

- (1) Animal husbandry.
- (2) Agriculture.
- (3) Cemetery having an area less than 20,000 square feet and containing no buildings.
- (4) Dwelling, one-family. (See also § 145-55.)
- (5) Dwelling, two-family.
- (6) Dwelling, multifamily. (See § 145-48.)
- (7) Recreation, passive.
- (8) Timber harvesting.

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

- (1) Bed-and-breakfast/small inn. (See § 145-52.)
- (2) Cemetery larger than 20,000 square feet in area.
- (3) Church.
- (4) Club.
- (5) Congregate care facility, in areas served by public water and sewer.

[Added 6-8-2010 *Editor's Note: This ordinance also renumbered former Subsection C(5) through (23) as Subsection C(6) through (24), respectively.* **]**

- (6) Day-care home.
- (7) Day-care center/nursery school.
- (8) Estuarine and marine research facilities located east of U.S. Route 1. Said facilities may include a building containing a dwelling unit occupied by a resident manager and his or her family and fifteen suites or less occupied by visiting scientists conducting research with the Wells Reserve. Said suites shall not exceed 470 square feet and shall not have their own kitchen facilities. However, said building may contain a common kitchen to provide meals available only to the occupants.

[Added 4-14-2000; amended 11-5-2002]

- (9) *Editor's Note: Former Subsection C(9), Housekeeping cottage complex, was repealed 11-5-2013. This ordinance also redesignated former Subsection C(10) through (23) as Subsection C(9) through (22), respectively. Kennel.*

- (10) Mineral extraction. (See § 145-53.)
- (11) Municipal facility.
- (12) Museum having a gross floor area less than 5,000 square feet.
- (13) Neighborhood convenience store.
- (14) Public utility facility.
- (15) Recreation, active.
- (16) Recreation, low-intensity commercial.
- (17) Restaurant (standard) containing fewer than 75 seats.
- (18) Sawmill.
- (19) School, public and private.
- (20) School, vocational-technical, served by public water and sewer and located east of the turnpike and south of Route 109.

[Added 4-18-1995]

- (21) Tent and recreational vehicle park. (See § 145-50.)
- (22) Transmission tower, radio. *Editor's Note: Former Subsection C(24), Seasonal cottage complex, added 4-12-2003, which immediately followed this subsection, was repealed 11-5-2013.*

D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are accessory uses.

E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.

F. Dimensional requirements:

- (1) Minimum lot size:
 - (a) One hundred thousand square feet of net area.
 - (b) Forty thousand square feet if located east of the Maine Turnpike and connected to public sewer.

(2) Maximum density:

[Amended 4-28-1995]

- (a) One dwelling unit for each 100,000 square feet of net area.
- (b) One dwelling unit for each 40,000 square feet of net area if located east of the Maine Turnpike and connected to public sewer.
- (c) Four housekeeping cottages or seasonal cottages per acre of net area.

[Amended 4-12-2003; 6-13-2006 *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.* **]**

(3) Minimum street frontage per lot: 200 feet, which may be reduced to 150 feet for lots fronting entirely on a cul-de-sac. The minimum street frontage for a lot containing a one-family dwelling (in conjunction with a one-family dwelling, a day-care home or day-care center/nursery school may be permitted if the driveway is paved to a width of at least 16 feet and has a gravel base of at least 20 feet in width), an agricultural, animal husbandry or a timber harvesting use may be reduced to 50 feet provided that the total lot area is at least 200,000 square feet; the access driveway shall extend to the house and shall not be longer than 750 feet with a grade and width adequate to permit access by fire, police and other emergency vehicles; and any structure on the lot shall be located at least 50 feet from any lot line. No more than two such lots shall have contiguous street frontage.

(4) Maximum lot coverage: 20% or 4,000 square feet, whichever is the greater.

(5) Maximum building height: 40 feet, not to exceed three stories. (See § 145-35I.)

(6) Setbacks.

(a) All structures shall be at least:

- [1] Twenty-five feet from any lot line.
- [2] Twenty-five feet from any lot line abutting any street right-of-way.
- [3] Forty feet from any lot line abutting the right-of-way of any state highway.
- [4] Twenty-five feet from the boundary of any cemetery.

(b) All structures and parking lots shall be located at least 200 feet from the high-water line of the Merriland River (including Hobbs Pond), the Webhannet River, Ogunquit River, Perkins Brook and West Brook.

(c) Each housekeeping cottage or seasonal cottage shall be placed at least 25 feet from any other housekeeping or seasonal cottage on the site.

[Added 6-13-2006 *Editor's Note: This ordinance provided that it shall be retroactive to any application for site plan approval and any application to amend an existing site plan to the extent the amendment proposes additional cottage units that has not received final approval from the Planning Board on 4-25-2006.* **]**

Note: See also §§ 145-13, Nonconforming structures, 145-14, Nonconforming lots, 145-33, Shoreland Overlay District, 145-48, Multifamily developments, and 145-49, Cluster residential development.

G. Special provisions. All proposed residential subdivisions containing more than four dwelling units shall be developed according to the provisions of § 145-48, Multifamily developments, or § 145-49, Residential Cluster Development. The Planning Board may waive this requirement for projects containing fewer than 20 lots if it determines that a cluster development as regulated in § 145-49 is not practical because of the configuration of the original lot or because of its natural features.

§ 145-31. Aquifer Protection District.

A. Purpose. The purpose of the Aquifer Protection District is to protect and maintain the quantity and quality of the Branch Brook aquifer while allowing landowners a reasonable use of their property and a reasonable return from its development potential.

B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:

- (1) Agriculture, limited to the raising of crops and plants out of doors.
- (2) Dwelling, one-family. (See also § 145-55.)
- (3) Dwelling, two-family.
- (4) Recreation, passive.
- (5) Timber harvesting. [See § 145-31G(3).]

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan

approval and any required permits from the Code Enforcement Officer:

- (1) Mineral extraction. (See § 145-53.)
- (2) Municipal facility.
- (3) Public utility facility.
- (4) Recreation, active.
- (5) Transmission tower, radio.

D. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served. Home businesses as regulated in § 145-51 are accessory uses.

E. Uses prohibited. Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C and D are prohibited within this district.

F. Dimensional requirements:

- (1) Minimum lot size: 100,000 square feet of net area.
- (2) Maximum density: one dwelling unit for each 100,000 square feet of net area.
- (3) Minimum street frontage per lot: 200 feet, which may be reduced to 150 feet for lots fronting entirely on a cul-de-sac. The minimum street frontage for a lot containing a one-family dwelling, agricultural or timber harvesting use may be reduced to 50 feet provided that the total lot area is at least 200,000 square feet; the access driveway to the house shall not be longer than 750 feet with a grade and width adequate to permit access by fire, police and other emergency vehicles; and any structure on the lot shall be located at least 50 feet from any lot line. No more than two such lots shall have contiguous frontage.
- (4) Maximum lot coverage: 20% or 2,500 square feet, whichever is the greater.
- (5) Maximum building height: 40 feet, not to exceed three stories. (See § 145-35I.)
- (6) Setbacks.
 - (a) All structures shall be located at least:
 - [1] Twenty-five feet from any lot line.
 - [2] Twenty-five feet from the boundary of any cemetery.
 - [3] Twenty-five feet from any lot line abutting any street right-of-way.
 - [4] Forty feet from any lot line abutting the right-of-way of any state highway.
 - [5] Two hundred fifty feet from the high-water line of Branch Brook.
 - (b) All subsurface wastewater disposal areas and treatment tanks shall be located at least 400 feet from the high-water line of Branch Brook.
 - (c) Any mineral extraction use shall be located at least 250 feet from the high-water line of Branch Brook.

Note: See also §§ 145-13, Nonconforming structures, 145-14, Nonconforming lots, 145-33, Shoreland Overlay District, 145-48, Multifamily developments, and 145-49, Residential cluster development.

G. Special provisions.

- (1) All residential subdivisions containing more than four dwelling units shall be clustered on the site according to the provisions of § 145-48, Multifamily developments, or § 145-49, Residential Cluster Development. The Planning Board may waive this requirement for projects containing fewer than 20 lots if it determines that clustering is not practical because of the configuration of the original lot or because of its natural features.
- (2) At least 60 days before the application of any pesticide classified for restricted use by the Administrator of the United States Environmental Protection Agency, the applicator or landowner shall notify the Code Enforcement Officer of the name of the pesticide to be applied, the application rate and the projected application dates. A copy of this notification shall also be sent to the Kennebunk, Kennebunkport and Wells Water District. The Code Enforcement Officer shall review the notification and consult with the Water District, notifying the applicator or landowner, in writing, if the pesticide or its application rates present a danger to the quality of the groundwater or Branch Brook. If the Code Enforcement Officer does not respond within 30 days from the receipt of the notification, the applicator may apply the pesticide according to the EPA label and the rules of the Maine Pesticide Control Board.
- (3) Timber harvesting within 250 feet of the high-water line of Branch Brook shall only be allowed as specified on a harvesting plan prepared by a registered professional forester and approved by the Planning Board. The Planning Board shall obtain review comments on any such plan from the Kennebunk, Kennebunkport and Wells Water District and the York County Soil and Water Conservation District.

§ 145-32. Resource Protection District.

- A. Purpose. The purpose of the Resource Protection District is to protect and preserve fragile environmental areas from intrusions which would upset their ecological systems or create potential public health or safety problems.
- B. Permitted uses. The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:
- (1) Recreation, passive.
 - (2) Wildlife habitat management. A written plan shall be approved by the Maine Department of Environmental Protection, if required, and a copy of said approval shall be provided to the Town of Wells.

[Added 6-12-2012]

- C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:
- (1) Aquaculture.
 - (2) Municipal facility.
 - (3) Public utility facility.
 - (4) Piers, docks and wharves.
- D. Accessory uses. Accessory uses are permitted when they are clearly incidental to permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served.
- E. Uses prohibited.
- (1) Except as permitted in § 145-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B, C, D and G are prohibited within this district.
 - (2) New roads and driveways are prohibited unless approved by the Zoning Board of Appeals upon a finding that no reasonable alternative route or location is available outside the district.

[Amended 4-28-1995]

- F. Dimensional requirements: none, except as may be required by the Planning Board for the protection of the public health and safety and as provided in Subsection G below.

[Amended 11-2-1999]

Note: See also §§ 145-13, Nonconforming structures, and 145-14, Nonconforming lots.

- G. Preexisting use: a principal or accessory use that was legally in existence on January 1, 1994, and on July 1, 1999, is a permitted use, not a nonconforming use. Any such business use shall be regulated in accordance with all of the provisions of § 145-25, Beach Business District, and § 145-33, Shoreland Overlay District. Any such residential use shall be regulated in accordance with all of the provisions of § 145-21, Residential A District, and § 145-33, Shoreland Overlay District.

[Added 11-2-1999]

§ 145-33. Shoreland Overlay District.

The provisions of this section shall apply to all uses, lots and structures within the Shoreland Overlay District.

- A. Purpose. The purpose of this district is to prevent and control water pollution; to protect fish spawning grounds, aquatic life and bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to conserve shore cover; and to preserve access to inland and coastal waters.
- B. Setbacks from water bodies and wetlands. All roads, driveways and structures, except those required to control drainage or water movement and those needed for water-dependent uses, shall comply with the following setback requirements or those of the underlying district, whichever is greater:
- (1) The minimum setback from the upland edge of a wetland shall be 75 feet, which may be reduced to the average of the setbacks of structures within 200 feet of the proposed structure on lots abutting the wetlands but shall not be less than 25 feet.
- [Amended 4-16-1999]**
- (2) The minimum setback from the high-water line of Ell Pond shall be 100 feet.
 - (3) The minimum setback on the ocean side of Wells Beach, Drakes Island and Moody Beach shall be 20 feet from the sea wall. Where there is no sea wall, the setback shall be from a theoretical sea wall line extrapolated from the existing sea walls.
 - (4) The minimum setback from all other water bodies shall be 75 feet from their high-water line.
- C. Shore frontage.

- (1) A lot within the Shoreland Overlay District with frontage on a freshwater water body or freshwater wetland, including all streams, shall have a minimum shore frontage of 200 feet.

[Amended 4-19-1997]

- (2) A lot within the Shoreland Overlay District with frontage on a tidal water body shall have a minimum shore frontage of 150 feet.

D. Performance standards for agriculture and animal husbandry uses.

- (1) All spreading or disposal of manure shall be done according to the Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the University of Maine and the Maine Soil and Water Conservation Commission in July 1972.
- (2) Manure shall not be stored or stockpiled within 100 feet horizontal distance of Ell Pond or within 75 feet horizontal distance of other water bodies, tributary streams or wetlands. Manure storage areas which existed before December 14, 1991, and which do not meet the setback requirement may remain after December 14, 1996, only if the storage area produces no discharge of effluent or contaminated stormwater runoff.
- (3) There shall be no new tilling of soil or clearing of trees or other vegetation for agricultural use within 100 feet of Ell Pond, within 25 feet of tributary streams and wetlands or within 75 feet of other water bodies.
- (4) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area or the spreading, disposal or storage of manure shall require a conservation plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the York County Soil and Water Conservation District. Noncompliance with the provisions of such conservation plan shall be considered to be a violation of this chapter.
- (5) Livestock grazing areas are prohibited within 100 feet of the high-water line of Ell Pond, within 25 feet of tributary streams and wetlands and within 75 feet of other waterbeds. Livestock grazing associated with ongoing farm activities and which is not in conformance with the above setback provisions may continue, provided that such grazing is conducted according to a plan approved by the York County Soil and Water Conservation District.

E. Clearing of vegetation for development.

- (1) In the development of a permitted use, a buffer strip of vegetation shall be preserved within the strip of land extending 100 feet inland from the high-water line of Ell Pond and 75 feet from any other water body, tributary stream or the upland edge of a wetland, as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10 feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Within 100 feet of the high-water line of Ell Pond the width of the footpath shall be limited to six feet.
 - (b) Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to Ell Pond shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot by twenty-five-foot square area (625 square feet) as determined by the following rating system:

**Diameter of Tree at 4 1/2 Feet Above Ground Level
(inches)**

Diameter of Tree at 4 1/2 Feet Above Ground Level (inches)	Points
2 to 4	1
Over 4 to 12	2
Over 12	4

[1] Next to other water bodies, tributary streams and wetlands a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight per twenty-five-foot square area.

[2] Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter measured 4.5 feet above ground level may be removed in any ten-year period.

- (c) To protect water quality and wildlife habitat adjacent to Ell Pond, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in Subsections **E(1)(a)** and **(b)** above.
- (d) Pruning of tree branches on the bottom 1/3 of the tree is permitted.

- (e) To maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
- (f) This Subsection **E(1)** shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.
- (2) At distances greater than 100 feet from Ell Pond and 75 feet from the high-water line of any other water body, tributary stream or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter measured 4.5 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty-percent calculation. Cleared openings for development, including but not limited to principal and accessory structures, driveways and sewage disposal systems, shall not exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply within those portions of the Shoreland Overlay District in which the underlying district is the Harbor District, the Beach Business District or the General Business District.
- (3) Cleared openings legally in existence on the effective date of this chapter may be maintained but shall not be enlarged, except as permitted by this chapter.
- (4) Fields which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.
- F. Roads and driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.
 - (1) Roads and driveways shall comply with the setback requirements of Subsection **B** unless no reasonable alternative exists as determined by the Zoning Board of Appeals. If no other reasonable alternative exists, the Zoning Board of Appeals may reduce the road and/or driveway setback requirement upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the wetland, tributary stream or water body. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland.
 - (a) On slopes of greater than 20% the road and/or driveway setback shall be increased by 10 feet for each five-percent increase in slope above 20%.
 - (b) This section shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures or facilities located near the shoreline due to operational necessity.
 - (2) An existing public street may be expanded within the street right-of-way, whatever its setback from a water body, tributary stream or wetland.
 - (3) Road banks shall not be steeper than a slope of one vertical to two horizontal and shall be graded and stabilized to prevent erosion and stream sedimentation.
 - (4) Road grades shall not be greater than 10% except for segments of less than 200 feet in length.
 - (5) To prevent road surface drainage from directly entering water bodies, tributary streams or wetlands, roads shall be designed, constructed and maintained to empty onto an undisturbed buffer strip at least 50 feet, plus two feet times the average percent slope, in width between the outflow point of the ditch or culvert and the high-water line of a water body, tributary stream or upland edge of a wetland. Road surface drainage which is directed to an undisturbed buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
 - (6) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed to effectively direct drainage onto undisturbed buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (percent)	Spacing (feet)
0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80

11 to 15

80 to 60

16 to 20

60 to 45

21+

40

(b) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.

(c) On road sections having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a sixty-degree angle downslope from the center line of the road.

(d) Ditch relief culverts shall be sufficiently sized and properly installed to effectively function, and their inlet and outlet ends shall be stabilized with appropriate materials.

(7) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained regularly to ensure effective functioning.

G. Piers, docks, wharves, breakwaters, causeways, marinas, bridges and other structures and uses extending over or beyond the high-water line of a water body, stream or within a wetland. In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:

(1) Shore access shall be developed on soils appropriate for such use and constructed to control erosion.

(2) The location shall not interfere with developed or natural beach areas.

(3) The facility shall be located to minimize adverse effects on fisheries.

(4) The facility shall not be larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

(6) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(7) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

H. Timber harvesting.

(1) No accumulation of slash shall be left within 50 feet of the high-water line of a water body. In all other areas all slash shall either be removed or disposed of in such a manner that it lies on the ground and no part of it extends more than four feet above the ground. Any debris that falls below the high-water line of a water body shall be removed from the water body.

(2) Except for water crossings, all skid trails, log yards and other sites where the operation of logging machinery results in the exposure of mineral soil shall be located such that an undisturbed filter strip of vegetation of at least 75 feet in width for slopes of up to 10% shall be retained between the exposed mineral soil and the high-water line of a water body or upland edge of a wetland. For each ten-percent increase in slope, the undisturbed strip shall be increased by 20 feet. The provisions of this Subsection **H(2)** apply only to a face sloping toward the water body or wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet to the high-water line of a water body or upland edge of a wetland.

(3) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters are frozen and the activity will not result in any ground disturbance.

(4) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(5) Skid trail approaches to water crossings shall be located and designed to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(6) Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter, measured 4.5 feet above ground level, on any lot in any ten-year period is permitted. These standards shall not apply to activities necessary and resulting from wind damage, fire and removal of dead trees. Trees and other vegetation killed by natural causes (e.g., beaver or insects) shall not be counted in determining either the original volume or the volume removed. In addition:

- (a) Within 100 feet of the high-water line of Ell Pond and within 75 feet of the high-water line of other water bodies, tributary streams or the upland edge of a wetland, a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
- (b) At distances greater than 100 feet from Ell Pond and greater than 75 feet from the high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such openings shall be included in the calculation of total volume removal.
- (7) Timber harvesting operations exceeding the forty-percent limitation of Subsection **H(6)** may be allowed by the Planning Board if the applicant submits a forest management plan prepared by a Maine licensed professional forester showing that such exception is good forest management and the harvest will be carried out according to the purposes of this chapter. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed within 14 days of the Board's decision.

[Amended 4-19-1997]

§ 145-34. Mobile Home Park Overlay District.

- A. Purpose. The purpose of this district is to allow the development of mobile home parks in certain portions of other zoning districts in which they would not otherwise be permitted.
- B. General requirements. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, shall conform to all the requirements of the underlying district and shall conform to all applicable state laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of this chapter or Chapter **260** (Subdivision of Land) of the Wells Municipal Code, the provisions of this section shall prevail.
- C. Permitted uses:
 - (1) Mobile home park.
- D. Site area and site width requirements. Mobile home park sites shall meet the following area and frontage requirements:
 - (1) Sites served by public sewer:
 - (a) Minimum site size: 5,000 square feet of net area.
 - (b) Minimum road frontage per site: 50 feet.
 - (2) Sites served by individual subsurface waste disposal systems:
 - (a) Minimum site size: 20,000 square feet of net area.
 - (b) Minimum road frontage per site: 100 feet.
 - (3) Sites served by a central subsurface wastewater disposal system approved by the Maine Department of Human Services:
 - (a) Minimum site size: 12,000 square feet of net area.
 - (b) Minimum road frontage per site: 75 feet.
 - (4) The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 square feet of net area. The net area shall exclude all road rights-of-way.
 - (5) No area of any site located within any Resource Protection District shall be used to meet the site area or frontage requirements.
- E. Setback requirements.
 - (1) On sites 10,000 square feet in area or larger, structures shall be located no less than 15 feet from any site boundary line. On sites less than 10,000 square feet in area, structures shall be located no less than 10 feet from any site boundary line. Structures shall be set back a minimum of 20 feet from the boundary of any road right-of-way.
 - (2) On sites which abut a public way, structures shall meet the street right-of-way setback requirements of the district in which the park is located.
 - (3) All structures in a park shall meet the setback requirements of § **145-33**, Shoreland Overlay District, of this chapter.
- F. Buffering.
 - (1) All parks shall have a continuous landscaped strip of not less than 25 feet in width adjacent to all lot lines, except those of an abutting mobile home park, and the buffer strip shall not contain part of any site, structures or road(s), except the access road(s) entering the park.
 - (2) If a park is proposed with a residential density at least twice the residential density permitted in the underlying zoning district, the park shall be designed with a continuous landscaped area not less than 50 feet in width

adjacent to all lot lines, except those of an abutting mobile home park. The buffer strip shall contain no part of a site and no structures or roads, except the access road(s) entering the park. The first 25 feet of the buffer strip, as measured from the exterior boundaries of the park, shall contain evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that entrances shall be kept open to provide visibility for vehicles entering and leaving the park.

- G. Open space reservation. An area no less than 10% of the total area of those sites with a site area of 10,000 square feet or less shall be reserved as open space. The area reserved as open space shall be suitable to be used for recreational purposes or for storage by the residents of the park. The reserved open space shall have slopes less than 5%, shall not be located on poorly or very poorly drained soils, shall not be located in the Shoreland Overlay District and shall be accessible directly from roads within the park. The Planning Board may waive the requirement for open space when the park is located within 1/2 mile of, and has safe pedestrian access to, a publicly owned recreation area.
- H. Road design. All roads within a new park and any parks which are expanding shall be designed by a professional engineer registered in the State of Maine. The roads shall allow municipal fire trucks, ambulances and police vehicles to enter and exit all roads without backing up or leaving the traveled way and meet the following standards:
 - (1) Roads shall be private and shall have:
 - (a) A minimum right-of-way width of 23 feet;
 - (b) A minimum paved traveled way width of 20 feet; and
 - (c) A minimum depth of gravel base of 15 inches which shall be a coarse granular material free of vegetable matter, lumps or balls of clay or other undesirable substances and shall contain no stone larger than six inches in size.
 - (2) No individual site within a proposed mobile home park shall have direct vehicular access to an existing public street.
- I. A mobile home park approved in accordance with this section shall not be converted to another use, type of residential development or another form of ownership without the approval of the Planning Board and without meeting the dimensional requirements of the underlying district in which it is located.
- J. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval, as determined by the Planning Board:
 - (1) The land within the park shall remain in a unified ownership, and the fee to sites or portions of sites shall not be transferred.
 - (2) No dwelling unit other than a manufactured home shall be located within the mobile home park.

§ 145-34.1. Transportation Center District.

[Added 4-16-2004]

- A. Purpose. This district is envisioned to be a small-scale, mixed-use commercial area that would complement the new multi-modal Wells Transportation Center facility. The purpose is to develop a mixed-use business area to serve travelers (tourists, residents, and others) at this transportation gateway to the Wells community, including Amtrak trains, related bus and taxi services, and various transportation-related commercial, retail and service businesses. The Town will work with the Turnpike Authority and developers to effectively utilize the Transportation Center access road and the traffic signal at Route 109. Traditional New England style architecture will be promoted.
- B. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:
 - (1) Bank, including ATMs.
 - (2) Bus depot.
 - (3) Business, personal service, provided it is related to the needs of the traveling public, including but not limited to barbers and beauticians.
 - (4) Business, service, provided it is related to the needs of the traveling public, including but not limited to cleaners, taxi stands, and information center.
 - (5) Convenience store.
 - (6) Gasoline service station.
 - (7) Motor vehicle rental.
 - (8) Municipal facility, provided it is related to providing services to the traveling public.
 - (9) Public utility facility, but not electrical generation facilities.
 - (10) Self-storage facility.
 - (11) Transportation facility.

- (12) Office business.
- (13) Commercial parking lot.
- (14) Restaurant, standard.
- (15) Restaurant, fast-food.
- (16) Hotel/motel. (See § 145-52.)

C. Accessory uses. Accessory uses are permitted when they are clearly incidental to the permitted use; subordinate, individually and in the aggregate, to the permitted use; and located on the same lot as the permitted use being served.

D. Uses prohibited. Except as permitted in § 142-12, Nonconforming uses, and in Article VI, Town-Wide Regulations, uses not identified in Subsections B and C are prohibited within this district. Uses that are not permitted in the district shall not be allowed as accessory uses in the district.

E. Dimensional requirements:

- (1) Minimum lot size: 20,000 square feet.
- (2) Maximum density: not applicable.
- (3) Minimum street frontage per lot: 100 feet.
- (4) Maximum lot coverage: 65%.
- (5) Maximum building height: 45 feet, not to exceed three stories. (See §145-35I.)
- (6) Setbacks. All structures shall be located at least:
 - (a) Forty feet from any lot line abutting the Sanford Road (Route 9/109) right-of-way.
 - (b) Twenty-five feet from any other lot line, except a railroad right-of-way line if the structure is used for a use related to the railroad.
- (7) Note: See also § 145-13, Nonconforming structures, § 145-14, Nonconforming lots, and § 145-33, Shoreland Overlay District.

F. Special provisions.

- (1) All wastewater shall be disposed of by connection to the Wells Sanitary District; water may be provided by the Kennebunk, Kennebunkport and Wells Water District.
- (2) Notwithstanding § 145-71A, site plans in this district shall be reviewed by the Planning Board.
- (3) Development on lots accessing only the interior access road within the Transportation Center District shall be oriented toward the access road. Development on lots having access from Sanford Road and the interior transportation center access road may be oriented to either Sanford Road or the internal access road. No new driveways onto Sanford Road shall be permitted, unless the lot does not have access to any other street. All development shall make every attempt to utilize the interior access road so as to minimize interference with traffic on Sanford Road and to make effective use of the traffic signal at the intersection of Sanford Road and the Transportation Center access road across from Exit 2 (New Exit 19).
- (4) Parking is prohibited within 40 feet of Sanford Road (Route 9/109) and within 25 feet of the internal access road. Site design should emphasize car parking to the rear of buildings (away from traveled ways). Parking areas shall be buffered with vegetative and/or nonvegetative landscape treatments.
- (5) Except for driveways, the areas within 40 feet of Sanford Road and within 25 feet of the Transportation Center access road shall provide a vegetative landscape buffer as approved by the Planning Board.
- (6) All utilities shall be located underground.
- (7) Any signs shall meet the following requirements in addition to § 145-40:
 - (a) Signs shall be carved in wood or be similar in appearance.
 - (b) All signs shall be externally lit with full cut-off fixtures or a light source screened in such a manner so that the illumination source is not visible off the lot.
 - (c) Signs shall not be oriented toward the Maine Turnpike.
 - (d) No "Open" flags shall be permitted.
 - (e) No freestanding sign shall exceed 15 feet in height (in order that it can be seen under a tree canopy).
 - (f) No building-mounted sign shall be located above the eave of a roof.
- (8) Landscaping shall be maintained at all times.
- (9) No chain link fences shall be installed in front of buildings.
- (10) Outdoor lighting shall be full cut-off fixtures. Total height of light fixtures shall not exceed 18 feet.
- (11) All new buildings and the substantial renovation or reconstruction of existing buildings shall utilize one or more architectural treatments so as to achieve, in the opinion of the Planning Board, a traditional New England appearance. These treatments may include:
 - (a) Shingled or standing seam metal roofing
 - (b) Wooden clapboard or wooden shingles or materials that duplicate these in shape, texture and appearance, or red brick.

- (c) Steeply pitched roofs.
- (d) Architectural faade treatments which help to achieve the appearance of traditional New England architecture.
- (12) If glass panes in windows and doors are larger than nine square feet, they shall be divided by construction or application into panes smaller than one square foot.
- (13) The Planning Board may employ the services of an architect certified to practice in the State of Maine to assist it in reviewing plans.
- (14) Drive-up windows and drive-through uses:
 - (a) The drive-up window and/or drive-through use shall be clearly incidental to a primary use; and
 - (b) The vehicular entrance and approach to the drive-up window and or drive-through use shall be clearly delineated by markings, striping, and/or signage as determined necessary by the Planning Board; and
 - (c) Vehicular access to the drive-up or drive-through shall be through a separate lane that prevents vehicle queuing within parking areas; and
 - (d) The drive-up or drive-through use shall not be oriented toward Sanford Road or the internal access road; and
 - (e) Landscaping shall be provided to buffer the visual impact of vehicle stacking areas; and
 - (f) Communication systems and loudspeakers shall not be audible at the property line; and
 - (g) Drive-up and drive-through uses shall only be permitted upon a finding by the Planning Board that such use will not create detrimental impact on surrounding properties and roadways, taking into consideration probable traffic generation, the physical relationship of the proposed use and structure(s) to surrounding uses and structures, pedestrian safety, the probable hours of operation, the stacking of vehicles waiting for drive-up or drive-through service, and the impacts of traffic generation on surrounding uses.
- (15) Buffering and screening shall be provided between transportation center development and the mobile home park.
- (16) Provision shall be made for a sidewalk on one side of the internal access road.

Article VI. Town-Wide Regulations

§ 145-35. General regulations.

- A. All uses shall conform to the provisions of this chapter.
- B. All lots (except lots being merged with an abutting parcel) and structures shall comply with dimensional requirements specified for the district in which they are located, except those considered nonconforming. Where a single lot of record contains more than one principal structure, the lot may not be divided in a way which would create a parcel or parcels which do not conform to the requirements of this chapter for lot size, setbacks or street frontage.

[Amended 4-19-1997]

- C. The keeping of any animal for personal use or enjoyment other than normal household pets shall require site plan approval and shall only be permitted on lots larger than 100,000 square feet.
- D. No manufactured home which was manufactured before June 15, 1976, may be brought into the Town of Wells unless suitable evidence is provided to the Code Enforcement Officer that the manufactured home does not contain aluminum electrical wiring, that the manufactured home contains two exterior exits and that the roof is constructed to support a live load of 30 pounds per square foot.

[Amended 4-16-1999]

- E. Land within the lines of a street right-of-way on which a lot abuts shall not be considered as part of such lot for the purposes of meeting the lot area requirements of this chapter, even though the fee to the land may be in the same ownership as the lot.
- F. No part of a setback area, open space or off-street parking or loading space required by this chapter shall be included as part of any other setback area, open space or off-street parking or loading space similarly required for any other structure or use except as explicitly provided for within this chapter.
- G. Multiple principal and accessory uses, which may be located within multiple buildings, shall be permitted on a lot.
- H. Any lot created after January 1, 1994, shall have frontage on a street which existed prior to January 1, 1994, or on a street which is constructed to the standards required by Chapter 201, Articles II and III of the Wells Municipal Code.
- I. No floor of a building higher than 30 feet above the average finished grade shall be designed as habitable space.

The maximum building height may be increased by the amount required to comply with Chapter **115**, Floodplain Management, § **115-6**, Development standards, but not to exceed five additional feet provided the building shall not exceed three stories, be covered with a pitched, shingled roof, and be constructed on a foundation used for parking or storage only and not living space.

[Amended 11-6-2001]

- J. Maximum building height requirements do not apply to flagpoles, chimneys, transmission towers, steeples, windmills and similar uninhabitable structures. However, except chimneys which do not exceed the height limit by more than 10 feet, such structures require a lot line setback no less than the minimum required in the district plus the height by which they exceed the prescribed height limitations.
- K. Lot area used to meet the density requirements of a use on a lot shall not be used to meet the density requirement of any other use.
- L. A single, uninhabitable accessory structure of 120 square feet or less in gross area and 15 feet or less in height, such as a utility shed, which is accessory to a residential use may be placed within the ordinarily required setbacks as set forth in Article **V** on any residential lot that contains 5,000 square feet or less, as long as the following minimum setbacks are met:
 - (1) Twenty-five feet from the boundary of any cemetery or any street right-of-way.
 - (2) Forty feet from the right-of-way of any state highway.
 - (3) The full required setback from any seawall, water body or wetland, according to § **145-33**.
 - (4) Five feet from other lot line.
- M. A single, uninhabitable accessory structure of 120 square feet or less in gross area and 15 feet or less in height, such as a utility shed, which is accessory to a residential use on a residential lot shall be considered legally nonconforming if it was in existence at its current location prior to January 26, 1998.

[Added 4-18-1998]

- N. The construction, renovation, alteration, maintenance and/or operation of a building, structure or any other type of facility for use in whole or in part as a gambling casino is prohibited in all zoning districts within the Town of Wells. No building permit or certificate of occupancy shall issue for a gambling casino.

[Added 11-5-2002]

- O. Lots abutting multiple street rights-of-way are permitted to reduce the minimum setback from a lot line abutting any street right-of-way to the minimum setback from a lot line as required for the district in which they are located if the following are met:

[Added 6-12-2012]

- (1) Contiguous street frontage for the lot exists on more than one street right-of-way;
- (2) The minimum setback from any lot line abutting a street right-of-way is met from the street right-of-way that is most compliant with street frontage requirements;
- (3) If the lot has equal and/or greater than the street frontage requirement on two abutting street rights-of-way, the lot owner may choose which right-of-way shall meet the minimum setback of a lot line abutting a street right-of-way; and
- (4) The setback reduction shall not be permitted to apply to the setback from any lot line abutting a right-of-way of any state highway.

§ 145-36. Timber harvesting.

[Amended 4-19-1997]

If timber harvesting is deleted as a permitted use in a district, timber harvesting on a parcel of land in the Maine Tree Growth Program (36 M.R.S.A. §§ 571 to 584-A) shall continue as a permitted use as long as the subject lot, or portion thereof, remains in the Tree Growth Program.

§ 145-37. Yard sales.

Yard sales shall be permitted in all districts except the Resource Protection District and shall comply with the following standards:

- A. A yard sale shall last no longer than three consecutive days and shall only be permitted once per month on a lot or on a contiguous lot in the same ownership.
- B. A permit for the yard sale shall be obtained from the Town Clerk by the owner or occupant of the lot. The Town Clerk shall provide the Police Department with a copy of all yard sale permits issued before the date of the yard sale.

[Amended 4-28-1995]

- C. Adequate off-street parking shall be provided for customers of the yard sale. Directional signs indicating the parking area(s) shall be provided.
- D. Two off-premises signs within 300 feet of the yard sale are permitted to advertise the yard sale. The signs, no larger than two feet by three feet, may be displayed only between the hours of 7:00 a.m. and sunset on the day(s) of the sale. Signs shall not be attached to utility poles.

[Amended 4-28-1995]

- E. The yard sale shall not begin before sunrise and shall not extend after sunset.

[Amended 4-28-1995]

- F. No items for sale, tables or other display equipment shall be placed closer than 15 feet to the lot line(s) fronting a street.

[Amended 4-28-1995]

- G. Within 24 hours after the close of a yard sale, all unsold items, tables and other display equipment shall be removed from the yard and stored within a building.

[Amended 4-28-1995]

§ 145-38. Landscaping/buffers.

[Amended 4-16-1999; 4-12-2003]

- A. The setback areas along lot lines other than those along street rights-of-way on lots in nonresidential districts which abut a residential district shall be landscaped to provide a visual screen between residential and nonresidential uses. Parking lots, outdoor business storage areas and outdoor business uses shall be visually screened from adjacent residential lots. Said visual screening shall consist of a continuous border of shrubbery at least six feet in height and/or solid fencing six feet in height. Notwithstanding the above requirement, all visual screens shall comply with the sight distance requirements of Chapter 201, Articles II and III. The reviewing authority may waive all or part of this requirement for outdoor business uses if such uses are defined as a low-intensity commercial recreation use. Except in the Beach Business District, all business or institutional parking and outdoor storage areas shall be separated from a street right-of-way by a landscaped buffer strip at least 15 feet wide, planted with shade trees a minimum diameter of three inches at breast height (dbh). In the Beach Business District a landscaped strip four feet wide shall be provided between any outdoor business, storage area or parking lot and a street right-of-way.
- B. In the Light Industrial District, except to allow for the development of a driveway, the first 40 feet of a lot as measured from the right-of-way of any street shall be planted with shrubs and/or ground cover and shade or evergreen trees with a minimum two-inch diameter at breast height (dbh) planted a maximum of thirty feet on center along the entire distance of the street frontage.

§ 145-39. Off-street parking.

- A. Off-street parking may be provided out of doors or within a building. Off-street parking shall be considered to be an accessory use when provided to serve any permitted or nonconforming use. In the calculation of the number of parking spaces required, any fractional number of spaces shall be rounded to the next highest whole number for each use existing or proposed on the property.

[Amended 4-16-1999]

- B. Land may not be used and a building may not be occupied until off-street parking and/or loading facilities are provided.

- C. Design standards.

[Amended 4-28-1995]

- (1) All parking areas containing three or more parking spaces, except those serving one- or two-family dwellings, shall be designed according to the following criteria:

Parking Angle (degrees)	Stall Width (feet)	Skew Width (feet)	Stall Depth (feet)	Aisle Width (feet)
90	9	na	18.5	26
60	8.5	10.5	19	16 one way
45	8.5	12.75	17.5	12 one way
30	8.5	17	17.5	12 one way

180

24

na

9

13 one way

26 two way

(2) Every business, commercial, institutional, public and nonprofit use shall provide a minimum of 4% of the total parking spaces for vehicles with handicapped registration plates, but in no case less than one space.

Handicapped spaces shall be designed according to ANSI Standard A117.1-1986.

(3) All required parking spaces shall be clearly designated. Handicapped and recreational vehicle spaces shall be identified with signs no smaller than nine inches wide by 12 inches high, posted four feet from the ground.

D. The following off-street parking standards shall be provided and maintained for each use on a lot except as specified in Subsection F below. The reviewing authority may permit a reduction in the number of spaces provided, based on documentation from the applicant as to the particular needs of the proposed uses, or may require additional parking based on the characteristics of the particular application for approval. The reviewing authority may also permit a reduction in the number of spaces provided based on the availability of mass transit to a lot and its potential use by pedestrians or cyclists. If the reviewing authority permits the provision of less than the required number of spaces, the applicant shall show that the required number of spaces can be provided on the lot.

[Amended 4-26-1996; 4-19-1997; 11-2-2010; 11-5-2013]

Use	Required Parking Spaces
Bank	1 per 400 square feet of gross floor area, plus 6 stacking spaces for the first drive-up window, plus 2 per additional drive-up window
Bowling alley	3 1/4 per lane
Congregate housing	1 per housing unit, plus 1 for each 300 square feet of office space
Contractor business	1 per 1,000 square feet of gross floor area but no less than 3 per business
Day care	1 per 400 square feet of floor area used for child care, plus 3
Dwelling	2 per each dwelling unit, plus 1/2 per bedroom in excess of 4 bedrooms per dwelling unit
Life care facility	1 per 2 congregate housing units, plus 1 per elderly housing unit, plus 1 per 3 beds in the nursing home, plus 1 for each 300 square feet of office space
Lodging facility	1 1/10 for each sleeping room
Manufacturing, warehousing and wholesale businesses	1 per 1,000 square feet of gross floor area but no less than 3 per business
Marina	1 per slip or mooring, excluding guest moorings
Medical care facility	1 per bed, plus 1 per 200 square feet of office floor area
Museums	1 per 500 square feet of gross floor area, plus 1 for each 3 seats in areas used for assembling groups of people
Office, business	3 1/2 per 1,000 square feet of gross floor area, but no less than 3 per business
Personal service business	1 per 400 square feet of gross floor area, but no less than 3 per business
Retail business	3.5 per 1,000 square feet of sales floor area, but no less than 3 per business

Restaurant, standard	1 per 3 seats, plus 1 space for every 20 seats to accommodate employees
Restaurant, fast-food	1 per 30 square feet of floor area usable by customers for eating and for food preparation
Schools	
Elementary, junior high	3 per classroom and other rooms used by students
High school	3 per classroom and other rooms used by students, plus 1 per 5 students
Tent and recreational vehicle parks	See § 145-50C
Theaters, auditoriums, function halls, clubs, churches and other places of assembly	1 per 4 seats, based upon occupancy load
Shopping centers	35 per 1,000 square feet of retail and business office use. Theaters, restaurants, fast-food restaurants will require spaces consistent with this section.

(1) For uses not listed above the number of parking spaces required shall be determined by the reviewing authority. The Code Enforcement Officer shall provide the reviewing authority a written opinion regarding the number of spaces he believes should be provided. The reviewing authority shall take into consideration the Code Enforcement Officer's opinion in making any such determination.

(2) Loading bays may be required by the Planning Board for a project which requires Planning Board approval.

E. Required off-street parking in all districts shall be located on the same lot as the use it serves.

F. Plans for parking areas shall indicate the location of snow storage or make provision for snow removal. Snow may be stored on required parking spaces if the Planning Board determines that the business(es) will have adequate parking during the winter months without the use of the spaces on which snow is stored.

G. Parking areas within in the Shoreland Overlay District shall meet the shoreline setback required for structures from the water body or wetland adjacent to which they are located.

H. Parking areas shall be designed to prevent stormwater runoff from flowing directly or being piped directly into a water body, to allow for the settling of sediment and the removal of grease, oil and other pollutants.

I. All parking areas shall have a firm surface, such as bituminous concrete, gravel or crushed stone. The reviewing authority may waive this requirement for parking areas that will only be used between May 1 and November 1.

J. In the Light Industrial District all off-street parking shall be located at the side and/or in the rear of the building if the building is less than 60 feet from the right-of-way of a street. If the building is 60 feet or more from the right-of-way of a street, then the parking shall be located no less than 40 feet from the street right-of-way and a landscaped buffer meeting the requirements of § 145-38B shall be provided.

[Added 4-12-2003]

§ 145-40. Signs.

[Amended 4-28-1995; 4-26-1996; 4-18-1998; 4-14-2000; 11-5-2002; 5-20-2003; 4-29-2005; 11-6-2007]

A. Standards for all signs. All signs shall comply with the following regulations, regardless of whether or not a permit is required:

(1) No sign shall cover any architectural details of a building, as defined by this ordinance.

(2) Signs shall be attached to the ground or to a building, except for portable signs, as regulated by Subsection I(2), below.

(3) No sign shall project beyond the lot line(s) of the lot on which it is located.

(4) No sign shall obstruct a driveway or required parking space.

(5) No sign shall obstruct or impair the vision of vehicular and pedestrian traffic or otherwise constitute a hazard to the same. No sign shall reduce the sight distance from any driveway, road or street below a distance of 10 feet for every mile per hour of the posted speed limit on the street. Sight distance shall be measured at a point on the driver's side of the exit lane 10 feet behind the curb or edge of shoulder line with the height of the eye

ranging from 3.5 to 6.0 feet above the pavement to an object having a height of 4.25 feet located within all of the travel lanes of the intersecting street.

- (6) No sign shall be attached to utility poles, trees or traffic control signs or devices, except for banners or flags approved by the Board of Selectmen, pursuant to Subsection **I(1)**, below.
- (7) External illumination of signs may only be provided by a white light. The source of the illumination for any sign shall not be visible beyond any lot line.
- (8) No ground sign (monument or pole) shall exceed a height of 20 feet.
- (9) No ground sign shall be located within the street right-of-way.
- (10) A ground sign shall not be located within 400 feet, measured along the street frontage of the lot, from any other ground sign advertising the same business(es).
- (11) Awning signs shall be limited only to placement on the valance of the awning. Awning signs shall be opaque, and shall not be backlit.
- (12) Signs may be located within the required setback from any street right-of-way, but shall not be located within the required setback from any other lot line.
- (13) No wall sign shall cover more than 25% of the total signable area of any facade on which it is affixed.
- (14) All signs shall be maintained in good condition.

A-1. Standards for internally lit signs. All internally lit signs shall comply with the regulations contained in Subsection **A** above, as well as the following regulations:

[Added 6-8-2010]

- (1) Pole and/or monument internally lit signs shall be placed no lower than 10 feet above grade of the road on which the lot has frontage if the sign is within 25 feet of the edge of road pavement.
- (2) The display on any internally lit sign may not change more often than one time per 10 minutes.
- (3) The internal lighting shall be designed to minimize glare and to minimize the illumination of abutting lots or streets.

A-2. Standards for electronic message centers. All electronic message centers shall comply with the regulations contained in Subsection **A** above, as well as the following regulations:

[Added 6-8-2010]

- (1) Pole and/or monument electronic message centers shall be placed no lower than 10 feet above grade of the road on which the lot has frontage if the sign is within 25 feet of the edge of road pavement.
- (2) The display on any electronic message center may not change more often than one time per 10 minutes. However, an electronic message center that consists solely of indicators of time and/or temperature may change more often, provided that the change is accomplished as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending.
- (3) The electronic message center portion of the sign shall be designed to minimize glare and to minimize the illumination of abutting lots or streets.
- (4) No electronic message center may exceed 40 square feet and the maximum width or height may not exceed 10 feet.
- (5) On a single lot, no more than one electronic message center shall be permitted.
- (6) The message on the electronic message center must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending.
- (7) The message on the electronic message center may consist of alphabetic or numeric text on a plain background and may include graphic, pictorial or photographic images. However, continuous streaming of information or video animation is prohibited.
- (8) All electronic message centers shall be designed and operated with automatic dimming features and the ability that the owner/operator of the sign has the capability to reduce the illumination and/or brightness to adjust to background and ambient light conditions. These controls may include an auxiliary photocell on or near the sign.
- (9) All electronic message centers within the Town of Wells shall meet the following standard with regard to luminance. The eye illuminance limit is 0.3 footcandles (fc); which means that the increase above ambient levels of lighting caused by switching on the sign shall not exceed 0.3 fc measured at 100 feet from the sign standing as near as perpendicular to the sign as possible or at the edge of the pavement no more than 100 feet using a footcandle meter held five feet above grade. Typically, the maximum illuminance will be at a right (90°) angle to the face of the sign.

B. Prohibited signs.

- (1) The following types of signs are prohibited:
 - (a) Animated signs, except for a traditional striped, rotating barber's pole, accessory to a barber shop.
 - (b) Portable signs and trailer-mounted signs, unless expressly allowed by Subsection **I(2)** below.

- (c) Above-roof signs.
- (d) Signs with internal illumination are prohibited in the following districts: Residential A, Residential B, Residential - Commercial, Residential D, Rural, Aquifer Protection, and Resource Protection. Signs with internal illumination are permitted in all other districts.
- (e) Electronic message centers are prohibited in the following districts: Residential A, Residential B, Residential-Commercial, Residential D, Rural, Beach Business, Harbor District, Light Industrial, Transportation Center, Quarry Manufacturing, Aquifer Protection, and Resource Protection Districts. Electronic message centers are permitted in all other districts.

[Added 6-8-2010 Editor's Note: This ordinance also redesignated former Subsection B(1)(e) through (g) as Subsection B(1)(f) through (h).]

- (f) Signs attached, drawn or painted upon rock outcroppings or other natural features.
 - (g) Off-premises signs, other than official business directional signs erected pursuant to Title 23 M.R.S.A. § 1906, and as regulated in Subsection **I(3)** below, or other than those signs listed in Subsection **C**, for which a permit is not required.
 - (h) Any other sign not permitted by this chapter.
- C. Signs for which a permit is not required. The following signs may be erected without a permit from the Code Enforcement Officer, but nonetheless, shall comply with the requirements of Subsections **A** and **B** above:
- (1) Informational or directional signs of less than two square feet, such as "entrance," "exit," "rest rooms," "no parking," "no trespassing" and "private property."
 - (2) Signs of less than six square feet giving the name of a building and/or date of its construction.
 - (3) Building permit placards and official notices posted by public officials in the performance of their duties.
 - (4) Flags of any nation or political subdivision not exceeding a total area of 50 square feet for all such flags.
 - (5) One "OPEN" flag for each individual tenant or business premises, not to exceed three feet by five feet.
 - (6) Religious symbols or insignia.
 - (7) Decorations customary in the observance of any secular or religious holiday.
 - (8) Signs bearing political messages relating to an election, primary or referendum, provided that these signs may not be erected prior to six weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee no later than one week thereafter.
 - (9) Signs for the control of traffic.
 - (10) Street name signs.
 - (11) Signs indicating danger.
 - (12) Signs within a building.
 - (13) Signs designed to be directed at customers once they have arrived on the premises, which are too small to be easily discerned by off-premises passers-by, such as logos or brand names on gas pumps, or table cards placed on outdoor dining tables, and the like.
 - (14) Signs printed on or affixed to registered motor vehicles, provided that the vehicles are used regularly as a means of transportation and not used for circumventing the requirements of this chapter.
 - (15) Plaques of less than six square feet at historic sites or buildings recognized by the Wells Historical Society.
 - (16) Signs identifying public school and government buildings.
 - (17) Signs which communicate a political, personal, social or religious message and which have neither the purpose nor the effect of advertising, promoting or drawing attention to any business, product or service, when such signs are located on the same lot as a dwelling unit and are erected by a resident of the dwelling unit.
 - (18) Signs owned by the Town of Wells containing messages which do not advertise for private business or industry. These may include messages which advertise philanthropic, municipal or public events or places. Such signs shall not exceed 32 square feet and may be located off-premises.
 - (19) Temporary signs, not exceeding 32 square feet, announcing an auction, public supper, yard sale, campaign or drive or other like event or soliciting contributions for a public, civic, philanthropic, charitable or religious organization shall be permitted for a period of 10 days prior to the event, but shall comply with all the requirements of Subsection **B**.
 - (20) One nonilluminated, single sign of less than six square feet identifying the name and/or occupation of the residents of a dwelling.
 - (21) One nonilluminated, contractor sign per contractor or subcontractor on a job site of less than six square feet at a work location which identifies the contractor's name, address and telephone number and services provided and which shall be removed within one day of the completion of the work.
 - (22) On a single lot, no more than two, nonilluminated real estate signs, each of less than six square feet in area, indicating that the property is for sale, lease or rent, which shall be removed within one day after the closing

or signing of a rental agreement.

(23) Yard sale signs as regulated in § 145-37D.

(24) Individual signs located on the transportation center platform billboard structure or structures, provided they are not visible from a public way.

(25) Signs erected between May 1st and December 31st by a producer of agricultural products or Christmas trees, as long as those signs advertise products that are grown, produced and sold on the producer's premises. For the purposes of this section, firewood shall not be considered an agricultural product. Signs must be directional in nature and may advertise only the agricultural product or Christmas trees that are available for immediate purchase. The producer erecting the sign shall remove the sign once the product advertised on the sign is no longer available, or by December 31, whichever is sooner. A sign may not exceed eight square feet in size and must be located within five miles of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than four signs pursuant to this paragraph.

D. Signs for which a permit is required. Any sign not specifically exempted from obtaining a sign permit in Subsection C above shall not be erected until a sign permit is approved by the Code Enforcement Officer, pursuant to the procedures of Subsection F below.

E. Permitted sign types and maximum sign area. The permitted sign types and maximum sign area, for any one sign or combination of signs, for which permits are required, shall comply with the requirements of the chart and text below, as well as all of the other requirements of this section. If there is any conflict between the standards of Subsection A and this subsection, the stricter standard shall apply. In no event shall the total sign area for any principal building exceed the total amount indicated in the table below.

Table 145-40 - Permitted Sign Types and Maximum Sign Areas

	A. Monu- ment Sign	B. Pro- jecting Sign	C. Wall Sign	D. Pole Sign	E. Roof Sign	F. Awning Sign	G. Port- able Sign (not included in site total)	Total Sign Area of Types A through F
Identification of Residential Development or Subdivision - All zones	Yes/ 20 sf	NO	NO	Yes/20 sf	NO	NO	NO	20 sf
Institutional Uses, Such as Public or Private Schools, Public Buildings, Hospitals, Congregate Housing - All Zones	Yes/ 20 sf	NO	Yes/ 25% of signable area available on facade on which it is placed	Yes/ 20 sf	NO	NO	Yes	100 sf, or 15 sf for each linear foot of front facade on principal building, whichever is less
Commercial or Industrial Uses - in Zones Rural, RA, RB, RC, RD	Yes/ 32 sf	Yes/ 20 sf	Yes/25% of signable area available on facade on which it is placed	Yes/ 32 sf	Yes /20 sf	Yes /20 sf	Yes	52 sf

Commercial or Industrial Uses - in Zones GB, BB, LI, Harbor, Transportation	Yes/ 150 sf	Yes/ 50 sf	Yes/25% of signable area available on facade on which it is placed	Yes/ 150 sf	Yes/ 50 sf	Yes/ 30 sf	Yes	500 sf, or 1.5 sf for each linear foot of front facade, on principal building, whichever is less
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The following principles shall control the computation of sign area and sign height:

- (1) Computation of area of individual signs. The area of a sign face, including a wall sign, shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative wall or fence incidental to the display.
- (2) Computation of area of multifaced signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 24 inches apart, the sign area shall be computed by the measurement of one of the faces.
- (3) Exclusions from computations. Signs exempted in Subsection C shall not be included in the calculations of total sign area.
- (4) Principal structures with more than one tenant or operator. Multitenant properties with multiple leased or condominium spaces shall be allowed the same amount and types of signage as the same sized building if it were in unified ownership and operation. The landlord or condominium association shall be responsible for allocating sign area among the tenants or owners.

F. Permitting procedure. No sign which requires a permit shall be erected or installed without obtaining a permit from the Code Enforcement Officer.

- (1) An application form provided by the Town of Wells shall be completed and submitted to the Code Enforcement Office. The application shall include the following information:
 - (a) Name and location of the premises/use that the sign is to advertise;
 - (b) Zoning district of the lot on which the sign is to be placed;
 - (c) Name, address and daytime telephone number of the applicant;
 - (d) Name, address and daytime telephone number of the owner of the lot on which the sign is to be placed;
 - (e) Written permission of the owner of the land to erect the sign if the owner is not the same as the applicant;
 - (f) A scale drawing of the sign and its supports which indicates its size, color and illumination; and
 - (g) A survey or scale drawing of the lot which shows the structures on the lot and the locations and square footage area of all signs.
- (2) Each application for a sign permit shall be accompanied by the applicable fees which shall be established by the Board of Selectmen.
- (3) Within 10 business days of the receipt of an application, the Code Enforcement Officer shall review the application for completeness, and if the application is not complete, the Officer shall notify the applicant of the specific ways in which the application is deficient.
- (4) Within five business days of finding an application to be complete, the Code Enforcement Officer shall either issue the sign permit if the subject of the application conforms in every respect to the requirements of this chapter or deny the sign permit if the subject of the sign permit application fails to conform to the requirements of this chapter. Failure of the Code Enforcement Officer to act upon a complete application within five business days of finding the application to be complete shall constitute a denial of the application.
- (5) The Code Enforcement Officer shall maintain a permanent public record of all sign permit applications.

G. Removal of signs. The signs or any messages thereon advertising a permanently closed business shall be removed by the business owner or the owner of the lot on which the signs are located within six months of the closing.

H. Nonconformity.

- (1) Modification toward conformity. Whenever a nonconforming sign is removed, modified, altered, reconstructed, replaced, or relocated, the Code Enforcement Officer shall not issue a permit for such work, unless one of the following conditions is met:
 - (a) The sign is modified to comply with this ordinance in all respects; or
 - (b) At least one of the existing area or dimension nonconformities of the sign is reduced by at least 20% or is reduced to conformity with the ordinance, whichever is less; or
 - (c) At least one of the existing setback nonconformities of the sign is reduced by at least 20% or is reduced to conformity with the ordinance, whichever is less; or
 - (d) If the sign is not permitted at all under this ordinance, its current area is reduced by 20%.

Merely a change in sign copy shall not be considered a modification, alteration or requiring a reduction or relocation of a nonconforming sign as set forth above, but nonetheless shall require a sign permit.

- (2) Maintenance. Nonconforming signs must be maintained in good condition. Maintenance required by this subsection shall include replacing or repairing of worn or damaged parts of a sign in order to return it to its original state, and is not a change requiring modification toward conformity as set out in Subsection H(1).
- (3) Removal. Removal of a nonconforming sign, and replacement with a less nonconforming sign or conforming sign, pursuant to Subsection H(1) above, is required when:
 - (a) A nonconforming sign, or a substantial part of a nonconforming sign, is destroyed, or for any reason or by any means taken down, altered, or removed by the owner. As used in this subsection, "substantial" means 50% or more of the entire sign structure; or
 - (b) The condition of the nonconforming sign or nonconforming sign structure has deteriorated and the cost of restoration of the sign to its condition immediately prior to such deterioration exceeds 50% of the value of the sign or sign structure prior to its deterioration; or
 - (c) The use of the nonconforming sign, or the property on which it is located, has ceased, become vacant, or been unoccupied for a period of 180 consecutive days or more. An intent to abandon is not required as the basis for removal under this subsection.

I. Special sign types.

- (1) Banners or flags hung from public utility poles.

[Amended 6-12-2012]

- (a) Notwithstanding any of the other requirements of this section, banners or flags may be hung from public utility poles along any public street right-of-way with the approval of the Board of Selectmen, provided that:
 - [1] No banner or flag exceeds 20 square feet in size;
 - [2] They are hung in accordance with the license from and the requirements of the public utility companies; and
 - [3] Their purpose is to recognize or advertise community events sponsored by the Town of Wells, the Wells Ogunquit School District, or community-based nonprofit organizations.
- (b) The Board of Selectmen shall specifically approve the design of the banner(s) or flag(s), the location of the banner(s) or flag(s) on the utility poles, the method by which they will be attached to the utility poles and the duration of their display. Any banners or flags that are torn or in disrepair may be removed by the Town of Wells Road Commissioner or his appointee.
- (2) Portable signs. Portable signs shall meet, in addition to the other requirements of this section, the following requirements:
 - (a) Number of signs. There shall be no more than one portable sign on any lot at any time.
 - (b) Term. A portable sign permit shall allow the use of a particular portable sign only during the hours the business is open, for a specified period during each calendar year. In no event shall any lot have a portable sign located on it for more than 60 days in one calendar year.
 - (c) Other conditions.
 - [1] A portable or a temporary sign shall be allowed only in the following districts: BB, GB, RC, R, LI, and Harbor.
 - [2] No portable sign shall interfere with the sight distance of traffic passing the site, as defined in Subsection A(5) above.
 - [3] No portable or temporary sign shall exceed three feet by four feet in size.
 - (d) Calculations. Portable signs shall not be included in calculations for maximum sign area.
- (3) Off-premises official business directional signs. Only businesses located in the Town of Wells may obtain an

off-premises sign or signs, under the State Official Business Directional Sign Program. A business permitted to have off-premises signs may have no more than four such signs, each of which shall comply with the provisions of 23 M.R.S.A. §§ 1906 to 1925. An off-premises sign may be located only at intersections where turns are required to access the business.

J. Violations. Violators of any of the above provisions of § 145-40, Subsections A through I, shall be prosecuted and subject to fines and penalties, according to the terms of §§ 145-63 and 145-64 of this ordinance.

§ 145-41. Light and glare.

[Amended 6-8-2010]

- A. The Town of Wells recognizes the need to minimize light pollutions and glare from illumination, whether lighting of grounds or by signs, in order to avoid unreasonable impacts on existing uses, abutting properties, and the natural environment. Unreasonable impacts may include contributions to artificial illumination of the night sky, impacts on persons in the surrounding area, and hazards to drivers.
- B. In addition to meeting all other applicable requirements, any sign lighting must meet the following requirements:
- (1) Signs shall be illuminated only by steady, stationary, shielded light sources directed solely on the sign without causing glare or by a constant internal illumination. Any light source shall be shielded with a fixture so that bulbs are not directly visible from neighboring properties or public ways. [See also § 145-40A(7).]
 - (2) No sign shall be animated by means of flashing, blinking or traveling lights or by any other means not providing constant illumination except for a traditional striped, rotating barber's pole, accessory to a barber shop.
 - (3) Notwithstanding the above, electronic message center signs where permitted may change messages no more than every 10 minutes. The message on the electronic message center must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending.
 - (4) All externally lighted signs shall be shielded so as to effectively prevent beams or rays of light from being directed at any portion of the main traveled way of a roadway; or of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or to create nuisance conditions.

§ 145-42. Erosion and sedimentation control.

[Amended 4-27-2007]

Earthmoving operations associated with development construction activities shall be conducted in a manner to prevent or minimize erosion and sedimentation of surface waters in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. Location of structures and streets shall be designed using the existing topography in a manner which avoids slope modifications which could expose areas of soils to erosion or which could jeopardize the slope stability.

§ 145-43. Stormwater management.

[Amended 4-27-2007]

Stormwater runoff shall be managed and directed through surface or subsurface drainage systems in accordance with Chapter 202-12F(4) General Standards of the Wells Municipal Code (wherein the word "site plan" shall be substituted for "subdivision"). Stormwater retention practices shall be employed to minimize impacts on neighboring and downstream properties. In areas of aquifer recharge, stormwater infiltration (after separation of leachable harmful substances) shall be required. Where retention/infiltration is unwarranted or unfeasible, off-site improvements to natural or man-made drainage systems may be necessary to increase capacity and prevent erosion at the developer's expense. The natural state of watercourses, swales or floodways shall be maintained.

§ 145-44. Vision obstructions at intersections.

All corner lots shall be kept clear from visual obstructions higher than three feet above ground level for a distance of 25 feet or a distance equal to the required building setbacks from the streets, whichever is less, from the intersection, measured along the intersecting lot lines.

§ 145-45. Noise.

A. Purpose. Excessive sound and vibrations are serious hazards to the public health, welfare, safety and quality of life.

It is the policy of the Town of Wells to prevent excessive stationary sound and vibration, which may jeopardize the health, welfare or safety of its residents or degrade the quality of life. This ordinance shall apply to the control of all stationary sound and vibration originating in the Town of Wells. This ordinance is not designed to impede any person's First Amendment rights of freedom of speech. This ordinance is not designed to impede the growth or economic health of the commercial or industrial sectors of the Town of Wells. This ordinance is designed to prohibit excessive and unreasonable sound and vibrations that are hazards to the public health, welfare, safety and quality of life only.

[Amended 6-14-2011]

- B. Violation. It is unlawful, and a violation of the Wells Code, to make, emit, continue, or cause to be made, emitted or continued, any excessive, unnecessary or unreasonable noise beyond the boundaries of a person's property in excess of the noise levels established in the Wells Code. Where multiple residences or businesses exist within the confines of a structure, the limits of one's occupancy rights shall be considered the boundary for purposes of measuring noise.

[Amended 4-16-1999; 6-14-2011]

- C. Maximum noise level. The maximum permissible noise level produced by any activity (existing or future) on a lot shall not exceed the following limits:

[Amended 6-14-2011]

- (1) Music, amplified or acoustic, not otherwise exempt, that is plainly audible and excessive, unnecessary or unreasonable at a point, not on the property where the music originates, but at the location where the complaint is made.
- (2) Other noise levels, not otherwise exempt, plainly audible and excessive, unnecessary or unreasonable at the location where the complaint is made.

- D. Exemptions. The following shall be exempt from the standards of § 145-45C:

[Amended 6-14-2011 Editor's Note: Former Subsections D and E were redesignated as Subsections E and F as a result of incorporating this ordinance.]

- (1) Natural phenomena.
- (2) Church bells rung as part of any official church ceremony or service, and tower clock bells ringing the hour during daytime hours, provided that at no time shall such duration exceed 15 minutes.
- (3) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation; provided, however, that burglar alarms not terminating within 15 minutes after being activated shall be unlawful.
- (4) Warning devices required by the Occupational Safety and Health Administration or other state or federal governmental safety regulations.
- (5) Farming equipment or farming activity.
- (6) Timber harvesting and milling during daytime hours.
- (7) Noise from domestic power equipment such as, but not limited to, chain saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours.
- (8) Noise generated by any construction, demolition equipment, or mineral extraction (including crushing, screening, or segregating) operated during daytime hours as per the ordinance or site plan approval, whichever is more restrictive.
- (9) Emergency maintenance, construction or repair work.
- (10) Noise created by refuse and solid waste collection during daytime hours.
- (11) Noise created by any municipal-sponsored events, municipal beach cleaning, school sporting events, parades and Town-approved fireworks displays.
- (12) Noises created by plows, trucks and other equipment used in the removal of snow.
- (13) Noise from any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction, including any aircraft operating under technical difficulties, any kinds of distress, or under emergency orders of air traffic control.
- (14) Noise from trains operating in conformity with or pursuant to all applicable state and federal laws and regulations.
- (15) Emergency or extraordinary situations.
- (16) A business may use an outside sound system to notify patrons waiting to pick up an order, obtain a table, or to be able to participate in the activities of the business, provided that such sound does not create an excessive, unnecessary or unreasonable noise.
- (17) Noise from the operation of air-conditioning or refrigeration units, which are part of the normal operation of a business or businesses located on the premises and which are necessary and normal to the operation of said business, and which air-conditioning or refrigeration units are regularly serviced and kept in good repair.

- (18) Noise from any idling vehicles at a commercial establishment in the process of loading or unloading merchandise for the establishment, or waiting for the opportunity to do the same.
- E. The removal or disabling of any noise-suppression device on any equipment is prohibited. Any noise-suppression device on equipment shall be maintained in good working order.
- F. Enforcement. Notwithstanding § **145-63** of this chapter, this section may be enforced by any of the following methods:
- (1) A violation of this section may be considered a land use violation and the enforcement procedures in § **145-63** may be invoked by the Code Enforcement Officer.
 - (2) A violation of this section may be treated as a civil violation as defined by 17-A M.R.S.A. § 4-B and enforced by a law enforcement officer according to the procedures specified in 17-A M.R.S.A. § 17 and Rule 80H of the Maine Rules of Civil Procedure.
 - (3) A violation of this section may also be considered the creation of a loud and unreasonable noise as prohibited by 17-A M.R.S.A. § 501 (Offenses Against the Public Order: Disorderly Conduct), provided that neither the Town of Wells nor any of its employees may initiate proceedings alleging a violation of both the Town ordinance and the state statute against the same person or persons for the same incident.

[Amended 4-16-1999]

- (4) With regard to a business with a special entertainment permit issued under the authority of the Town of Wells, the municipal police and/or a Code Enforcement Officer for the Town of Wells shall have the authority to order that business to cease operation of the violation immediately upon a second visit to the premises within a two-hour period, or a third visit within a twenty-four-hour period beginning with the time of the first visit to investigate a noise complaint, when a police officer or a Code Enforcement Officer has on the previous visit(s) heard plainly audible noise in violation of this ordinance, and has reported that to the owner of the property or the person responsible for the excessive or unreasonable noise. The on-duty Municipal Police Supervisor shall accompany a police officer or Code Enforcement Officer responding to subsequent second and/or third noise complaints and shall have the authority to immediately cease operations of the violation source. The special entertainment may not resume within a twelve-hour period thereafter.

[Added 6-14-2011]

§ 145-46. Utility distribution lines.

- A. Review. Notwithstanding §§ **145-61** and **145-62**, utility distribution lines are allowed in all zoning districts without a building or use permit.
- B. Dimensional requirements. The dimensional requirements of Article **V** and § **145-35J** do not apply to utility distribution lines.

[Amended 6-4-1996]

§ 145-47. Utility transmission lines.

- A. Lot lines. For the purposes of Subsection **C**, the boundary lines of a utility transmission line right-of-way, whether the right-of-way is in fee simple ownership, a leasehold or an easement, are considered the lot lines of the right-of-way.
- B. Review. A utility transmission line is a permitted use in all zoning districts upon obtaining site plan approval from the Planning Board in accordance with the provisions of Article **X**.
- C. Dimensional requirements.
- (1) Utility transmission lines must meet setback requirements from lot lines and water bodies to the greatest extent practical by the configuration of the utility corridor in which they are located and by the constraints of topography. With the exception of the setback from lot lines, the dimensional requirements of Article **V** do not apply to utility transmission lines. All aboveground portions of utility transmission lines shall comply with the setback requirements of Article **V** and § **145-35J**.
 - (2) In all zoning districts where the setback for structures is greater than 10 feet from any lot line, the setback for the underground portion of a subsurface transmission line may be reduced to 10 feet from any lot lines.
 - (3) Subsurface and aerial utility transmission lines may be placed within the setbacks from any lot line abutting a street right-of-way provided no portion of a utility transmission line is placed between ground level and a height of 20 feet above the center line of the street within said setback.

[Amended 6-4-1996]

§ 145-47.1. Public transportation shelter.

[Added 11-6-2007]

Public transportation shelters may be placed within the ordinarily required setbacks as set forth in Article V.

§ 145-47.2. School bus shelter.

[Added 11-6-2007]

A single school bus shelter which is accessory to a residential use may be placed within the ordinarily required setbacks as set forth in Article V on any residential lot following staff review for traffic safety and road maintenance impact.

Article VII. Performance Standards

§ 145-48. Multifamily developments.

[Amended 11-6-2001]

A. Multifamily developments are allowed subject to the following performance standards in addition to the requirements of the districts in which the developments are located:

- (1) A landscaped buffer at least 25 feet in width along all lot boundaries shall be required. The buffer strip shall not contain parking areas or structures, but may contain a perpendicular access driveway(s) or road(s) to connect with existing streets.
- (2) No more than six dwelling units may be in any building.
- (3) Buildings shall be separated by at least 30 feet.

B. On any lot divided by a zoning district boundary line, the lot coverage for any portion of the lot lying within a specific zoning district shall not exceed the permitted lot coverage for that district.

C. In any multifamily development abutting a residential use in a residential zoning district, the setback shall be equal to at least three times the required structure setback or 25 feet, whichever is greater (e.g., required fifteen-foot setback x 3 = 45 feet). Said setback shall include a minimum twenty-five-foot width of visual screening abutting the single-family residential use. Said visual screening shall consist of a continuous boarder of shrubbery at least six feet in height, trees or, if required by the Planning Board, solid fencing six feet in height. Said multifamily development shall be screened from the view of any dwelling unit located within 200 feet of the multifamily development's boundaries. Said visual screening shall be owned in fee, managed and maintained by the owner or by an association of the owners of the development.

§ 145-49. Residential cluster development.

[Amended 11-7-2006]

The purpose of this section is to allow, by Planning Board approval, the clustering of one- and two-family dwelling units. Clustering shall provide a more efficient use of land resulting in the preservation of natural land forms, wetlands, wildlife and waterfowl habitats, significant vegetation and agricultural lands, other natural resources, and historic sites. Notwithstanding other provisions of this chapter, the Planning Board may modify the dimensional requirements of this chapter as specified in this section to permit the clustering of one- and two-family homes. Such modifications shall not be construed as the granting of a variance to relieve hardship.

A. Permitted locations. Residential cluster development shall be permitted in all zoning districts where residential development is allowed except the Aquifer Protection District and the Shoreland Overlay District.

B. Density. The maximum density of dwelling units permitted shall be the same as permitted in the district(s) in which the cluster development is located, unless density bonuses are granted in accordance with § 145-49D. To determine maximum density the following steps shall be taken:

- (1) A sketch plan shall be submitted showing a standard nonclustered subdivision layout. Each lot in the standard subdivision shall meet the minimum lot size, density and lot width requirements of this chapter and, if not serviced by public sewer, shall have an area suitable for subsurface wastewater disposal according to the Maine Subsurface Wastewater Disposal Rules. In addition, the lots shown in the standard subdivision sketch plan shall be designed in accordance with subdivision standards and shall not require a variance or waiver from the existing ordinances or regulations in order to achieve the layout supporting the proposed density.
- (2) In order to determine the maximum number of dwelling units permitted on a tract of land the net residential

acreage shall be determined by calculating net area and subtracting 15% of the area of the lot to account for roads and parking.

- (3) A cluster development layout shall be submitted indicating a minimum of 35% open space and significant natural features.

C. Dimensional requirements.

- (1) The minimum lot sizes may be reduced to 20,000 square feet in any district where clustering is allowed, if not serviced by public sewer, or may be reduced to the following if on public sewer:

Served by Public Sewer

Type of Dwelling	RA, GB and RC Districts (square feet)
One-family dwelling	10,000
Two-family dwelling	15,000

- (2) The required setbacks from lot lines and from street rights-of-way within the cluster development may be reduced, but no structure shall be located within 15 feet of any lot line or within 20 feet of any street right-of-way within the cluster development.
- (3) The required street frontage may be reduced to no less than 50 feet.
- (4) When a lot in a cluster subdivision abuts a nonclustered residential lot, the setback in the cluster subdivision lot shall be twice the required setback along the adjoining lot line. The Planning Board may require additional screening or restrict the removal of vegetation within the setback to provide a buffer between higher and lower density development.

D. Innovative open space bonus. At least 35% of the total parcel acreage in a cluster subdivision must be designated as open space and protected as such in perpetuity. At the discretion of the Planning Board the applicant may earn density bonuses in addition to the maximum density permitted in § 145-49B. The applicant may seek application of more than one density bonus as set forth below, and the total density bonus earned shall be cumulative. However, in no case shall the total density bonus allow the overall subdivision density to exceed the maximum density allowed in § 145-49B above by more than 25% in the rural areas and 50% in the growth areas as set forth in the Comprehensive Plan. Bonuses shall be allotted in whole lot increments only and shall not be rounded up. Density calculations, including all awarded open space bonuses, shall be shown on the subdivision plan.

- (1) An open space cluster plan that provides at least 50% of the total parcel acreage as open space, protected as such in perpetuity, may be awarded a density bonus of 10%. The purposes for which proposed open space areas will be used shall be fully documented by the applicant.
- (2) An open space cluster plan that protects agriculturally valuable lands and provides for their use as such in perpetuity may be awarded a 5% density bonus. The open space land preserved for agricultural use must consist of at least 35 acres, and be land that has been historically farmed, or contain good soils for farming, and be reasonably accessible to receive a bonus. The instrument designating the land as agriculture use, acceptable to the Planning Board, may reasonably restrict the type or intensity of farming to occur to prevent nuisances. This provision only requires that permission be reasonably available so that validity of the bonus is not affected if agricultural uses are not pursued at any particular time.
- (3) An open space cluster plan that protects timber harvesting lands and provides permission for that use to continue in perpetuity may be awarded a 5% density bonus. The open space preserved for timber harvesting must include at least 10 contiguous acres and be land that has historically been forested, and must be reasonably accessible to receive a bonus. A forest management plan signed by a professional forester outlining proposed activities to ensure compliance with performance standards and regeneration requirements established pursuant to Title 12 M.R.S.A § 8869 must be submitted.
- (4) An open space cluster plan that accomplishes either of the following:
- Protects valuable wildlife and environmental areas in a manner that is consistent with the goals, policies and strategies of the following chapters and related maps in the Comprehensive Plan may be awarded a density bonus of 5%.
 - [1] Chapter 3, Natural Resources Policies and Strategies;
 - [2] Chapter 4, Marine Resources Policies and Strategies;
 - [3] Map 4, Natural Areas Wildlife Habitat;
 - [4] Map 9, Wetlands; or
 - [5] Map 10, Areas of High Potential for Wildlife Habitat.

(b) Links dedicated open space to large parcels of adjoining dedicated open space to provide usable wildlife habitat or corridor connections between usable wildlife habitats in a manner that is consistent with the goals, policies and strategies of the following chapters and related maps in the Comprehensive Plan may be awarded a density bonus of 5%:

- [1] Chapter 3, Natural Resources Policies and Strategies;
- [2] Chapter 4, Marine Resources Policies and Strategies;
- [3] Map 4, Natural Areas Wildlife Habitat;
- [4] Map 9, Wetlands; or
- [5] Map 10, Areas of High Potential for Wildlife Habitat.

- (5) An open space cluster plan that allows public access to the open space may be awarded a density bonus of 5%. The nature of public access required to trigger this bonus is pedestrian traffic. The instrument granting access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles.
- (6) An open space cluster plan that preserves, and provides for their use as such in perpetuity, the Town's historic, traditional New England seacoast and rural community character and appearance by preserving and incorporating existing historic structures and natural features of historic significance may be awarded a density bonus of 5%.
- (7) An open space cluster plan that effectively links large areas of the dedicated open space to adjoining dedicated open space may be awarded a density bonus of 5%.
- (8) An open space cluster plan that preserves scenic vistas especially toward the seacoast from Route 1 and along scenic corridors especially along Routes 1, 9, 109, and roads in rural areas may be awarded a density bonus of 5%.
- (9) A "unit for unit" density bonus may be granted for open space cluster plans that include affordable housing for moderate-income buyers. For example, if 10% of the dwelling units in the project are affordable for moderate-income buyers then a density bonus of 10% may be awarded. The matching density bonus may be doubled for open space cluster plans that include affordable housing for low-income buyers. For example, if 10% of the dwelling units in the project are affordable for low-income buyers then a density bonus of 20% may be awarded.

E. Aquifer Protection District. Where the parcel is located in the Rural District and partially in the Aquifer Protection District the permitted density for that portion of the lot within the Aquifer Protection District may be doubled, transferred to the portion of the lot located in the Rural District, and counted towards total bonus density, provided that:

- (1) All land within the Aquifer Protection District is included within the common land or open space;
- (2) A conservation easement is granted to the Town or to the Kennebunk, Kennebunkport and Wells Water District over that portion of the subdivision located within the Aquifer Protection District; and
- (3) All stormwater detention facilities shall be located outside the Aquifer Protection District. Stormwater retention facilities may be located in the Aquifer Protection District.

F. Management of open space. The open space portion of the cluster development site shall be permanently dedicated open space by covenant recorded at the Registry of Deeds and shown on the recorded subdivision plans. No more than 2% of the open space shall be impervious surfaces that are accessory to the proposed use of open space (i.e., roads, parking areas, sheds, etc.), of which total structural coverage shall not exceed 600 square feet. Nonroofed or elevated structures (i.e., walking paths) are allowed. The designated open space shall not be used for additional building lots.

- (1) Prior to the sale of any lots, the open space shall be controlled by one or more of the following methods:
 - (a) Ownership by an association of the owners of the dwelling units within the development;
 - (b) Ownership by an association of the owners of the dwelling units within the development with a conservation easement granted to the Town or recognized conservation organization;
 - (c) Dedication to the Town as public open space; and/or
 - (d) Transfer, with permanent restrictions, to a land trust or other recognized conservation organization.
- (2) The developer may structure the control of the common open space in one or more of the above methods. The Planning Board shall approve the arrangements for the ownership, control and maintenance of the common open space as part of the subdivision approval. No changes in use or management of the common open space shall be made without the approval of the Planning Board.

G. Homeowners' association management of open space. If the open space will be owned and/or managed by the owners within the cluster development, then a homeowners' association shall be created to own and manage the common lands and facilities. Covenants for mandatory membership in the homeowners' association, setting forth the owner's rights, interest and responsibilities, and providing for the assessment of lots or units to fund common expenses shall be required and approved by the Planning Board and shall be included in the deed for each lot.

The documents shall also include a management plan for the common open space and facilities.

§ 145-50. Tent and recreational vehicle parks.

Tent and recreational vehicle parks shall conform to the minimum requirements imposed under state licensing procedures and the following standards:

- A. Parks shall be open only between April 15 and October 31, inclusive. From November 1 of one year to April 14 of the following year, no person shall occupy any site, the water services to all sites shall be turned off or disconnected, and the electrical service to all sites shall be turned off or disconnected.
- B. All sites shall have an area of at least 1,000 square feet and shall have an average width of at least 30 feet. Sites to be occupied by park model recreational vehicles shall have an area of at least 2,000 square feet and shall have an average width of at least 40 feet. Any site located entirely or partially within the Shoreland Overlay District shall contain at least 5,000 square feet of area. Roads, parking areas, walkways, land supporting wetland vegetation and land below the high-water line of a water body or tributary stream shall not be included in calculating the area of a site.
- C. Two parking spaces for passenger vehicles shall be provided for each recreational vehicle site. One parking space for a passenger vehicle shall be provided for each tenting site. The parking spaces shall be on or within 200 feet of the site. No parking space may block walkways or interfere with traffic flow within the park.
- D. No rigid enclosed addition shall be affixed to a recreational vehicle other than a recreational vehicle accessory enclosure as herein defined.
- E. The areas intended for placement of a recreational vehicle, tent or shelter and utility and service buildings shall be set back at least 100 feet from the high-water line of Ell Pond and 75 feet from the high-water line of other water bodies, tributary streams or the upland edge of a wetland.
- F. There shall be a buffer strip of at least 25 feet in width adjacent to all lot lines, and any of the park sites or facilities shall be screened from the view of any dwelling unit located within 200 feet of the park's boundaries.

§ 145-51. Home businesses.

[Amended 6-12-2012]

A home business is permitted as an accessory use to a dwelling unit if it complies with the following standards:

A. There shall be three classes of home businesses, as follows:

- (1) Class 1:
 - (a) Located within the principal residential structure only.
 - (b) Shall occupy up to 20% of habitable space, not to exceed 500 square feet.
 - (c) Not more than one employee, other than the home's occupants, may work on site at any time, and one additional on-site parking space shall be provided if there is such an employee.
 - (d) No outdoor activity or storage of materials shall be permitted.
 - (e) Adequate on-site parking shall be provided for the residence, customers and employees.
 - (f) Minimum lot size: none.
- (2) Class 2:
 - (a) May be located in the principal residential structure or an accessory structure.
 - (b) Shall occupy 800 square feet or less of floor space.
 - (c) Not more than two employees, other than the home's occupants, may work on site at any time, and one on-site parking space shall be provided per employee, if there are such employees, in addition to on-site parking required for the residence and customers.
 - (d) Outdoor activity or storage of materials shall be permitted in an area not to exceed 1,600 square feet, provided the area meets structure setbacks and the area is screened from roads and abutters.
 - (e) To the extent a home business involves off-site activity (landscaper, carpenter, etc.), up to three additional workers may gather, prepare briefly, load vehicles, unload vehicles associated with the home business, provided that at least $\frac{3}{4}$ of the workday for these other workers is spent working off site. Adequate on-site parking for workers shall be provided.
 - (f) Minimum lot size: 20,000 square feet of net area.
- (3) Class 3:
 - (a) May be located in the principal residential structure or an accessory structure.
 - (b) Shall occupy 1,600 square feet or less of floor space.
 - (c) Not more than three employees, other than the home's occupants, may work on site at any time, and one additional on-site parking space shall be provided per employee, if there are such employees, in addition

to on-site parking required for the residence and customers.

- (d) Outdoor activity or storage of materials shall be permitted in an area not to exceed 4,400 square feet, provided the area meets structure setbacks and the area is screened from roads and abutters.
- (e) To the extent a home business involves off-site activity (landscaper, carpenter, etc.), up to five additional workers may gather, prepare briefly, load vehicles, unload vehicles associated with the home business, provided that at least $\frac{3}{4}$ of the workday for these other workers is spent working off site. Adequate on-site parking for workers shall be provided.
- (f) Minimum lot size: 100,000 square feet of net area.

B. Types of home businesses permitted by class. For each class of home business, the types of permitted home businesses shall comply with the following table in § 145-51B.

- (1) Home businesses may include only the following uses as defined in § 145-10, as limited for each class in the following table, and shall be subject to any restrictions or prohibitions outlined in § 145-51B(2):

Use	Class 1	Class 2	Class 3
Business, retail	No	No	Yes
Business, office	Yes	Yes	Yes
Business, personal service	Yes	Yes	Yes
Business, service	Yes	Yes	Yes
Business, contractor	Yes	Yes	Yes
Business, wholesale	Yes	Yes	Yes
Manufacturing	Yes	Yes	Yes

- (2) Class restrictions:

(a) Home businesses shall not include funeral homes or the redemption of beverage containers.

C. General standards. The following shall apply to all home businesses:

- (1) Visual appearance. A home business shall be conducted in a manner that minimizes any adverse visual impact on the neighborhood. The structure shall not be altered in a manner inconsistent with its residential character. Outdoor illumination shall be limited to that normal and customary for single-family housing (such as a customary porch light, garage light or walkway light).
- (2) Signs. A home business shall comply with § 145-40.
- (3) All home businesses shall be permitted on-site retail activity that is incidental and subordinate to the home business uses (e.g., a music teacher selling sheet music to one of the students or a hair dresser selling hair product to a client). All retail activity and sales of merchandise shall be located within an enclosed structure.
- (4) Class 2 and Class 3 home businesses may include the selling of products, the major portion of which is raised or produced on the premises.
- (5) Traffic. All home business related traffic shall not exceed the maximum number of peak hour trips based on Class 1 not exceeding four peak hour trips, Class 2 not exceeding eight peak hour trips, and Class 3 not exceeding 12 peak hour trips. Customer traffic shall be limited to daytime hours only.
- (6) Screening. All home businesses shall be screened in accordance with § 145-38.
- (7) Impact limits. Home businesses shall limit their generation of vibrations, smoke, dust, heat, glare or odor such that they do not create a nuisance or an unreasonable adverse impact perceptible beyond its lot lines. Storage or use of hazardous or toxic materials shall be in compliance with the requirements of the National Fire Protection Association (NFPA) standards. Home businesses shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. Home businesses shall make adequate provisions for access by fire-fighting equipment and personnel.
- (8) Water quality. No home business shall cause any liquid, gaseous, or solid materials to run off, seep, percolate, or wash into surface or ground waters such that any pollutant or constituent or derivative thereof attains a concentration in ground or surface water above current public health drinking water standards for Maine.
- (9) Parking. Parking spaces and safe vehicular access shall be configured on the property to prevent the need to back out onto roads or streets.
- (10) Water supply and sewage disposal. Home businesses shall demonstrate the availability of adequate water supply for fire protection and consumption needs and shall provide for the safe disposal of all wastewaters

for the home business and residence.

D. A building permit and use permit shall be obtained from the Code Enforcement Officer prior to establishment of a home business.

E. Existing nonconforming or unlawful home business.

- (1) Prior to June 12, 2014, any existing home business that is established by June 12, 2012, which is not operating under the control of an approved building permit/use permit from the Code Enforcement Office shall:
 - (a) Submit a building permit/use permit application containing the following information to the Code Enforcement Office:
 - [1] Description and type of home business, total gross floor area used by the home business within a structure, number of employees who reside on the premises and who do not reside on the premises, size of the parcel, location and total area of any outside storage, and total parking spaces provided; and
 - [2] Plot plan of the property identifying structures, parking areas, outside storage areas, zoning dimensional requirements conformance and compliance with § 145-51C.
 - (b) Apply for site plan approval if the home business type is a permitted use within the defined zoning district for the parcel of land on which the home business is located; or
 - (c) Discontinue home business operations.
- (2) Any existing nonconforming or unlawful home business is prohibited from altering or amending its use after June 12, 2012, without complying with § 145-51E.
- (3) Failure of any home business to comply with § 145-51E(1) prior to June 12, 2014, shall be considered a violation of this chapter per §§ 145-63 and 145-64.
- (4) Any existing nonconforming or unlawful home business established by June 12, 2012, which does not conform to the requirements of § 145-51 may continue to operate, provided it has complied with § 145-51E(1) and shall not be permitted to increase or expand.

§ 145-52. Lodging facilities.

[Amended 4-12-2003]

A. Any lodging unit in a bed-and-breakfast or a hotel/motel that exceeds 470 square feet or a housekeeping or seasonal cottage that exceeds 600 square feet shall meet the density requirements for a dwelling unit located in the same district.

[Amended 11-5-2013]

- (1) A porch or deck may be attached to each lodging unit and shall not be included in the footprint of the lodging unit unless the porch is heated and/or insulated.
- (2) Any lodging unit existing on January 1, 1994, required to comply with any state or federal regulations for handicapped accessibility, may be enlarged beyond the maximum allowed footprint, provided that the expansion is the minimum area required to comply with the regulations.

B. Kitchen facilities are permitted in the individual units in housekeeping cottage complexes and in hotel/motels.

C. All motels, hotels and housekeeping cottages shall be connected to the public water and public sewer systems.

D. All lodging units, other than the unit occupied by the resident manager, shall be available to the traveling public and shall not be reserved for the exclusive use of the owner, his family and his friends.

E. Lodging facility office. All lodging facilities constructed after May 1, 2007, regardless of the number of units, shall maintain an office on the licensed premises or within 150 feet of the lodging facility's site boundaries. Except as otherwise provided in § 150-83B(2), all lodging facilities constructed prior to May 1, 2007 having 10 or more units shall maintain an office on the licensed premises or within 150 feet of the lodging facility's site boundaries. Except as otherwise provided in § 150-83B(2), if a lodging facility constructed prior to May 1, 2007 has less than 10 units, the Selectmen may waive the office requirement if the Selectmen find: (1) that adequate provision has been made to enable the public to reach an innkeeper and/or rental manager after hours; and (2) that there is public telephone access either on-site, or, within 150 feet of the lodging facility's site boundaries. If granted, such a waiver shall be filed with the lodging facility's business license and shall remain in effect so long as all of the conditions upon which it was granted continue to be satisfied. This subsection does not apply to a seasonal cottage complex that is created by the conversion of a housekeeping cottage complex to a seasonal cottage complex, provided that a housekeeping cottage complex that had an office prior to conversion shall maintain the office.

[Amended 4-27-2007]

F. Any nonconforming lodging facility that seeks site plan approval or an amendment to an approved site plan shall conform to the requirements of Subsections D and E(1).

G. Seasonal cottage facility.

- (1) Kitchen facilities are permitted in the individual units of seasonal cottages.
- (2) All seasonal cottages shall be connected to the public water and public sewer systems.
- (3) All seasonal cottage units shall be available to the traveling public, but may be occupied by a single individual or group for a time period of up to six months.
- (4) All seasonal cottages in a seasonal cottage complex shall be closed and the water service to the units turned off between November 1 and April 30 of the following year.

H. Housekeeping cottage complex conversion to seasonal cottage complex.

- (1) As of January 1, 2003 no seasonal cottage complexes exist.
- (2) A housekeeping cottage complex existing on January 1, 2003, may be converted to a seasonal cottage complex by applying to the Staff Review Committee for a change of use, following the procedures and requirements of Article X, Site Plan Approval.
 - (a) A note shall be added to the plan that states "All units shall be closed and water service to the units shall be turned off from November 1 through April 30 of the following year."
 - (b) If the complex is held in a condominium form of ownership, a copy of the condominium documents must be supplied, a current list of owners and a letter from the board of directors requesting the change of use.
- (3) Construction of new seasonal cottages or other buildings or additions to seasonal cottages, buildings or other structures begun after the conversion of a housekeeping cottage complex to a seasonal cottage complex must comply with the requirements of § 145-52H, Seasonal cottage facility.

I. Hotel/motels shall meet the following criteria:

[Added 11-5-2013]

- (1) A minimum lot size: three acres of net area.
- (2) A minimum of 20 hotel/motel units in a single building.
- (3) A minimum buffer between any street right-of-way which meets or exceeds the following:
 - (a) For a one-story building, a minimum setback of 40 feet;
 - (b) For a two-story building, a minimum setback of 60 feet;
 - (c) For a three-story building, a minimum setback of 80 feet;
 - (d) The buffer shall consist of trees, shrubs, plantings, grass, and mulch areas;
 - (e) Non-vegetated features such as access roads, walkways, and trolley stops may be allowed in the buffer;
 - (f) Two handicap-accessible parking spaces may be allowed in the buffer; and
 - (g) The buffer shall be approved by the Planning Board.
- (4) There shall be a buffer strip of at least 25 feet in width adjacent to all lot lines of natural or planted vegetation.
 - (a) The buffer shall create a visual screen to existing residential uses.
 - (b) An access road may be allowed to cross the buffer.
 - (c) The buffer shall be approved by the Planning Board.
- (5) A hotel/motel office shall be provided.
- (6) Three-story buildings shall enclose all stairways.
- (7) All facilities shall be connected to public water and public sewer systems.
- (8) All buildings shall be constructed with sprinkler systems.
- (9) Kitchen facilities are permitted in the hotel/motel units.
- (10) Only gas fireplaces shall be permitted.
- (11) Only one manager's dwelling unit may be permitted.
- (12) The hotel/motel unit deck or enclosed porch shall not be insulated or climate controlled.

J. Bed-and-breakfast/small inns shall meet the following criteria:

[Added 11-5-2013]

- (1) The dwelling unit, bed-and-breakfast/small inn room units, and common facilities shall be located within one building, except for accessory structures.
- (2) The minimum lot size and minimum density shall meet the dimensional requirements of the zoning district for which the lot is located plus an additional 4,000 square feet per bed-and-breakfast/small inn room unit.
- (3) A bed-and-breakfast/small inn office shall be provided.

§ 145-53. Mineral extraction.

A. Prior to April 24, 1994, any mineral extraction use which is not operating under the control of an approved site plan shall:

- (1) Submit to the Code Enforcement Officer either:
 - (a) A plan prepared by a surveyor or professional engineer licensed by the State of Maine showing the

boundaries of the lot, the limits of the area of the existing operation and existing topography of the subject site within 100 feet of any excavation or storage area at two-foot contours (contour information shall not be required for stored materials); or

(b) A file containing the following information:

- [1] Tax map and lot number of the lot;
- [2] A copy of the deed of the lot;
- [3] A sketch of the lot showing the approximate size and location of the mineral extraction use; and
- [4] A series of photographs showing the area of the mineral extraction use, its entrance(s) from the public road(s) and all working faces. The area included in each photograph shall be identified on the sketch of the lot; or

(2) Discontinue mineral extraction operations.

[Amended 4-28-1995]

B. Any mineral extraction use legally operating on April 24, 1993, may:

- (1) Continue to operate according to an approved site plan;
- (2) Continue to operate and expand the use by one acre in area without an approved site plan, provided that the use has complied with the requirements of Subsection **A(1)(a)**. Any increase in area of more than one acre may only be done according to an approved site plan. The Planning Board shall recognize the legal nonconforming status of those portions of a site on which the mineral extraction use was present and on those portions may not impose any conditions which would exceed the requirements in effect when the use was established; or
- (3) Remove up to 500 cubic yards of material in any two-year period from the lot without having obtained an approved site plan and without paving the entrance road as required in Subsection **D(3)**, provided that the use has complied with the requirements of Subsection **A(1)(b)**. No more than 500 cubic yards may be removed from any lot in any two-year period unless mineral extraction is a permitted use in the district in which the lot is located and an approved site plan has been obtained for the expanded use.

[Amended 4-28-1995]

C. Up to 100 cubic yards of material may be removed annually from a parcel of land for use on another parcel of land in the same ownership without having obtained site plan approval and without paving the entrance road as required in Subsection **D(3)**.

D. All mineral extraction uses shall comply with the performance standards listed below. Any legally existing mineral extraction use which does not conform to these performance standards may continue to operate but may not increase the nonconformities.

- (1) A vegetative buffer strip at least 100 feet in width shall be maintained along all lot boundaries, including the boundaries of cemeteries located on the lot on which the mineral extraction use is located. No existing vegetation shall be removed, except that a strip not to exceed 50 feet in width may be cleared for an access road, which shall cross the buffer strip at an angle of between 75° and 90°. Natural vegetation may be removed if the buffer is landscaped according to an approved site plan. The buffer strips between two mineral extraction uses may be removed upon the written agreement of both lot owners and recording of the agreement in the Registry of Deeds and referencing the recorded agreement on their respective site plans. Additionally the width of any buffer strip, except those adjacent to streets, may be reduced to not less than 25 feet if the abutting property owner(s) agree(s) to the reduction in writing and said agreement is recorded in the Registry of Deeds. For security reasons, buildings accessory to the mineral extraction use shall be allowed, with the approval of the Planning Board, in the buffer strip along their street frontage as long as they are located at least 100 feet from any side lot line and are visible from the street.

[Amended 11-6-2001]

- (2) Any topsoil or subsoil suitable for the purposes of revegetation shall be stripped from the location of the extraction operation(s) and stockpiled for use in restoring the location after the extraction operation has ceased. Such stockpiles shall be protected from erosion using practices recommended by the York County Soil and Water Conservation District. Any topsoil in excess of that needed to restore the site may be removed from the site upon completion of the required site restoration work.
- (3) The entrance road(s) shall be treated to minimize the generation of dust or mud. Any entrance road constructed after April 24, 1993, shall be paved a distance of at least 100 feet from the edge of the street which provides vehicular access to the operation.
- (4) No equipment, stumps, debris, junk or other material shall be permitted on the site except those directly related to the mineral extraction use. The temporary storage of loam, clay, sand, gravel or stone from off the premises shall be permitted as an accessory use to a mineral extraction use. The storage of concrete without steel or iron showing and the storage of asphalt for recycling may be allowed with Planning Board and

Department of Environmental Protection approval. Any temporary structures erected for use as part of a mineral extraction use shall be removed within 60 days after the cessation of operation.

[Amended 4-28-1995]

- (5) The lowest point of any sand and gravel excavation shall be at least five feet above the seasonal high water table, defined as the highest point of the water table during the wettest month of the year. The operator of the operation shall, at the request of the Code Enforcement Officer, dig a test pit at least five feet deep to demonstrate compliance with this standard. Any area of an excavation site that was mined below five feet above the seasonal high water table before April 24, 1993, shall be deemed nonconforming and may not be expanded either horizontally or vertically.

[Amended 4-28-1995]

- (6) Vehicular access to any mineral extraction site shall be limited during all inactive periods and nonworking hours by gates, fences, berms, wooded buffer areas or any other functional barriers.
- (7) Any mineral extraction use shall employ erosion and sedimentation control measures as necessary to protect water bodies, tributary streams and wetlands from sedimentation and adjacent lots from erosion and sedimentation. Said erosion and sedimentation control measures shall be in accordance with the practices recommended by the York County Soil and Water Conservation District.
- (8) The following regulations shall apply to all sites:
- (a) No fuels, antifreeze, lubricants or hydraulic fluids shall be stored within any excavation area. They may be stored on site only if they are stored within a containment structure which would hold and prevent any of the fluid from entering the ground.
 - (b) Any refilling or draining of any fluids (e.g., fuel, hydraulic fluid, brake fluid or antifreeze) or repair of equipment on an extraction site shall take place only over an impermeable surface from which any spilled fluids can be collected and removed from the site. Said surface or container shall have a capacity of at least 20 gallons.
 - (c) Every extraction use shall have a plan, and the ability to implement the plan, for the containment and cleanup of any fuel or fluid spill on site.
- (9) Any site, except rock and stone quarries, upon which a mineral extraction use is located shall be restored so that no grades exceed a slope of three horizontal to one vertical within two years of the cessation of any extraction at any site or at any one or more locations within a site. The sites shall be revegetated using the topsoil available on site according to the practices recommended by the York County Soil and Water Conservation District.
- (10) The Planning Board shall, as part of its review process, consider the potential noise impacts of a proposed mineral extraction use. In situations where residential development may be impacted by the mineral extraction use, the Board may require a noise study. Enlarged buffers, noise barriers, limitation on hours of operation or any other physical improvement or operational procedure that would reduce the sound-pressure levels to the standards required in § 145-45 may be required.
- E. Discontinuance of a mineral extraction use is defined as the excavation and removal from the premises of less than 500 cubic yards of material in any twenty-four-month period for mineral extraction uses operating under the requirements of Subsection B(1) and (2) or the removal of less than 20 cubic yards of material in any two-year period for mineral extraction uses operating under the requirements of Subsection B(3). The owner/operator shall provide the Code Enforcement Officer receipts or other documents substantiating the cubic yardage of material which has been hauled off the premises in the previous 24 months so that he may determine if the mineral extraction use has or has not been discontinued. If a mineral extraction use has been discontinued, it may not resume operation without having obtained site plan approval and met the standards of this section.
- F. A performance guaranty, the form and amount of which are acceptable to the Town Manager, shall be given to the Town before the issuance of a use permit for any mineral extraction use approved by the Planning Board. The performance bond shall be of sufficient size to rehabilitate the mineral extraction site in accordance with the restoration plan approved by the Planning Board. If a mineral extraction use is discontinued (as defined in Subsection E) its approval shall expire, and the Town, after providing the owner and/or operator written notice of its intent, shall use the posted security to restore the site of the mineral extraction use in accordance with Subsection D(7) and (9).

§ 145-54. Affordable housing.

- A. To increase the availability of affordable housing (as defined in 30-A M.R.S.A. § 5002) to low- and moderate-income families the following increases in residential density and reductions in lot size and frontage within a subdivision containing only affordable housing shall be permitted within the Residential A District:

- (1) If the dwelling units are not connected to the public sewer, a developer may develop the subdivision at a density of one dwelling unit for each 32,000 square feet of net area with a corresponding reduction of 20% in lot size and lot frontage without obtaining a variance from the Zoning Board of Appeals. The subdivision may also be developed at the same increased density according to the requirements of § 145-48 or 145-49.
 - (2) If the dwelling units are connected to the public sewer, a developer may develop the subdivision at a density of one dwelling unit for each 13,333 square feet of net area with a corresponding reduction of 33 1/3% in lot size without obtaining a variance from the Zoning Board of Appeals. The subdivision may also be developed at the same increased density according to the requirements of § 145-48 or 145-49.
- B. Eight or fewer dwelling units shall be permitted in a multifamily dwelling if all the dwelling units within the structure are affordable housing units.
- C. The developer shall implement a plan to ensure that the affordable housing units remain affordable. The plan shall be approved by both the Planning Board and the Board of Selectmen.
- D. A landscaped buffer strip shall be provided along the perimeter of an affordable housing subdivision except where access roads into the subdivision are located. The buffer strip shall have a width equal to 1/5 of the required lot frontage of the applicable zoning district along all lot boundaries, except along existing improved public streets, where the buffer strip shall have a width equal to 1/2 of the required lot frontage. The buffer strip shall be owned in fee and managed by an association of the owners within the development. The Planning Board may waive or modify this buffer requirement if it finds that the requirement will make the proposed subdivision financially unfeasible.

§ 145-55. Accessory dwelling units.

- A. One accessory dwelling unit shall be permitted within an owner-occupied one-family dwelling in all districts except the Residential B, Residential D and the Beach Business Districts, provided that:
- (1) The lot on which the accessory dwelling unit is situated meets all the current dimensional requirements of this chapter for a one-family dwelling;
 - (2) The accessory dwelling unit shall contain no more than three rooms and a bathroom and shall not exceed 600 square feet of net habitable floor area;
 - (3) The building containing the accessory dwelling unit shall have the exterior appearance of a single-family home;
 - (4) The accessory dwelling unit shall not occupy more than 35% of the habitable floor area of the building;
 - (5) The accessory dwelling unit shall be located in the same building as the principal dwelling unit; and
 - (6) The owner shall annually obtain a use permit for the accessory dwelling unit and certify that he is in compliance with the standards of this section of this chapter. The permit shall be obtained between November 1 and December 31 for the following calendar year. *Editor's Note: Former Subsection B, which immediately followed, which provided for an exemption from the requirements of former Ch. 174, Residential Growth Management, was repealed 11-6-2012.*

§ 145-56. Restoration of recycling facilities.

[Added 4-28-1995]

- A. All recycling facility operators, except the Town of Wells, under § 145-28G(2) shall provide one of the following performance guaranties in an amount adequate to cover the total decommissioning costs and/or all site restoration improvements, taking into account the time span of the restoration schedule and the inflation rate:
- (1) Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner for the establishment of an escrow account; or
 - (2) A performance bond payable to the Town issued by a surety company approved by the municipal officers or Town Manager.
- B. The conditions and amount of the performance guaranty shall be determined by the Planning Board with the advice of the Town Engineer, Road Commissioner, municipal officers and/or Town Attorney.

§ 145-57. Temporary structures or solid waste dumpsters.

[Added 4-28-1995]

During construction or at special indoor or outdoor events, including but not limited to craft fairs, other fairs, concerts and athletic or social events, structures and/or solid waste dumpsters may be temporarily placed within 15 feet of a lot line(s) fronting a street. These structures and/or solid waste dumpsters shall not be within the structure

setback for the district earlier than 48 hours before the event or construction starts and must not remain in the structure setback for the district longer than 48 hours after the event or construction concludes. All temporarily placed solid waste dumpsters shall be emptied as needed.

§ 145-58. Life care facilities.

[Amended 4-26-1996]

- A. A life care facility must be served by public sewer and public water.
- B. A life care facility may include one or more of the following as accessory uses: day care for persons age 55 or older, day care for children of employees of the life care facility, personal service business and/or retail business for residents of the facility.
- C. Notwithstanding the dimensional requirements of Article V of this chapter, the maximum density for the elderly housing portion of the life care facility is eight units per net acre, and the maximum density for the congregate housing portion is 15 units per net acre.
- D. The elderly housing units, congregate housing units and nursing home portion of the life care facility are exempt from § 145-48B of this chapter.

[Amended 11-6-2012]

- E. Each dwelling unit of the elderly housing portion of a life care facility must contain at least 600 square feet of gross floor area and may contain no more than 1,500 square feet of gross floor area. Each dwelling unit in the congregate housing portion of a life care facility must contain at least 300 square feet of gross floor area and may contain no more than 550 square feet of gross floor area.
- F. Overnight guests are allowed to stay with the occupants of the elderly housing and congregate portions of a life care facility but for no longer than eight nights during any one-month period, except as allowed under Subsection G.
- G. One adult over the age of 18 is allowed to occupy a congregate unit or an elderly housing unit provided that person's presence is required to care for one of the elderly occupants.
- H. Neither the elderly housing units, the congregate housing units nor the nursing home rooms may be sublet.

§ 145-58.1. Congregate care facilities.

[Added 6-8-2010]

- A. Congregate care facilities are allowed subject to the following performance standards in addition to the requirements of the districts in which the developments are located.
- B. Congregate housing and congregate housing communities may be placed only on properties served by public water (defined as water provided by the Kennebunk, Kennebunkport & Wells Water Company or its successors) and public sewer (defined as sewerage services provided by the Wells Sanitary District or its successors).
- C. Notwithstanding the dimensional requirements for dwelling units within a particular zoning district, congregate dwelling units in a congregate care facility other than single-family or duplex units, shall be permitted at one unit for every 2,500 square feet of net area. Single-family or duplex units within such a complex shall be permitted only at the underlying density for a dwelling unit within the zone.
- D. The minimum lot size for a congregate care facility shall be 200,000 square feet in contiguous ownership. In the event that a developer will own a lot or lots separate from the lot on which the buildings of the congregate care facility will be located (e.g. for parking, see below), the square footage of the noncontiguous lots shall not be counted in computing the 200,000 square foot minimum lot size.
- E. A vegetated buffer which includes fencing or live landscaping or vegetation that provides an actual visual screen along the lot lines of at least 15 feet in width along all lot boundaries of developed properties shall be required. The buffer strip shall not contain parking areas or structures, but may contain a perpendicular access driveway(s) or road(s) to connect with existing streets. Said visual screening shall consist of a continuous border of shrubbery at least six feet in height, trees or, if required by the Planning Board, solid fencing an average of six feet in height. Said visual screening shall be owned in fee, managed and maintained by the owner or owners of the development.
- F. Buildings shall be protected by use of fire suppression sprinkler systems.
- G. Buildings shall be separated by at least 15 feet. In a congregate care facility buildings may be connected by use of walkways, covered and/or enclosed and in such a development only and only for zoning purposes and not for building code purposes, and nowhere else within the Town of Wells, such a connection shall not be considered as causing two or more buildings or structures to be considered as one.
- H. Congregate care facilities shall have at least one parking space for each employee on the two largest shifts

combined. The Planning Board may seek the services of a consultant in parking matters, and the applicant shall be responsible for payment of any and all fees of such consultant. The Planning Board may, subject to conditions that it may impose, permit some, but not all, of the parking for a congregate care facility to be located other than on the lot or lots which comprise such facility, and there shall be restrictions to this effect placed in all of the deeds associated with the congregate housing development. Where the Planning Board makes written findings of fact that there are special circumstances of a particular lot, it may waive portions of the parking requirements contained herein, to permit more practical and economical development, provided that the public health, safety and welfare are protected. Any waivers granted hereunder are not a variance and may be granted by the Planning Board in the absence of hardship. In granting waivers to these parking requirements, the Board shall require such conditions as will assure that the objectives of these parking requirements are met. In the event of conflict between this subsection and any other provision of this chapter or any other ordinance, this subsection shall control.

- I. On any lot divided by a zoning district boundary line, the lot coverage for any portion of the lot lying within a specific zoning district shall not exceed the permitted lot coverage for that district.
- J. In the event that the owner(s) of a congregate care facility wish(es) to convert such a facility to some other residential use, such conversion will be subject to review and approval by the Planning Board of the Town of Wells. Any such conversion will be subject to the density requirements for dwellings within the district where the congregate care facility is located, and neither the Planning Board nor the Zoning Board of Appeals may change or alter such densities except as may be appropriate under the requirements for a clustered subdivision. The limitations on multifamily dwellings and multifamily development as may exist in the Wells Code shall apply to any such conversion.
- K. In any congregate care facility development abutting a residential use in a residential zoning district, the setback shall be equal to at least two times the required structure setback or 25 feet, whichever is greater (e.g., required fifteen-foot setback $\times 2 = 30$ feet). This setback requirement shall not be required when the lot adjacent to any proposed congregate care facility is undeveloped. In such case, the normal setback requirements of the zoning district in which the facility is to be located shall govern.

§ 145-58.2. Registered marijuana dispensaries.

[Added 6-14-2011]

- A. Stand-alone registered marijuana dispensaries are allowed subject to the following performance standards in addition to the requirements of the districts in which the dispensaries are located.
- B. Notwithstanding any other provision of the Wells Code, all registered medical marijuana dispensaries must be reviewed by the Wells Planning Board, and not by the Staff Review Committee.
- C. Registered marijuana dispensaries must meet all of the standards and conditions imposed by the Maine Department of Health and Human Services issued under the aegis of the Maine Medical Use of Marijuana Program.
- D. Notwithstanding the Maine Department of Health and Human Services Rules Governing the Maine Medical Use of Marijuana Program, no registered marijuana dispensary in Wells may be located where any of the lot lines of the lot on which the dispensary will be located are within 1,000 feet of the lot line of any preexisting public or private school facility; or any preexisting and licensed child-care facility.
- E. There shall be opaque windows or walls for any building involved in the cultivation of marijuana, so that the interior is completely screened from lot lines and from any person passing along the normal street boundaries of the lot on which it is located.
- F. All buildings associated with a medical marijuana dispensary or cultivation facility, including the growing facility itself, shall be protected by use of fire suppression sprinkler systems, or other effective fire suppression system that may be approved by the Chief of the Wells Fire Department.
- G. The dispensary shall have a Knox-Box® or shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.
- H. A medical marijuana dispensary shall have at least one parking space for each employee on the two largest shifts combined, and such additional parking as may be required by the Planning Board.
- I. With any medical marijuana dispensary abutting a residential use in a residential zoning district, the setback shall be equal to at least two times the required structure setback or 25 feet, whichever is greater (e.g., required fifteen-foot setback $\times 2 = 30$ feet). This setback requirement shall not be required when the lot adjacent to any proposed medical marijuana dispensary is undeveloped. In such case, the normal setback requirements of the zoning district in which the facility is to be located shall govern.
- J. The operator of a medical marijuana dispensary must provide a security plan to the Chief of Police for the Town of

Wells, who will provide the Planning Board with a report and recommendations for specific conditions of approval as regards required security measures to be incorporated. The requirements for this plan should be coordinated with the requirements for any security plan that the State of Maine may require for such a facility.

- K. The hours of operation for any medical marijuana dispensary, including the hours that persons other than staff of the facility may be present at a cultivation facility, shall be limited. No sales or dispensing of materials may take place prior to 7:00 a.m. nor later than 8:00 p.m. on any day.
- L. Signs for a medical marijuana dispensary or cultivation facility may not contain any visual depiction of marijuana or marijuana paraphernalia.

§ 145-59. Elderly housing.

[Amended 4-26-1996]

Elderly housing, not a part of a life care facility, must meet the performance standards for multifamily developments in § 145-48 and the dimensional requirements of the district in which it is located.

§ 145-59.1. Wind energy conversion systems: accessory use.

[Added 11-3-2009]

- A. Purpose. The purpose of this section is to promote the safe and effective use of wind energy conversion systems within the Town of Wells, and to provide a means by which such wind energy conversion systems may be regulated.
 - (1) The primary purpose of a proposed wind energy conversion system will be to provide mechanical or electrical power for the principal use of the property whereon said wind energy conversion system is to be located. This provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a wind energy conversion system designed to meet the energy needs of the principal use.
- B. Noise. The wind energy conversion system and its location on the property involved shall be designed to limit any noise from said wind energy conversion system from exceeding noise levels as established elsewhere in this chapter. The WECS shall meet the requirements of any existing noise ordinance of the Town of Wells.
- C. Variances. No variance shall be granted from the dimensional requirements of this chapter for wind energy conversion systems.
- D. Design requirements: The following design requirements are the minimum requirements that shall be met prior to the granting of a building permit for a wind energy conversion system (WECS). It shall be the responsibility of the applicant to demonstrate that the proposed WECS meets these design requirements.
 - (1) Tower access. There shall be protection against climbing access by unauthorized persons. No climbing pegs shall be located closer than 12 feet to the ground level at the base of the WECS. A minimum six-foot-high fence with a locking gate shall be required to enclose any ladder effect at the base of the tower. As a minimum to assure this, the applicant must demonstrate that letter (a) or (b) below will be achieved in addition to the locked, protective fence:
 - (a) Tower-climbing apparatus located no closer than 12 feet from the ground;
 - (b) A locked anticlimb device installed on the tower.
 - (2) Electromagnetic interference. If it has been demonstrated to a Town Code Enforcement Officer that a wind energy conversion system is causing interference, the operator shall promptly mitigate the interference with the radio frequency communication that is traceable to the operation and/or location of the windmill. Mitigation shall be in accordance with all applicable sections of the Federal Communication Commission specifications.
 - (3) Signs. At least one sign with a minimum of 96 square inches and a maximum of 288 square inches shall be posted at the base of the tower warning of electrical shock.
 - (4) Lighting of tower. No lighting of the WECS shall be permitted except as required by the FAA for aircraft safety.
 - (5) All guy wires and anchors shall meet required setbacks of the district, and no guy wires shall pass over any aboveground electrical or other utility lines. For purposes of setback from wetlands only, guy wires and anchors shall not be considered a "structure."
 - (6) No commercial transmitting or receiving devices may be affixed or otherwise made a part of a WECS.
 - (7) Setbacks: Setbacks for the WECS (excluding guy wires) shall be a minimum of the height of the WECS plus the required setbacks for structures in the district.
 - (8) Appearance: WECS shall maintain a nonreflective finish unless FAA standards require otherwise.
 - (9) Signs: Towers shall not display any permanent or temporary signs, writing, systems, logos, or any graphic representation of any kind other than that of the manufacturer or warning signs. WECS towers and/or bases

may not be used to display signage for a business or for other advertising.

- (10) All WECS shall be designed with an automatic brake to prevent over-speeding and excessive stresses on the tower structure.
- (11) A WECS shall not structurally interfere with other structures. Towers and blades shall meet manufacturers' recommended separation distances.
- (12) The wind energy conversion system shall not create noise louder than that allowed under the Wells Code (see § 145-45) as measured at the property line.

E. State and federal requirements:

- (1) Wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Evidence of compliance or nonapplicability shall be submitted with the application.
- (2) Wind energy conversion systems must comply with applicable building code, National Electric Code and other state and federal requirements.

F. Removal of unsafe wind energy conversion systems. Any wind energy conversion system found unsafe by the Code Enforcement Officer shall be shut down immediately and repaired to meet all federal, state or local safety standards whichever are more stringent or removed within 30 days. If the owner fails to repair or remove the system as directed, the Code Enforcement Officer may pursue legal action to have the system removed at the owner's expense.

§ 145-59.2. Substance abuse treatment programs.

[Added 6-14-2011]

- A. Clinics, institutions, or other entities designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services are permitted subject to the following performance standards in addition to the requirements of the districts in which they are located.
- B. Notwithstanding any other provision of the Wells Code, all clinics, institutions, or other entities designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services must be reviewed by the Wells Planning Board, and not by the Staff Review Committee.
- C. Clinics, institutions, or other entities designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services must meet all of the standards and conditions imposed by the Maine Department of Health and Human Services.
- D. No clinics, institutions, or other entities designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services in Wells may be located where any of the lot lines of the lot on which the activity will be located are within 1,000 feet of the lot line of any preexisting public or private school facility; or any preexisting and licensed child-care facility.
- E. All buildings associated with a clinic, institution, or other entity designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services shall be protected by use of fire suppression sprinkler systems, or other effective fire suppression system that may be approved by the Chief of the Wells Fire Department.
- F. The clinic, institution, or other entity designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services shall have a Knox-Box® or shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.
- G. A clinic, institution, or other entity designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services shall have at least one parking space for each employee on the two largest shifts combined, and such additional parking as may be required by the Planning Board.
- H. With any clinic, institution, or other entity designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine

Department of Health and Human Services Division of Licensing and Regulatory Services abutting a residential use in a residential zoning district, the setback shall be equal to at least two times the required structure setback or 25 feet, whichever is greater (e.g., required fifteen-foot setback x 2 = 30 feet). This setback requirement shall not be required when the lot adjacent to any such proposed use is undeveloped. In such case, the normal setback requirements of the zoning district in which the facility is to be located shall govern.

- I. The operator of a clinic, institution, or other entity designed and operated for the treatment of drug abuse and operating under the Regulations for Licensing and Certifying of Substance Abuse Treatment Programs issued by the Maine Department of Health and Human Services Division of Licensing and Regulatory Services must provide a security plan to the Chief of Police for the Town of Wells, who will provide the Planning Board with a report and recommendations for specific conditions of approval as regards required security measures to be incorporated. The requirements for this plan should be coordinated with the requirements for any security plan that the State of Maine may require for such a facility.

Article VIII. Administration

§ 145-60. Code Enforcement Officer.

It shall be the duty of the Code Enforcement Officer of the Town of Wells to enforce the provisions of this chapter. If the Code Enforcement Officer shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order the discontinuance of illegal use of land, buildings or structures; the removal of illegal buildings or structures or of additions, alterations or structural changes thereto; the discontinuance of any illegal work being done; or he shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

§ 145-61. Building permits.

- A. Building permits required. No building or other structure shall be erected, moved or enlarged in area (including gross floor area) or volume without a permit issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this chapter, a valid plan approved by the appropriate reviewing authority as determined by the Reviewing Authority Chart, or except after written order from the Zoning Board of Appeals. A building permit shall not be required for normal maintenance activities and alterations not requiring structural changes.

[Amended 6-12-2012]

- B. Permit application. When the floor area of a building(s) on a lot is proposed to be constructed or increased, the application for a building permit by an owner or his authorized agent shall be accompanied by plans, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. If a proposed building or a building being expanded contains plumbing, the proposed sewage disposal system as designed by a licensed site evaluator or as permitted by the Wells Sanitary District shall be required as part of the permit application. The application shall include the existing and proposed uses of buildings and structures and such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and provide for the enforcement of this chapter.
- C. Approval or denial of permit.
 - (1) Upon receipt of a properly prepared application, the Code Enforcement Officer shall have 10 business days to approve, deny or act upon, in writing, the application for a building permit. No permit shall be issued for construction requiring site plan approval until the Code Enforcement Officer has received a site plan signed by the designated reviewing authority. A written denial of any application shall state the reasons for denial. Noncompliance with other local, state or federal regulations may be reason for a denial. Failure of the Code Enforcement Officer to issue a written decision on any application for a building permit within 10 business days from the date of filing of such application shall constitute denial of such application.
 - (2) (Reserved) *Editor's Note: Former Subsection C(2), which provided that building permits for residential structures be issued in accordance with the procedures set forth in former Chapter 174, Residential Growth Management, was repealed 11-6-2012.*
 - (3) Prior to the issuance of a building permit, a permit fee as established by the Board of Selectmen following notice and a public hearing shall be paid to the Office of Planning and Development.

[Amended 4-26-1996]

- D. Building permit card. Upon issuance of the permit, a building permit card shall be issued. This card shall be displayed on the subject lot within 24 hours of the issuance of the building permit and within 50 feet of the lot line abutting the street right-of-way. The card shall be posted in a manner clearly visible from the street and shall remain until construction is completed. Construction performed without display of this card will automatically revoke the permit.

[Amended 4-19-1997]

- E. Start and completion of construction. If the work authorized by the building permit is not substantially started within 24 months nor substantially completed within 36 months of the issuance of the permit, the permit shall lapse and be void. A permit shall remain in effect even if the proposed activity authorized by the permit is made nonconforming by an amendment to this chapter during the permit period unless the amendment explicitly states otherwise. The Code Enforcement Officer may extend a permit (not to exceed 12 months) if the proposed work is permitted by this chapter at the time the extension is requested. Any such extension shall be requested in writing before the expiration of the original permit and shall be granted in written form by the Code Enforcement Officer.

[Amended 11-7-2006]

- F. The Code Enforcement Officer shall maintain a permanent public record of all building permit applications.

§ 145-62. Use permits.

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partially altered or enlarged in its use until a use permit is issued by the Code Enforcement Officer. No use permit shall be issued unless the proposed use of the building(s) or land conforms to the requirements of this chapter and/or to an approved site plan, if required for the proposed use.
- B. A temporary use permit may be issued by the Code Enforcement Officer for six months during construction or alteration for partial occupancy of a building or lot pending the completion of construction or development, provided that the temporary permit may require conditions and safeguards to ensure the safety of the occupants and the public and that the applicant remains in compliance with the terms of the building permit or approved site plan.
- C. The Code Enforcement Officer shall maintain a permanent public record of all use permit applications.
- D. Failure to obtain a required use permit shall be a violation of this chapter.
- E. Prior to the issuance of a use permit, a permit fee as established by the Board of Selectmen shall be paid to the Office of Planning and Development.

[Amended 4-26-1996]

§ 145-63. Notice of violation; legal action.

[Amended 4-19-1997; 4-18-1998; 11-6-2012]

- A. When a violation of any provision of this chapter shall be found, the Code Enforcement Officer shall send a written notice of the violation to the responsible party or parties and shall also notify the Board of Selectmen of the violation.
- B. If the notice does not result in the correction of the violation, the Board of Selectmen is directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of civil penalties, that may be appropriate or necessary to enforce the provisions of this chapter in the name of the municipality. The Board of Selectmen, or its authorized agent, is authorized to enter into administrative consent orders to eliminate violations and to collect civil penalties without court action. Such agreements shall not allow an illegal structure or use to continue unless there is no evidence that the owner knowingly violated the provisions of this chapter.

§ 145-64. Violations and penalties.

[Amended 4-16-1999]

Any person, firm or corporation, including but not limited to a landowner, his agent or a contractor, who or which orders or conducts any activity in violation of the provisions of this chapter shall be penalized as set forth in 30-A M.R.S.A. § 4452, except that the penalty for any person, firm or corporation who or which violates any provision of § 145-45 of this chapter shall not exceed \$1,000 for the first offense.

Article IX. Zoning Board of Appeals

§ 145-65. Membership; qualifications; terms of office.

The Board of Selectmen of the Town of Wells shall appoint a Zoning Board of Appeals consisting of five members and three associate members who shall all be residents of the Town of Wells. The appointments shall be for three years with the terms being staggered. Neither a Selectman nor his spouse may be a member or associate member of the Board. A member of the Board may be dismissed for cause by the Board of Selectmen, after a public hearing, before the expiration of his term.

§ 145-66. Associate members; officers; quorum; conflicts of interest.

- A. An associate member, selected by the Chairman, shall act in place of any member who may be unable to act due to interest, absence or physical incapacity.
- B. At the first meeting of the calendar year the Board shall elect from its membership a Chairman to preside at all meetings of the Board, a Vice Chairman and a Secretary, who shall provide for the keeping of the minutes of the proceedings of the Zoning Board of Appeals, which shall show the vote of each member upon each question.
- C. A quorum shall consist of four members, and all motions shall require an affirmative vote of at least a majority of the full Board to pass.
- D. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

§ 145-67. Powers and duties.

[Amended 11-8-1994; 4-28-1995; 4-19-1997]

A. The Zoning Board of Appeals shall have the following powers and duties:

- (1) Administrative appeals.
 - (a) To hear and decide where it is alleged there is an error in any written order, requirement, decision or determination made by the Code Enforcement Officer to:
 - [1] Approve or deny a building permit pursuant to § 145-61C;
 - [2] Determine the proper reviewing authority for a site approval application pursuant to § 145-74A(1);
 - [3] Determine whether or not the proposed use in a site plan approval application is a permitted use and meets the requirements of Article V pursuant to § 145-74A(1);
 - [4] Determine whether or not an application for site plan approval meets the requirements of Articles V, VI and VII pursuant to § 145-74B, C or D; or
 - [5] Issue or fail to issue a use permit pursuant to § 145-62. *Editor's Note: Former Subsection A(1)(a)[6], which immediately followed, which listed issuing a notice of violation pursuant to § 145-63, as amended, was repealed 11-6-2012.*
 - (b) The action of the Code Enforcement Officer may be upheld, modified or reversed by the Zoning Board of Appeals by majority vote.
- (2) To permit variations in nonconformance as prescribed in Article III.
- (3) Variance appeals. To hear and decide, upon appeal, in specific cases such variance from the dimensional requirements of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the dimensional requirements of this chapter would result in undue hardship. A variance may be granted by the Board only where the strict application of the requirements of this chapter to the petitioner and his property would cause undue hardship. The words "undue hardship" as used in this chapter shall mean:
 - (a) That the land in question cannot yield a reasonable return (use) unless a variance is granted;
 - (b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (c) That the granting of a variance will not alter the essential character of the locality; and
 - (d) That the hardship is not the result of action taken by the applicant or a prior owner.
- (4) Disability variance. To hear and permit a variance of the dimensional requirements of this chapter to make a property accessible to a person with a physical disability as defined in 5 M.R.S.A. § 4553. Such a variance shall

only be granted for the installation of equipment or construction of structures necessary for access to or egress from the property by a person living on the property who has a disability. The variance shall only be valid during the period in which a person with a disability requiring the access and egress resides on the lot and shall only be granted if the Board finds that there is no other feasible location or method for providing the desired access and egress.

[Amended 11-7-2000]

- (5) Mislocated building appeal. To hear and decide upon appeal in specific cases where existing buildings are found to be in violation of the setback requirements and where such location of buildings will not be contrary to the public interest whether an appeal should be granted. In order to grant a mislocated building appeal the Board must find that there was no willful or premeditated action (or gross negligence) to build within the setback.
- (6) To permit roads and driveways in the Resource Protection District as authorized by § 145-32E(2) and in the Shoreland Overlay District as authorized by § 145-33F(1).

[Amended 11-2-2010]

- (7) To permit additional off-premises business directional signs as authorized in § 145-40I.
- B. Any appeal, the granting of which would allow a structure within the required setbacks from water bodies, tributary streams or wetlands or within the Resource Protection District, may only be granted if the Board finds that the proposed construction will not result in unsafe or unhealthful conditions; erosion or sedimentation; water pollution; or damage to spawning grounds of fish, aquatic life or other wildlife habitats and will conserve shoreland vegetation and, to the extent possible, visual access to waters as viewed from public facilities, points of public access to waters and natural beauty and will avoid problems with floodplain development and use.

§ 145-68. Considerations and conditions.

In hearing appeals under this chapter, the Zoning Board of Appeals shall consider the conformance of the proposed use and structures with the provisions of this chapter. In granting appeals under this chapter, the Zoning Board of Appeals may impose such reasonable conditions as it deems necessary to fulfill the intent and purpose of this chapter.

§ 145-69. Appeal procedure.

- A. In all cases, a person aggrieved by a decision of the Code Enforcement Officer shall file an appeal within 31 days after the issuance of the written decision from the Code Enforcement Officer. The appeal shall be filed with the Zoning Board of Appeals on forms to be approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal. A filing fee as established by the Board of Selectmen, following notice and a public hearing, shall accompany any appeal. The Board shall also be reimbursed for the cost of the notification of the abutters before the public hearing.
- B. Before taking action on any appeal, the Zoning Board of Appeals shall schedule a public hearing within 31 days of the filing of an appeal, and the hearing shall be publicly advertised 10 days before the specified date of such hearing. In the case of administrative appeals pursuant to § 145-67A(1), such hearing shall be held within 60 days of the filing of the appeal. The Zoning Board of Appeals shall notify by mail, at least 10 days before the hearing, the owners of lots abutting the subject lot, of lots directly across a street or water body (less than 200 feet in width) from the lot on which an appeal is taken and of lots located within 100 feet of the property lot on which the appeal is taken of the nature of the appeal and of the time and place of the public hearing thereon.

[Amended 4-18-1998; 4-12-2003]

- C. For this section, the owners of a lot shall be considered to be the parties listed by the Assessor of taxes for the Town of Wells as those against whom taxes are assessed. Failure of any lot owner to receive a notice of public hearing shall not necessitate another hearing nor invalidate any action by the Zoning Board of Appeals.
- D. The Zoning Board of Appeals shall notify the Code Enforcement Officer, Board of Selectmen and Planning Board of the appeal at least 14 days before the hearing.
- E. Written notice of the decision of the Zoning Board of Appeals shall be sent to the appellant, his representative or agent, the Code Enforcement Officer, the Maine Department of Environmental Protection (if the subject property is located within the Shoreland Overlay District or Resource Protection District), the Board of Selectmen and the Planning Board within seven days of the decision. The decision shall be deemed rendered at the time the Board shall vote thereon.
- F. The Code Enforcement Officer or the designated assistant shall attend all hearings and may present to the Zoning Board of Appeals all plans, photographs or other material needed to understand the appeal.

G. The petitioner's case shall be heard first. To maintain an orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman. The concurring vote of a majority of the members of the Zoning Board of Appeals present and voting shall be required to reverse an order, requirement, decision, or determination of the Code Enforcement Officer, to grant a variance, to grant a mislocated building appeal, to permit roads and driveways in the Resource Protection District and in the Shoreland Overlay District, to permit additional off-premises business directional signs, or to decide in favor of the applicant on any matter which the Zoning Board of Appeals is required to decide under this chapter. The applicant shall have the burden of proof. The Zoning Board of Appeals may modify or reverse a decision of the Code Enforcement Officer only if it finds an error of law, misinterpretation of this Code or misapplication of the law to the facts. If the Zoning Board of Appeals modifies or reverses a decision of the Code Enforcement Officer, the Zoning Board of Appeals shall remand with instructions for such further action as may be necessary. The Zoning Board of Appeals may receive and consider evidence and testimony and oral or written argument; however, the Chairperson may exclude any irrelevant or redundant testimony or other evidence.

[Amended 4-12-2003]

- H. If the Zoning Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one year from the date of denial by the Board of the first appeal, unless in the opinion of a majority of the Board substantial new evidence shall be brought forward or unless the Board finds that an error, mistake or misunderstanding of facts has occurred.
- I. Any appeal granted under the provisions of this chapter by the Zoning Board of Appeals shall expire if:
- (1) The work or change involved is not started within one year of the date on which the appeal is granted and/or if the work or change is not substantially completed within two years of the date on which the appeal is granted unless otherwise specifically provided for by the Zoning Board of Appeals; and
 - (2) A certificate indicating the name of the current lot owner, identifying the lot by reference to the last recorded deed in its chain of title and indicating that a variance has been granted, including any conditions on the variance and the date the variance was granted, is not recorded at the York County Registry of Deeds within 90 days of the final written approval.
- J. Appeal of Board's decision. Any decision of the Zoning Board of Appeals may be appealed to Superior Court within 45 days after the decision is rendered according to the Maine Rules of Civil Procedure, Rule 80B.

Article X. Site Plan Approval

§ 145-70. Applicability.

All uses identified as permitted with site plan approval in Article V shall be subject to the requirements of this article in the following situations:

- A. A new use is proposed on a lot;
- B. Resumption of a use which has been discontinued for at least two years is proposed; or
- C. An existing use proposes to expand its gross floor area and/or land area.

§ 145-71. Reviewing authority.

[Amended 4-19-1997]

- A. The reviewing authority for uses or structures requiring site plan review under Article V shall be determined by the Reviewing Authority Chart. *Editor's Note: The Reviewing Authority Chart is included at the end of this chapter.*

[Amended 4-18-1998]

- B. If a particular reviewing authority is set forth in sections of the Wells Municipal Code other than Subsection A of this section for a particular use, structure or procedure that conflicts with the above chart, such other sections of the Code will control with respect to the proper review authority.

§ 145-72. Applications.

[Amended 4-26-1996]

Appropriate application forms shall be available from the Office of Planning and Development. All applications shall be filed with the Office of Planning and Development, and the application fee shall be paid to the Town of Wells.

§ 145-73. Fees.

- A. An application fee as established by the Board of Selectmen, following notice and a public hearing, shall be paid at the time an application is filed.
- B. The applicant shall reimburse the Town for all expenses incurred for notifying abutters of the proposed site plan and advertising of any public hearing regarding the site plan.
- C. The Town staff or Planning Board may employ the services of technical experts to assist it in reviewing applications and in determining appropriate conditions of approval. The applicant shall be informed of the intended use of such services and their approximate cost. A deposit equal to the estimated cost shall be paid to the Town prior to the employment of any such technical experts. The total cost of any such review shall be paid by the applicant prior to the signing of any approved plans. If the entire deposit is not expended, the remaining balance shall be returned to the applicant.

[Amended 4-26-1996; 11-7-2000]

§ 145-74. Review and approval processes.

[Amended 4-28-1995; 4-26-1996; 4-19-1997]

A site plan meeting the standards of this chapter shall be submitted, reviewed and approved by the appropriate reviewing authority before a use permit or building permit may be issued. In cases where a proposal must also be reviewed by any other board or agency, this chapter does not prohibit concurrent or simultaneous reviews by each board or agency separately. However, if any decision affecting a site plan approval application is appealed to the Zoning Board of Appeals pursuant to § 145-67, the Planning Board shall suspend its review of the application pending the outcome of the appeal, unless the Board or its agent has already found the application complete pursuant to Subsection D(3), in which case it will proceed with the review.

A. Preapplication.

[Amended 4-14-2000]

- (1) Prior to submitting an application, the applicant shall submit to the Office of Planning and Development a preapplication form, sketch plan of the subject property showing existing and proposed buildings, parking areas, lot boundaries, adjacent streets, entrances to the property, water bodies, any other significant features, a list of names and addresses of abutters to the proposed project, and a set of Size 10 envelopes addressed to the abutters, affixed with first class postage. The addresses of these abutters shall be obtained from the Town of Wells Tax Assessor's records. Within seven days of receipt of a preapplication by the Office of Planning and Development, the Code Enforcement Officer shall:
 - (a) Determine the level of review to be required under § 14-71 and whether or not the proposed use is a permitted use on the subject lot.
 - (b) If the proposed use is a permitted use on the subject lot:
 - [1] Send or deliver a notice to the applicant and the abutters of such determinations by first class mail.
 - [2] Certify that said notices have been sent or delivered.
 - [3] If the reviewing authority pursuant to § 145-71 is the Code Enforcement Officer, indicate to the applicant the information the applicant needs to submit as part of the application.
 - [4] If the reviewing authority pursuant to § 145-71 is the Staff Review Committee or the Planning Board, place the applicant on the next available agenda for a preapplication meeting, if a preapplication meeting is requested by the applicant.
 - (c) If the proposed use is not a permitted use on the subject lot, send a notice to the applicant of such determination by first class mail and certify that said notice has been sent.
- (2) The abutters' notification sent pursuant to Subsection A(1)(b)[1] above shall include a copy of the preapplication form and an explanation of the purpose of the notification. If the reviewing authority is the Staff Review Committee or the Planning Board and a preapplication meeting with the Committee or Board is requested by the applicant, the preapplication meeting date shall also be included in the notification, and said notification shall be sent or delivered by first class mail at least 10 days before the meeting.
- (3) The Staff Review Committee or the Planning Board at its preapplication meeting with the applicant shall indicate the information which the applicant will be required to submit as part of the application and may schedule an on-site inspection of the property. The Committee or Board may waive any of the submission requirements listed in § 145-77 if it determines that they would not be applicable or are not necessary to determine that the standards of § 145-75 have been or will be met.
- (4) If the applicant does not request a preapplication meeting with the Staff Review Committee or the Planning Board the applicant is encouraged to meet with the Director of Planning and Development to discuss the

project and the information the applicant will be expected to submit as part of the application.

B. Code Enforcement Officer review process.

- (1) Applications for site plan approval are to be filed with the Office of Planning and Development. Within seven days of receiving an application, along with certification that the abutters have been notified of the proposed plan by the applicant, the Code Enforcement Officer shall determine whether the proposed use meets the requirements of Articles **V**, **VI** and **VII** and shall determine whether the application is complete. If it does not meet the requirements of Articles **V**, **VI** and **VII** the Code Enforcement Officer shall notify the applicant in writing that the application has been denied. If it does meet Articles **V**, **VI** and **VII** it shall be reviewed for completeness. If it is not complete, the applicant shall be notified, in writing, of the additional information required to complete the application.
- (2) Within 14 days of determining the application is complete, the Code Enforcement Officer shall approve the application and sign the site plan, approve the application with conditions and sign the site plan or deny the application.

[Amended 11-7-2000]

- (3) The Code Enforcement Officer shall only approve a site plan application if the Code Enforcement Officer determines that the plan meets the criteria of § **145-75**. The Code Enforcement Officer shall prepare written findings of fact, based on the evidence presented, including his conclusions and basis thereof.
- (4) Failure of the Code Enforcement Officer to act on a complete application within 14 days shall constitute a denial of the application.

C. Staff Review Committee process.

- (1) The membership of the Staff Review Committee shall include the Road Commissioner, the Fire Chief, the Police Chief, the Code Enforcement Officer, Town Engineer (if any) and Director of Planning and Development or their designees. The Director of Planning and Development is the Chair of the Committee and shall designate the Vice Chair.
- (2) If there are site plan approval applications to review, the Staff Review Committee shall meet at least two times a month. The meeting schedule shall be established by the Director of Planning and Development by the first day of December for the following calendar year. The agenda for each Staff Review Committee meeting shall be posted in the Town Hall at least seven days prior to the meeting. Scheduled meetings may be rescheduled if the Committee members or their designees are unable to attend to a time agreed to by all applicants on the agenda for the meeting.
- (3) An applicant shall be notified of any Staff Committee meetings at which the applicant's plan will be reviewed and shall have the right to attend any Staff Review Committee meetings at which the plan may be reviewed.
- (4) A new application, revised application or proposed amendment to an approved plan shall be submitted to the Office of Planning and Development at least 10 days prior to the meeting at which it will be considered. The application shall be accompanied by a site plan and the required fee.
- (5) Upon the receipt of an application for site plan approval along with certification that the abutters have been sent or delivered notices of the site plan approval application by the applicant, the Code Enforcement Officer shall review the application and the site plan to determine if the proposed use meets the requirements of Articles **V**, **VI** and **VII**.
 - (a) If the application does or does not meet the requirements of Articles **V**, **VI** and **VII**, the Code Enforcement Officer shall notify the applicant in writing.
 - (b) If the application does meet the requirements of Articles **V**, **VI** and **VII**, the Director of Planning and Development shall place the application on the next meeting agenda of the Staff Review Committee and shall provide the Planning Board with a brief description of the application at its next meeting. At the meeting the Staff Review Committee shall determine if the application is complete. If it is not complete the applicant shall be notified in writing of the information needed to complete the application.
- (6) Upon determining that the application is complete, the Committee shall review the site plan and either approve the application and sign the site plan, approve the application with conditions and sign the site plan or deny the application.
- (7) The Staff Review Committee may only approve an application by a unanimous vote, and its decision shall be based on the criteria found in § **145-75**, and it shall inform the applicant in writing within seven days of its decision stating its reasons. The Committee shall prepare detailed, written findings of fact, based on the evidence presented, and its conclusions and basis thereof.
- (8) The Staff Review Committee shall take action on a complete application within 35 days of its receipt by the Staff Review Committee or within a period of time mutually agreed to by the applicant and the Staff Review Committee. Failure to take action within 35 days or within the mutually agreed to time period shall constitute an automatic denial of the plan.

D. Planning Board review process.

- (1) If there are site plan approval applications to review, the Planning Board shall meet at least two times a month and its meeting agenda shall be posted in the Town Hall at least seven days prior to the meeting. Applications and other supporting submittals shall be filed by the applicant in the Office of Planning and Development at least 10 days before the meeting. Additional materials received from an applicant less than 10 days before a meeting will be held by the Office of Planning and Development staff until the meeting and will be distributed when the application is discussed. Such late submittals may only be considered at the discretion of the Planning Board. The Board shall only consider accepting late submittals upon finding that the content is nontechnical, brief and may be easily reviewed in a short time period, and any parties to the proceeding will have adequate time to review and respond to the submittals.
- (2) Applications for site plan approval are to be filed with the Office of Planning and Development. The application shall be accompanied by a site plan and the required fee along with a certification that the applicant has sent or delivered notices to the abutters of the filing of the site plan approval application. If the abutters have been notified by the Code Enforcement Officer of a preapplication for the same project within the last 60 days pursuant to Subsection **A(1)(b)[1]**, the applicant shall be exempted from notifying the abutters of the site plan application filing. Within seven days of receipt of the application by the Office of Planning and Development, the Code Enforcement Officer shall determine if the proposed use meets the requirements of Articles **V**, **VI** and **VII**. If it does not, the Code Enforcement Officer shall notify the applicant in writing. If it does, the application shall be reviewed for completeness by the Planning Board's agent or placed on a Planning Board agenda for the Planning Board to review for completeness. The applicant may request, in writing, that the Board waive submission of the requirements of **§ 145-77**. The Board may waive any of the submission requirements listed in **§ 145-77** if it determines that they would not be applicable or are not necessary to determine that the standards of **§ 145-75** have been or will be met.
- (3) It is the responsibility of the Planning Board, or its agent if so designated, to determine if the application is complete. If it is the responsibility of the Board to determine whether the application is complete it must be done within 21 days of receipt of the application by the Board. If it is the responsibility of the Board's agent to determine whether the application is complete it must be done within 14 days of receipt of the application by the Office of Planning and Development. The time period for determining completeness may be extended by mutual consent of the applicant and the Planning Board or its agent. If the application is complete it shall be placed on an agenda for presentation to the Board at a public hearing. If the application is not complete, the applicant shall be notified, in writing, of the additional information needed to complete the application. If the additional information or a written request for an extension is not submitted within 60 days of the notification, the application shall be considered to be withdrawn. If the Planning Board's agent has determined that the application is not complete and the applicant believes it is complete, the applicant may request in writing for the application to be placed on the agenda for the next Planning Board meeting and have the Planning Board review the application for completeness.
- (4) Upon determining that a complete application has been submitted, the Office of Planning and Development shall notify the Staff Review Committee members of the application and request their comments on the application in writing.
- (5) Within 35 days of determining that the application is complete the Planning Board shall hold a public hearing on the application.
 - (a) In scheduling public hearings under this section, the Planning Board shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area. The applicant shall be responsible for paying the cost of such notices.
 - (b) The Planning Board shall notify, by certified mail, the applicant and all abutters of the lot involved, including owners of lots on the opposite side of the street, at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing.
 - (c) The lot owners shall be considered to be those against whom taxes are assessed. In the case of condominiums, the condominium association, not each unit owner, shall be notified. Failure of any lot owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
 - (d) At any hearing, a person may be represented by his agent or attorney. Hearings shall not be continued to other times except for good cause.
 - (e) The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions shall be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
- (6) Within 35 days of the public hearing or a period of time agreed to by the applicant and the Planning Board,

the Planning Board shall reach a decision based on the criteria found in § 145-75 and shall inform the applicant in writing within seven days of its decision stating its reasons. The Board shall prepare detailed, written findings of fact and conclusions, based on the evidence presented at the public hearing and evidence presented by the applicant and evidence presented by Town staff.

E. Upon the receipt of a plan signed by the review authority, the Code Enforcement Officer may issue a building permit and/or use permit as long as the plan is in compliance with all local regulations, except this article.

F. Expiration.

[Amended 6-12-2012]

- (1) Site plan approval secured under the provisions of this chapter shall expire within 10 years from the date on which the site plan is signed if all aspects of the site plan approval are not fully completed and established.
- (2) Any site plan approval may include a phasing plan according to an approved time schedule not to exceed 10 years from the date on which the site plan is signed.
- (3) Site plan approval shall expire if a use has been established and then discontinued for two years or more.

G. Amendment to approved site plans.

- (1) An applicant shall request approval for amendments (modifications, erasures, deletions or additions, etc.) to said approved site plan and its conditions or notes, if any, whenever new facts or circumstances arise that would require approval under § 145-70. A new, revised site plan shall be submitted indicating such changes and shall be approved by the same reviewing authority that approved the site plan, unless the Code Enforcement Officer is expressly authorized to approve the amendment according to the table in § 145-71. If the scope of the proposed amendment would ordinarily require a higher reviewing authority, the site plan amendment application shall be submitted to the higher reviewing authority for consideration. The new, revised site plan shall be accompanied by an amendment application form provided by the Office of Planning and Development.

[Amended 4-18-1998; 11-6-2012]

- (a) If the site plan has been approved by a reviewing authority that no longer exists, the Planning Board shall be the reviewing authority for any amendments.
- (b) Conditions of approval or notes written on the face of the site plan may be amended only by the reviewing authority that approved the site plan.
- (c) Upon finding that all applicable standards of the Wells Municipal Code have been met, the reviewing authority shall approve the amended plan. The review of the proposed amendment shall be limited to those portions of the site plan proposed to be changed.
- (2) Upon receipt of an application to amend a previously approved site plan, the Code Enforcement Officer shall follow the procedure for reviewing a site plan review preapplication as set forth in Subsection A. Notice of the filing of an application to amend an approved site plan shall follow the notice procedure for the filing of a preapplication for site plan review as set forth in Subsection A.
- (3) The procedure for reviewing applications to amend a previously approved site plan shall follow the procedure for reviewing a site plan review application as set forth in this section unless the reviewing authority determines that the amendment is of such an inconsequential nature that the full site plan review procedure is not necessary. For applications to amend a previously approved site plan, the reviewing authority may combine the preapplication and application steps and may waive the requirement for a public hearing.
- (4) Field changes to approved site plans.

[Added 4-18-1998]

- (a) Procedure. As noted in the table in § 145-71, the Code Enforcement Officer may approve field changes to approved site plans, regardless of the reviewing authority which approved the plan, when minor variations are necessary during the construction period. In order to be considered a field change, such variations shall be limited to those necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical details as utility location and substitution of equivalent plantings and shall not include any substantial alterations. No field changes may be approved in violation of this chapter or any conditions of approval. Requests for field changes shall be made to the Office of Planning and Development in writing and may be approved or denied, in writing, only by agreement of the Director of Planning and Development and the Code Enforcement Officer or, at their discretion, may be referred to the reviewing authority for its consideration.
- (b) Notice of field changes to reviewing authority. The Director of Planning and Development shall provide copies of all field change requests and approvals or denials to the reviewing authority for consideration at its next available meeting. The Staff Review Committee or the Planning Board may overturn the decision of the Director and Code Enforcement Officer to approve or deny a field change upon finding

that the decision was clearly contrary to this chapter or clearly contrary to any conditions of approval.

- (c) As-built site plans. Prior to the issuance of a certificate of occupancy or use permit, the Code Enforcement Officer shall require the applicant to submit a set of as-built site plan sheets that incorporate any field changes approved by the Director and Code Enforcement Officer pursuant to Subsection **G(4)(a)**. As-built plans shall be annotated clearly to show revision dates and shall contain a signature block for the reviewing authority. Only the sheet or sheets being amended need be submitted for new signatures. Site plans prepared by a licensed engineer, architect or surveyor shall only be altered in accordance with state statutes and regulations regarding stamped plans. A temporary certificate of occupancy or use permit may be issued by the Code Enforcement Officer pending the submittal of as-built site plans and subsequent review by the reviewing authority.
- H. The Planning Board may require that a performance bond or other suitable financial guaranties be posted by the applicant. The form and amount of this bond of financial guaranty must be acceptable to the Town Manager.
- I. Technical assistance. The Code Enforcement Officer, the Staff Review Committee or the Planning Board may, at its discretion, forward a copy of the application, the plans and all supporting documentation to any appropriate technical expert for review. The review may include traffic impact, roadway and parking area design and construction, stormwater management and erosion and sedimentation control, as well as any other concerns of the reviewing authority. The applicant shall pay for the employment of any such experts. (See § 175-73C.)
- J. The Planning Board shall not approve a plan as long as the applicant, owner or developer is in default on a previously approved site plan.

[Added 11-6-2012]

§ 145-75. Criteria and standards.

The following standards shall be applied to all applications for site plan approval. These standards are intended to provide a frame of reference for the applicant in the development of his plans and a method of review. These standards shall be applied reasonably and fairly, when applicable, taking into account any extenuating circumstances or special features of the property or its neighborhood.

- A. Traffic. The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number of exits and entrances that have adequate sight distances and do not conflict with or adversely impact the traffic movements at intersections, schools and other traffic generators. Curb cuts shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable adverse impact on the Town road system and shall provide adequate parking and loading areas. No use or expansion of a use shall receive site plan approval if any parking spaces are located in a public right-of-way or if any travel lane of a state number highway is used as part of the required aisle to access any parking spaces.
- B. Dust, fumes, vapors and gases. Emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited.
- C. Odor. No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond its lot lines, measured either at ground or habitable elevation.
- D. Glare. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto neighboring lots or onto any Town way so as to impair the vision of the driver of any vehicle upon that Town way.
- E. Stormwater runoff. Surface water runoff shall be minimized and detained on site if possible or practicable in accordance with Chapter **202-12F(4)** General Standards of the Wells Subdivision Ordinance (wherein the word "site plan" shall be substituted for "subdivision"). If it is not possible to detain water on site, downstream improvements to the channel may be required of the developer to prevent flooding which would be caused by his project. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible.

[Amended 4-27-2007]

- F. Erosion control. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best-management practices:

[Amended 4-27-2007]

- (1) Stripping of vegetation, soil removal and regrading or other development shall be accomplished in such a way as to minimize erosion.
- (2) The duration of exposure of the disturbed area shall be kept to a practical minimum.
- (3) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

- (4) Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the York County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.
 - (5) Until a disturbed area is stabilized, sediment in runoff water shall be trapped by the use of debris basins, silt traps or other acceptable methods as determined by the reviewing authority.
 - (6) The top of a cut or the bottom of a fill section which alters the existing grade by more than two feet shall not be closer than 10 feet to an adjoining lot.
 - (7) During grading operations, methods of dust control shall be employed.
 - (8) The proposed site plan shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
 - (9) The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
 - (10) Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
 - (11) Topsoil shall be considered part of the site plan and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- G. Setbacks and screening. Parking and loading areas, exposed storage areas, exposed machinery installation and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on the surrounding lots. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.
- H. Explosive materials. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA) standards.
- I. Water quality. All aboveground outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and potentially harmful raw materials shall be located on reinforced cement and shall be completely enclosed by an impervious dike monolithically poured, which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a fifty-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating fuel and diesel fuel, not exceeding 275 gallons in size, shall be exempted from this requirement.
- J. Preservation of landscape. Unnecessary disturbance of the landscape shall be minimized, insofar as practicable, by minimizing tree removal and any grade changes.
- K. Refuse disposal. The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The review board shall consider the impact of particular industrial or chemical wastes or by-products upon the Wells transfer station (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations. The board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.
- L. Water supply. The applicant shall demonstrate the availability of adequate water supply for fire protection and the consumption needs of the proposed development.
- M. Sewage disposal. The applicant shall provide for the safe disposal of all wastewaters.
- N. Fire safety. The site plan shall make adequate provisions for access by fire-fighting equipment and personnel.

§ 145-76. Design guidelines.

The Planning Board shall have the authority to adopt design guidelines which it believes are appropriate to ensure conformance with § 145-75. Any such adopted standards shall be used by all of the reviewing authorities and may only be modified or waived by the Planning Board. The Planning Board, prior to the adoption of any design guidelines, shall hold a public hearing to receive public input concerning any proposed guidelines. Public notice shall be posted at least 10 days but no more than 21 days prior to the hearing.

§ 145-77. Data requirements.

[Amended 4-26-1996]

Any application presented for approval shall include the following information if applicable:

- A. A site plan drawn at a scale not smaller than one inch equals 40 feet and is on a plan 24 inches by 36 inches in size

with a one-inch minimum border which shall contain the following information:

[Amended 6-12-2012]

- (1) The name and address of the applicant plus the name of the proposed development.
- (2) Total floor area, ground coverage and location of each proposed building, structure or addition.
- (3) Perimeter survey of the parcel, made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true or magnetic North, graphic scale, corners of parcel, date of survey and total acreage. The requirement for a certified boundary survey may be waived by the reviewing authority if the proposed construction is located a distance equal to the required setback plus 10 feet from any lot line.
- (4) All existing and proposed setback dimensions.
- (5) The size, location, direction and intensity of illumination of all major outdoor lighting apparatus and signs.
- (6) The type, size and location of all incineration devices.
- (7) The type, size and location of all machinery likely to generate appreciable noise at the lot lines.
- (8) The location, type and size of all existing and proposed catch basins, storm drainage facilities, wetlands, streams and watercourses and all utilities, both above and below ground.
- (9) All existing contours and proposed finished grade elevations of the portions of the site which will be altered and the system of drainage proposed to be constructed. Contour intervals shall be specified by the reviewing authority. This requirement may be waived by the reviewing authority if no additional lot coverage is proposed or the proposed lot coverage is less than 30% and has an area of less than 15,000 square feet.
- (10) The location, type and size of all curbs, sidewalks, driveways, fences, retaining walls and parking space areas and the layouts thereof, together with the dimensions.
- (11) All landscaped areas, fencing and size and type of plant material upon the premises.
- (12) All existing or proposed rights-of-way, easements and other legal restrictions which may affect the premises in question.
- (13) The locations, names and widths of all existing and proposed streets abutting the premises.
- (14) The lot lines of all lots abutting the proposed development, including those lots across the street, together with the names on file in the Town offices as of the date of the application.
- (15) An appropriate place for the signature(s) of the reviewing authority.

B. Documentation of right, title or interest in the proposed site.

C. An on-site soils investigation report by a Maine Department of Human Services licensed site evaluator (unless the site is to be served by public sewer). The report shall identify the types of soil, location of test pits and proposed location and design for the subsurface disposal system.

D. The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.

E. If the proposed use will be connected to the Wells Sanitary District's sewer system, a letter from the Sanitary District stating that adequate line and plant capacity to dispose of the generated sewage will be available.

F. If the proposed use will be connected to the Kennebunk, Kennebunkport and Wells Water District water system, a letter from the Water District stating that adequate line and supply capacity to serve the proposed use will be available.

G. Traffic data. Only the Planning Board may require that a site plan application include a traffic engineering study should the project be considered one of substantial magnitude along any of the Town's state highways where fast-moving traffic occurs (i.e., Route Nos. 1, 109, 9, 9-A and 9-B). Should a traffic study be requested by the Planning Board, the following data shall be included:

- (1) The estimated peak-hour traffic to be generated by the proposal.
- (2) Existing traffic counts and volumes on surrounding roads.
- (3) Traffic accident data covering a recent three-year period.
- (4) The capacity of surrounding roads, municipal facilities, parking and any improvements which may be necessary on such roads and facilities to accommodate anticipated traffic generation.
- (5) The need for traffic signals and signs or other directional markers to regulate anticipated traffic.

H. A soil erosion and sedimentation control plan, prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991.

[Amended 4-27-2007]

I. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of Stormwater Management For Maine: BMPs Technical Design Manual, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site. A drainage analysis may be waived by the Planning Board upon request of the applicant and submittal of a letter from a registered professional engineer stating that there

will be no adverse impacts to adjacent or downstream properties.

[Added 4-27-2007]

- J. Any other information or data the reviewing authority determines is necessary to demonstrate compliance with the standards of § 145-75.

[Added 4-27-2007]

§ 145-78. Appeals.

[Amended 4-26-1996; 4-19-1997]

- A. If the Code Enforcement Officer or Staff Review Committee denies or grants an approval for a site plan application that is objectionable to the applicant or to any abutting landowner or to any aggrieved person who can demonstrate a direct negative impact, or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning of this chapter have been misconstrued or wrongfully interpreted, the applicant, an abutting landowner or an aggrieved person may appeal the decision to the Planning Board within 30 days of the reviewing authority's decision. The Planning Board shall review the site plan application and the decision of the Code Enforcement Officer or the Staff Review Committee.
- (1) If the Planning Board finds that the application meets the criteria of §§ 145-75, 145-76 and 145-77 it shall approve the application.
 - (2) If the Planning Board finds that the application does not meet the criteria of §§ 145-75, 145-76 and 145-77:
 - (a) The Board shall deny the application; or
 - (b) The Board shall allow the applicant to submit to the Planning Board changes to the application to correct the deficiency. If necessary, the Planning Board may conduct any additional meetings sufficient to review submitted changes; or
 - (c) The Board may place conditions of approval on the application which remedy the deficiency.
 - (3) A denial by the Code Enforcement Officer or the Staff Review Committee will automatically be placed on the Planning Board agenda as an appeal unless the applicant withdraws the application.
 - (4) Any appeal to the Planning Board shall be a listed agenda item and appear on a meeting agenda posted as per § 145-74D(1).
- B. If the Planning Board disapproves an application or grants an approval that is objectionable to the applicant or to any abutting landowner or any aggrieved person who can demonstrate a direct negative impact or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning of this chapter have been misconstrued or wrongfully interpreted, the applicant, an abutting landowner or an aggrieved person may appeal the decision of the Planning Board as follows:
- (1) Appeals involving administrative procedure or interpretation of this article may be heard and decided as detailed below:
 - (a) Appeals involving administrative procedure or interpretation of this article shall be from the decision of the Planning Board to the Wells Zoning Board of Appeals and from the Wells Zoning Board of Appeals to the Superior Court according to state law. The procedure at the Zoning Board of Appeals shall be as follows: The appellant's case shall be heard first. To maintain an orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair. The concurring vote of a majority of the members of the Zoning Board of Appeals present and voting shall be required to decide in favor of the applicant on any matter which the Zoning Board of Appeals is required to decide. The applicant shall have the burden of proof. The Zoning Board of Appeals may modify or reverse a decision of the Planning Board only if it finds an error of law, misinterpretation of this Code or misapplication of the law to the facts. If the Zoning Board of Appeals modifies or reverses a decision of the Planning Board, the Zoning Board of Appeals shall remand with instructions for such further action as may be necessary. Review by the Zoning Board of Appeals is limited to the record of the proceedings before the Planning Board and the Zoning Board of Appeals shall not receive or consider any evidence that was not presented to the Planning Board, but the Zoning Board of Appeals may receive and consider oral or written argument. If the Zoning Board of Appeals determines that the record of the Planning Board proceedings is not adequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.
- [Amended 4-12-2003]**
- (b) When errors of administrative procedure are found by the Zoning Board of Appeals, the case shall be referred back to the Planning Board for rectification.
 - (c) When errors of interpretation are found, the Wells Zoning Board of Appeals may modify the interpretation or reverse the order of the Planning Board but may not alter the conditions attached by

the reviewing authority. All changes in conditions, other than changes made by the granting of a variance, shall be made by the Planning Board in accordance with the Wells Zoning Board of Appeals' interpretation.

- (2) Appeals involving conditions imposed by the Planning Board or a decision to deny approval shall be from the Planning Board to the Superior Court when such appeals do not involve administration procedures and interpretations. Questions concerning administrative procedures and interpretations may first be heard and decided by the Wells Zoning Board of Appeals as detailed above.

C. Any appeal of a decision of the reviewing authority shall be filed within 30 days of the decision.

§ 145-79. Violations and penalties.

- A. Failure to comply with any conditions of approval shall be construed to be a violation of this article and shall be grounds for revoking the approved development plan, initiating legal proceedings to enjoin construction development or any specific activity violating the conditions of plan approval or applying the legal penalties detailed in **§ 145-64**.
- B. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the owner to immediately install sedimentation control devices on his lot and to remove sediment from all adjoining surfaces, drainage systems and watercourses and to repair any drainage, at his expense, as quickly as possible. Any landowner that fails to do so within two weeks after official written notification by the Code Enforcement Officer shall be penalized as set forth in **§ 145-64**.