

2008

# Town Codes for the Town of Wells, Maine

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*Town of Wells, ME  
Friday, October 19, 2018*

# **The Charter**

## **Chapter C. Charter**

[HISTORY: Adopted by the Town of Wells as approved 11-4-2008. Amendments noted where applicable.]

### **Article I. Grant of Powers to the Town**

#### **Sec. 1.01. Incorporation.**

The inhabitants of the Town of Wells, within the limits as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by the name of the Town of Wells, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon said Town as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable bylaws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof, to be recovered for such uses as said bylaws, regulations or ordinances shall provide.

#### **Sec. 1.02. Construction.**

The powers of the Town under this Charter shall be construed liberally in favor of the Town so as to enable the Town to exercise any power or function, which has been granted to the Town by law or this Charter, and which is not denied expressly or by clear implication.

#### **Sec. 1.03. Intergovernmental relations.**

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, states or civil divisions or agencies thereof, or the United States or any agency thereof.

### **Article II. Board of Selectmen**

#### **Sec. 2.01. Officers.**

The members of the Town's Board of Selectmen shall be and constitute the municipal officers of the Town of Wells for all purposes required by law, and, except as otherwise herein

specifically provided, shall have all powers and authority given to, and perform all duties required of municipal officers under the laws of this state.

## Sec. 2.02. Composition and eligibility.

- (1) **Composition.** The Board of Selectmen shall be composed of five members, elected by secret ballot at the Annual Town Meeting, or, in the event of vacancy, as provided in Section 2.11(3) for staggered terms of three years.
- (2) **Eligibility.** In order to hold the office of Selectmen, a person must be a resident of and a registered voter in the Town for at least a total of three years.

## Sec. 2.03. Compensation and expenses.

Selectmen shall be compensated for services in an amount to be approved by the voters at the Annual Town Meeting.

## Sec. 2.04. Chairman and Vice-Chairman.

- (1) At its first meeting after the Annual Town Meeting, the Board of Selectmen shall elect a Chairman and Vice-Chairman for the ensuing year.
- (2) The Chairman shall preside at meetings of the Board of Selectmen and shall be entitled to vote on Board matters.
- (3) The Vice-Chairman shall act as Chairman during the absence of the Chairman.
- (4) The Chairmanship shall denote no other special authority.
- (5) The Chairman shall be recognized as the head of the Town government for all ceremonial purposes, but shall have no administrative duties.

## Sec. 2.05. General powers and duties.

All powers of the Town shall be vested in the Board of Selectmen, except as otherwise provided by law or this Charter, and the Board of Selectmen shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law.

## Sec. 2.06. Enumeration of powers.

In addition to such other powers as may be conferred upon them by law and by the Code of the Town of Wells, the Board of Selectmen shall have the following powers and duties:

- (1) To appoint, suspend, and remove the Town Manager, but suspension or removal shall be in accordance with Section 5.04 of this Charter.
- (2) To create, by ordinance, such boards, commissions, and committees as statute, ordinance, the Code of the Town of Wells or this Charter may require, or, as the Selectmen in their discretion deem necessary, and to dissolve, by ordinance, said boards, commissions, and committees, unless otherwise prohibited by law.

- (3) To appoint, fill vacancies, and to remove for cause after notice and hearing, all members of boards, commissions and committees created by statute, ordinance, the Code of the Town of Wells, this Charter or by Board of Selectmen action, unless otherwise provided therein.
- (4) To enact, alter and repeal ordinances, codes, rules and administrative policies; to adopt resolutions; and to issue proclamations unless otherwise restricted by law or this Charter.
- (5) To, by ordinance, create, change and abolish offices, and departments, other than the offices, and departments required by law or this Charter. The Board of Selectmen, by ordinance, may assign additional functions or duties to offices and departments established by this Charter, but may not discontinue or assign to any other office or department any function or duty assigned by this Charter to a particular office or department.
- (6) To prepare, or provide for the preparation of, the Warrants for the Annual Town Meeting and Special Town Meetings and the Annual Town Report, and to set dates for Special Town Meetings.
- (7) To oversee, monitor, and account for all municipal appropriations and to sign warrants authorizing all disbursement of Town funds.
- (8) To set the salary of those officers, officials, and employees of the Town who receive compensation, after reviewing the recommendations of the Town Manager, department heads and/or the Personnel Advisory Committee.
- (9) To enter into negotiations and approve contracts with collective bargaining units representing Town employees.
- (10) To authorize all actions for the enforcement of ordinances to be brought in the name of the Town.
- (11) To enter into and execute contracts on behalf of the Town concerning matters authorized by this Charter, Town Meeting, or otherwise by law, except as delegated to the Town Manager by the Board of Selectmen.
- (12) To authorize all legal activity on behalf of the Town.
- (13) To require, as deemed necessary, a bond from a surety company for all persons entrusted with the collection, custody, or disbursement of any Town monies or Town documents. The premium payments on said bonds shall be paid by the Town.
- (14) To approve, adopt and fund all programs required by state and federal laws.
- (15) To authorize the Tax Collector to accept prepayment of taxes not yet committed for any fiscal year.
- (16) To set interest for any given year at a rate authorized by the state for taxes not paid within 45 days following each due date, and to set interest for any given year at a rate authorized by the state that the Town must pay for overpayment of taxes.
- (17) To sell and convey tax-acquired property at public auction and/or as otherwise prescribed by the Code of the Town of Wells or determined by a vote of the Town Meeting, and to execute and deliver quit-claim deeds, without covenant, for the conveyance of such property and to provide for the removal of tax liens from public records as justice may require, as they shall deem to be in the best interests of the Town.



- (18) To accept gifts and donations to the Town. Such gifts and donations shall be distributed in accordance with the donor's intent.
- (19) Upon request of the municipal Treasurer, to waive foreclosure of a tax lien on a specified property for a specified tax year (with reference to the Tax Lien Certificate recorded in the York County Registry of Deeds), in circumstances where the Board of Selectmen determines it is in the best interest of the Town to waive foreclosure because the risk of owning the property outweighs the tax obligation when the costs of owning the property exceed the anticipated taxes or value at auction. The tax lien mortgage, after the recording of such waiver, shall then continue to be in full force and effect. (State law reference: Enforcement of Lien on Real Estate, 36 M.R.S.A. § 944 et seq.)
- (20) To authorize, after one year but within three years from the date of commitment of taxes, such reasonable tax abatement as they consider proper to correct any illegality, error, or irregularity in assessment. The municipal officers may not grant an abatement to correct an error in the valuation of property. The Selectmen shall also have the power, within three years from commitment, to abate the real and personal taxes on the primary residence of any person who, by reason of infirmity or poverty, is in their judgment unable to contribute to the public charges. (State law reference: Abatement, 36 M.R.S.A. § 841 et seq.)
- (21) To expend during each fiscal year, up to \$100,000 from the Undesignated Fund Balance to provide the Town's match to federal, state and non-profit grants following a public hearing. These funds cannot be used for additional personnel or land acquisition.
- (22) To provide for a review of this Charter at intervals not to exceed 10 years; however, the Selectmen shall provide for a review of this Charter within five years of its effective date.

## Sec. 2.07. Induction of Selectmen into office.

Following the day of election or as soon thereafter as practicable, all Selectmen members-elect shall be sworn to the faithful discharge of their duties by the Town Clerk or by any other person authorized to administer an oath.

## Sec. 2.08. Judge of qualifications.

The Board of Selectmen shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office as set forth in Section 2.11(2), and for that purpose shall have the power to subpoena witnesses as provided in Section 13.04, administer oaths and require the production of evidence. A Selectman charged with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least one week in advance of the hearing. Decisions made by the Board of Selectmen under this section shall be subject to review by the Superior Court.

## Sec. 2.09. Procedure.

- (1) Meetings. The Board of Selectmen shall meet regularly at least once in every month at such times and places as the Board of Selectmen may prescribe by rule. Special meetings may be held on the call of the Chairman or of three or more members and, when practicable, upon no less than 12 hours' notice, to each member. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster

means used to notify the Board of Selectmen. All meetings shall be public. However, the Board of Selectmen may recess for the purpose of discussing in a closed or executive session, limited to its own membership and the manager or qualified officers and advisors concerned with the matter to be discussed, any matter which qualifies under state statute, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Board of Selectmen until the matter is placed on the agenda.

- (2) Rules and minutes. The Board of Selectmen shall, by resolution, adopt its own rules and order of business. The Town Manager's office shall give notice of Board of Selectmen meetings to its members and to the public, and shall keep minutes of its proceedings. Such minutes shall be a public record.
- (3) Voting. Voting shall be by the ayes and nays and shall be recorded in the minutes. Three members of the Board of Selectmen shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Board of Selectmen. At least 12 hours' notice of the time and place of holding such adjourned meetings shall be given to all members who were not present at the meeting from which adjournment was taken and to the public. No action of the Board of Selectmen, except as otherwise provided in the second sentence of this subsection, shall be valid or binding unless adopted by the affirmative vote of a majority of those members of the Board of Selectmen in attendance.

## Sec. 2.10. Prohibitions.

- (1) Holding other office. Except where authorized by law, no Selectman shall hold any other office or employment with the Town during the term for which the Selectman was elected to the Board of Selectmen, and no former Selectman shall hold any compensated employment with the Town as an individual until one year after the expiration of the term for which the Selectman was elected.
- (2) Appointments and removals. The Board of Selectmen may express its views with the Town Manager pertaining to appointment and removal of any Town administrative officers or employees whom the Manager or any of his/her subordinates are empowered to appoint, but neither the Board of Selectmen nor any of its members shall in any manner dictate the appointment or removal of any such officers and employees.
- (3) Interference with administration. The Board of Selectmen or its members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Manager solely through the Town Manager, and neither the Board of Selectmen nor its members shall give orders to any such officer or employee, either publicly or privately.

## Sec. 2.11. Vacancy; forfeiture of office; filling of vacancies.

- (1) Vacancy. A vacancy in the Board of Selectmen shall occur by one or more of the following means:
  - (a) Nonacceptance;
  - (b) Resignation;
  - (c) Death;

- (d) Failure to qualify for the office within 10 days after written demand by the municipal officers;
  - (e) Failure of the municipality to elect a person to office;
  - (f) Forfeiture of office;
  - (g) Recall and removal; or
  - (h) Any other manner authorized by law or this Charter.
- (2) Forfeiture of office. A Selectman shall forfeit his/her position if the Selectman:
- (a) Lacks any qualification for the office prescribed by this Charter or by law;
  - (b) Violates any express prohibition of this Charter; or
  - (c) Fails to attend three consecutive regular meetings of the Board of Selectmen without being excused by the Board of Selectmen.
- (3) Filling of vacancies. If for any reason a vacancy shall exist in the membership of the Board of Selectmen for more than six months prior to the next regular municipal election, the vacancy shall be filled by a special election for the unexpired portion of the term. In the event such vacancy occurs less than six months prior to the next regular municipal election, the vacancy may be filled for the unexpired portion of the term by a special election to be called by the municipal officers. Any such special elections shall be conducted in accordance with the provisions of Article XI.

## Sec. 2.12. Action requiring an ordinance from the Board of Selectmen.

In addition to other acts required by law or by specific provisions of this Charter to be enacted by ordinance, those acts of the Board of Selectmen shall be by ordinance which:

- (1) Adopt or amend an administrative code;
- (2) Provide for a fine or establish a rule or regulation by which a fine is imposed;
- (3) Adopt, with or without amendment, ordinances that are proposed under the initiative power; and
- (4) Amend any of the following ordinances contained in the Code of the Town of Wells: Chapter **53** (Planning Board); Chapter **91** (Building Construction); Chapter **116** (Flood Management); Chapter **122** (Ground Water); Chapter **132** (Historic Preservation); Chapter **145** (Land Use); Chapter **201** (Streets and Sidewalks) and Chapter **202** (Subdivision of Land). Amendments to the ordinances referenced herein may only be made by the Selectmen if the Town Planner, the Code Enforcement Officer and a majority of both the Planning Board and Board of Appeals all concur that immediate action is required to provide clarity and/or guidance in the administration and/or enforcement of said ordinances. In all other circumstances, the adoption, amendment, revision or repeal of land use ordinances and/or any ordinances referenced in this subsection requires Town Meeting approval.

## Sec. 2.13. Ordinances in general.

- (1) Form. Every proposed ordinance shall be introduced for final consideration in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The Town of Wells hereby ordains...". Any ordinance which repeals or amends an existing ordinance or part of the Code of the Town of Wells shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate the new matter by underscoring or by italics.
- (2) Procedure. An ordinance may be introduced by any Selectmen at any regular or special meeting of the Board of Selectmen. The Town Manager's office shall provide a copy to the Selectmen, shall post a copy in a conspicuous place in the municipal office, and shall make a reasonable number of copies available to the public. Before final adoption, a notice setting out the time and place for a public hearing thereon shall be published in a newspaper of general circulation. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special Board of Selectmen meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard at the public hearing. After the public hearing, the Board of Selectmen may adopt the ordinance with or without amendment or reject it.
- (3) Effective date. Except as otherwise provided in this Charter, every ordinance adopted by the Board of Selectmen shall become effective at the expiration of 30 days after adoption or at any later date specified therein. Any ordinance adopted by the Town Meeting shall become effective immediately upon adoption.  
[Amended 11-6-2012]

## Sec. 2.14. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Board of Selectmen may adopt one or more emergency ordinances in the form and manner prescribed for ordinances generally, but such emergency ordinances may not levy taxes or authorize the borrowing of money. An emergency ordinance may be adopted with or without amendment or rejected, but the affirmative vote of at least three members shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify.

Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

## Sec. 2.15. Codes of technical regulations.

The Board of Selectmen, after input and recommendations from the Planning Board, the Zoning Board of Appeals, the Town Planning Office and/or the Town Code Enforcement Office, may amend previously adopted standard codes of technical regulations (e.g., building codes, electrical codes, plumbing codes) by reference thereto in an adopting ordinance after a public hearing. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that any moratorium shall be voted on at a Town Meeting according to state law:

- (1) The procedures set forth in Section 2.13 for distribution and submission of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and

- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the Town Clerk pursuant to Section 2.16(1). Copies of any adopted code of technical regulations shall be made available by the Town Clerk for distribution or for purchase at a price fixed by the Board of Selectmen.

## Sec. 2.16. Authentication and recording; codification; printing.

- (1) Authentication and recording. The Town Clerk shall authenticate by his or her signature and record in full in a properly indexed book, kept for that purpose, all duly adopted ordinances and resolutions.
- (2) Codification. The Board of Selectmen shall provide for the preparation of a general codification of all Town ordinances and resolutions having the force and effect of law. The general codification, at least every 10 years, shall be adopted by the Board of Selectmen by ordinance and shall be published promptly in bound, electronically recorded, and/or loose-leaf form, together with this Charter and any amendments thereto, and such codes of technical regulations and other rules and regulations as the Board of Selectmen may specify. This compilation shall be known and cited officially as the Code of the Town of Wells. Copies of the Code of the Town of Wells shall be furnished to Town officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Board of Selectmen.
- (3) Printing of ordinances and resolutions. The Board of Selectmen shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Board of Selectmen. Following publication of the Code of the Town of Wells and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code then currently in effect and shall be suitable in form for integration therein.

## Article III. Boards, Commissions, and Committees

### Sec. 3.01. Appointments; interview by Selectmen; records of appointment.

All regular and alternate members of any board, commission or committee shall be appointed by the Board of Selectmen as provided in this Charter and the Code of the Town of Wells, unless otherwise required by law. Alternate members shall vote in the absence of regular members. All appointments shall be in writing and signed by the Board of Selectmen. Prior to the appointment of any regular or alternate member to any board, commission or committee, the Board of Selectmen shall interview the prospective member, with at least quorum present. The Town Clerk shall maintain the official record of all appointments to any board, commission or committee.

### Sec. 3.02. Boards, commissions, and committees whose members must be residents.

All regular and/or alternate members of the following boards, commissions and committees shall be made from among the qualified resident voters of the Town, which members must remain qualified resident voters during their term of office:

1. Board of Assessment Review.
2. Budget Committee.
3. Capital Improvement Committee.
4. Planning Board.
5. Zoning Board of Appeals.
6. Conservation Commission.
7. Voter Registration Appeals Board.

### **Sec. 3.03. Boards, commissions, and committees whose members need not be residents:**

All regular and/or alternate members of the following boards, commissions and committees shall be made from among residents and nonresidents, but none of the following boards, commissions or committees shall have a majority of nonresident members, and they shall be chaired by a resident member.

1. Shellfish Conservation Commission.
2. Historic Preservation Commission.
3. Recreation Commission.
4. Cable T.V. Committee.
5. Personnel Advisory Committee.
6. Solid Waste and Recycling Committee.
7. Condo Lodging Committee.
8. Public Access Advisory Committee.
9. Harbor Advisory Committee.

### **Sec. 3.04. Prohibited simultaneous membership.**

No regular or alternate member of the Zoning Board of Appeals shall simultaneously be a regular or alternate member of the Planning Board, Site Review Committee, Historic Preservation Commission or the Conservation Commission.

### **Sec. 3.05. Terms.**

Both regular and alternate members shall be appointed to any board, commission or committee for staggered terms of three years unless otherwise prescribed by law. In the event

that a vacancy arises, it shall be filled by appointment by the Board of Selectmen for the unexpired term.

## Sec. 3.06. Chairman, Vice-Chairman, and recording secretary.

Members of all boards, commissions and committees shall elect a Chairman and Vice-Chairman to serve for the ensuing twelve-month period. The Vice-Chairman shall preside as acting Chairman in the absence of the Chairman. Each board, commission or committee shall have a recording secretary, who may or may not be a member of that board, commission or committee. The recording secretary shall attend meetings and shall prepare and distribute meeting minutes to all members of the board, commission and committee members and to the Town Clerk.

## Article IV. Recall of Elected Officials

### Sec. 4.01. Applicability.

Any elected official, as defined in Section 11.01, may be recalled and removed from office by the qualified voters of the Town as provided herein.

### Sec. 4.02. Petition by voters.

On the written petition of a number of voters equal to at least 20% of the number of qualified voters who voted in the most recent gubernatorial election, the Board of Selectmen shall, by order, call for a Special Town Meeting for the purposes of holding a recall election as provided herein.

### Sec. 4.03. Petition procedure; procedure after filing.

Petition procedures shall be those set forth in 30-A M.R.S.A. §§ 2102(3) and (4), or any successor statute, except:

- (a) The required wording in Subsection 3.B(1) shall be as follows:

"Town of Wells"

"Each of the undersigned voters respectfully requests the Board of Selectmen to provide for a special election on the question of recalling and removal of (insert name and address) from the office of \_\_\_\_\_."

- (b) This required wording is to be followed by a statement of the reason(s) why recall and removal is sought.
- (c) Any notice required to be furnished to the petitioners' committee must also be given to the elected official whose recall is sought, by the same means and in the same time frame.

### Sec. 4.04. Calling of election.

Within 20 days of receiving the Town Clerk's certificate of sufficiency, or of the Board of Selectmen's determination of sufficiency, the Board of Selectmen shall, by order, call for a Special Town Meeting for the purposes of holding a recall election. Said election shall not be held earlier than 45 days nor later than 60 days after the determination of sufficiency has been made, unless another Town Meeting is already scheduled to occur within 90 days of said determination. In such a case, the recall election may be postponed, at the Board of Selectmen's discretion, to the date of such scheduled Town Meeting.

## Sec. 4.05. Form of ballot.

The question submitted to the voters shall be in substance as follows:

"Do you favor recalling and removing (name and address)  
from the office of \_\_\_\_\_?" YES NO

## Sec. 4.06. Count of ballot.

For any elected official to be recalled and removed from office, both the following criteria must be satisfied:

- (a) The majority of valid votes cast must favor recall and removal.
- (b) The total number of valid votes cast must equal or exceed 40% of the number of qualified voters who voted at the time of the most recent municipal regular election.

## Sec. 4.07. Limitation on recall.

No elected official shall be subject to more than two recall elections in any term.

# Article V. Town Manager

## Sec. 5.01. Appointment; qualification; compensation.

The Town Manager shall be chosen by the Board of Selectmen solely on the basis of character, executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of office set forth in this Charter, and may or may not be a resident of the Town of Wells or of the State of Maine when appointed, but, while in office, may reside outside the Town or state only when specified by contract. The Board of Selectmen shall appoint a Town Manager for a term to be determined by the Board of Selectmen unless otherwise specified by contract, and the Board of Selectmen shall fix the Town Manager's compensation.

## Sec. 5.02. Powers and duties of the Town Manager.

The Town Manager shall be the chief administrative officer of the Town, and shall be responsible to the Board of Selectmen for the administration of all Town affairs placed in the Town Manager's charge by or under this Charter or otherwise, and shall have the following powers and duties. The Town Manager shall:



- (1) Appoint and prescribe the duties of all statutory officers and department heads. In the case of department heads, the Town Manager shall consult with the Board of Selectmen before making the appointment to the extent described in Section 2.10(2). The Town Manager may, when necessary for the good of the Town, suspend or remove officers and employees of the Town appointed by the Town Manager, except as otherwise provided in this Charter or by law. The Town Manager may authorize the head of a department or office to appoint, suspend or remove subordinates in such department or office in accordance with personnel rules as may be established by ordinance. All such action conducted in accordance with this subsection shall be reported to the Board of Selectmen;
- (2) Direct and supervise the administration of all departments and offices of the Town, except as otherwise provided by this Charter or by law;
- (3) With the consent of the Board of Selectmen, serve as the head of one or more departments or offices of the Town of Wells;
- (4) Attend all Board of Selectmen meetings, except when the Town Manager's removal is being considered or when excused by the Board of Selectmen, and shall have the right to take part in discussion, but may not vote;
- (5) Faithfully execute all applicable laws, Town ordinances, and provisions of this Charter;
- (6) Prepare and submit the annual proposed budget, incorporating the Capital Improvement Program, to the Board of Selectmen and be responsible for budget administration after adoption;
- (7) Prepare and submit to the Board of Selectmen as of the end of the fiscal year, a complete report on the finances and administrative activities of the Town for the preceding year, and cause such annual report to be published and made available to the public as promptly as possible after the close of the fiscal year;
- (8) Make such other reports as the Board of Selectmen may require concerning appointments and the operations of Town departments and offices subject to the Town Manager's direction and supervision;
- (9) Keep the Board of Selectmen fully advised as to the financial condition and future needs of the Town and make such recommendations to the Board of Selectmen concerning the affairs of the Town as the Town Manager deems advisable;
- (10) Act as purchasing agent for all departments of the Town, except any quasi-municipal entities, and provide, in case of quasi-municipal agencies, for cooperative purchasing arrangements where feasible;
- (11) Prepare or amend an administrative code when necessary, and submit it to the Board of Selectmen for adoption pursuant to Section 2.12(1) and be responsible for its administration after adoption;
- (12) Assist, insofar as possible, residents and taxpayers in discovering the remedial processes in cases involving complaints of unfair vendor, administrative and governmental practices; and
- (13) Perform such other duties as are specified in this Charter or as may be required by the Board of Selectmen.

## Sec. 5.03. Vacancy in the Office of Town Manager.

In the temporary absence or disability of the Town Manager, the Town Manager shall, if able, designate, subject to approval of the Board of Selectmen, a properly qualified person to perform the duties of the Town Manager and the Board of Selectmen shall fix his/her compensation. While so acting, he/she shall exercise the powers and perform the same duties of the Town Manager. During such absence or disability, the Board of Selectmen may revoke such designation at any time and appoint another qualified person to serve until the Town Manager shall return or his/her disability shall cease. No member of the Board of Selectmen shall be appointed to serve as Town Manager during such absence or disability. If the Town Manager is unable to designate a person to serve in his/her temporary absence or disability, the Board of Selectmen shall appoint a qualified person to serve in this capacity.

## Sec. 5.04. Removal of the Town Manager.

The Town Manager may be removed or suspended for cause by the Board of Selectmen in accordance with the provisions of Maine law.

- (1) The Board of Selectmen shall file with the Town Clerk a written preliminary resolution setting forth the specific reasons for the proposed removal, a copy of which shall be delivered to the Town Manager within 10 days of filing.
- (2) The Town Manager may, within 20 days of receiving the resolution, reply in writing and may request a public hearing.
- (3) Upon request for a public hearing the Board of Selectmen shall hold one not earlier than 10 days after the request is filed nor later than 30 days.
- (4) After the public hearing, or at the expiration of the time permitted the Town Manager to request the public hearing, if no such request is made, the Board of Selectmen may adopt or reject the resolution of removal.
- (5) The Board of Selectmen may suspend the Town Manager from duty in the preliminary resolution, but in no event shall the Town Manager's salary be affected until the final resolution of removal has been adopted.
- (6) In the event of any conflict with the provisions of Maine law concerning the removal of the Town Manager, the provisions of Maine law shall supersede the provisions of this section.
- (7) If the Office of Town Manager becomes vacant, the Board of Selectmen shall appoint an acting Town Manager as soon as practicable.

## Article VI. Administrative Departments

### Sec. 6.01. Direction by Town Manager.

All departments and offices under the direction and supervision of the Town Manager may be administered by an officer appointed by and subject to the direction and supervision of the Town Manager.

### Sec. 6.02. Personnel system.

- (1) Appointments and promotions. All appointments and promotions of Town officers and employees, subject to the direction and supervision of the Town Manager, shall be made

solely on the basis of merit and fitness demonstrated by examinations or other evidence of competence.

- (2) Personnel Director. The Town Manager shall be the Personnel Director.
- (3) Personnel rules. The Personnel Director shall prepare personnel rules, which the Board of Selectmen shall adopt by ordinance with or without amendment. These rules shall provide for:
  - (a) The classification of all Town positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
  - (b) A pay plan for all Town positions;
  - (c) Methods for determining the merit and fitness of candidates for appointment or promotion, demotion or dismissal;
  - (d) The policies and procedures regulating reduction in force and removal of employees;
  - (e) A retention and retirement plan for all Town employees;
  - (f) The hours of work, attendance regulations and provisions for sick and vacation leave;
  - (g) The policies and procedures governing persons holding provisional appointments;
  - (h) The policies and procedures governing relationships with employee organizations;
  - (i) Policies regarding in-service training programs;
  - (j) Grievance procedures, including procedures for the hearing of grievances by the Personnel Advisory Committee, which may render advisory opinions based on its findings to the Town Manager with a copy to the aggrieved employee;
  - (k) Provide for the manner of identifying and bonding personnel as deemed advisable; and
  - (l) Other practices and procedures necessary to the administration of the Town personnel system.

## Sec. 6.03. Personnel Advisory Committee.

There shall be a Town Personnel Advisory Committee whose members and alternates shall be appointed by the Board of Selectmen as provided in this Charter and in the Code of the Town of Wells. The Personnel Advisory Committee shall have such powers and perform such duties as provided by law and the Code of the Town of Wells.

## Article VII. Financial Procedures

### Sec. 7.01. Fiscal Year.

The Fiscal Year of the Town shall begin on the first day of July and end on the last day of June.

## Sec. 7.02. Submission of proposed budget and budget message.

- (1) Not later than 75 days before the Annual Town Meeting, the Town Manager shall submit to the Board of Selectmen and the Budget Committee his/her recommendations and a proposed budget for the ensuing fiscal year.
- (2) At least 45 calendar days before the vote of the Annual Town Meeting on the budget, the Board of Selectmen shall complete the proposed Town budget for all the departments for the ensuing fiscal year, and an accompanying message.
- (3) The Board of Selectmen shall hold a public informational meeting on the proposed budget at least 10 days before the Annual Town Meeting.

## Sec. 7.03. Proposed budget message.

The budget message shall explain the proposed budget both in fiscal terms and in terms of the work plans. It shall outline the proposed financial policies of the Town for the ensuing fiscal year; describe the important features of the proposed budget; indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reason for such changes; summarize the Town's debt position; and include such other material as the Town Manager deems desirable.

## Sec. 7.04. Proposed budget.

The proposed budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Town Manager deems desirable or the Board of Selectmen shall require. In organizing the proposed budget, the Town Manager shall utilize the most feasible combination of expenditure classifications by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding year. It shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices and departments in terms of their respective work plans; and
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices and departments where practicable.

## Sec. 7.05. Form of budget articles.

Each budget article presented to the Annual Town Meeting shall set forth a specific sum to be raised or appropriated for a specific purpose. Each such article shall be accompanied by recommendations from the Board of Selectmen and the Budget Committee, which recommendations shall be printed in the warrant for the Annual Town Meeting and on the Annual Budget Referendum ballot. If any article fails to pass, it shall be funded at the previous year's approved amount.

## Sec. 7.06. Capital Improvement Program.

- (1) Submission to Town Manager. The Board of Selectmen shall prepare and present a ten-year capital improvement program at least 90 calendar days prior to the final date for submission of the proposed budget.
- (2) Contents of Capital Improvement Program. The Capital Improvement Program shall include:
  - (a) A clear general summary of its contents;
  - (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
  - (c) Cost estimates, method of financing and recommended time schedules for each such improvement; and
  - (d) The estimated annual cost of operating and maintaining the facilities or capital items to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

## Sec. 7.07. Board of Selectmen action on proposed budget.

- (1) Fiscal cooperation. The Budget Committee shall make recommendations to the Board of Selectmen to promote coordinated financial planning and fiscal cooperation among all municipal and quasi-municipal agencies and organizations within the Town.
- (2) Notice and hearing. The Board of Selectmen shall publish as soon as possible in one or more newspapers of general circulation in the Town the general summary of the proposed budget and a notice stating:
  - (a) The times and places where copies of the message and proposed budget are available for inspection by the public; and
  - (b) The time and place, not less than 14 calendar days after such publication, for a public hearing on the proposed budget.
- (3) Amendment before adoption. After the public hearing, the Board of Selectmen may finalize the proposed budget with or without amendment. In amending the proposed budget, it may add or increase programs or amounts and may delete or decrease any program or amounts, except expenditures required by law or for debt service or for estimated cash deficit.
- (4) Filing with Town Clerk. The Board of Selectmen must file with the Town Clerk a certification page of all articles for the Annual Budget Referendum and any associated appendices for the warrant at least 45 days before the Annual Town Meeting.

## Sec. 7.08. Adoption of Town budget.

- (1) Adoption by secret ballot referendum at Annual Town Meeting. The annual budget shall be voted on by secret ballot referendum on the second Tuesday in June at the Annual Town Meeting.

- (2) Articles for Annual Budget Referendum. The ballot shall consist of up to 20 articles and shall include the following articles:
- (a) Operations.
  - (b) Salary.
  - (c) Capital Improvement Plan.
  - (d) Capital expenditures.
  - (e) Any new positions through separate articles per department.
  - (f) New programs.
  - (g) Allocation of undesignated fund balance to off-set taxes.
- (3) Form of articles for Annual Budget Referendum. In the warrant, each article shall make reference to an appendix item, which shall break down the overall expenditure by category and department. Each article for the Annual Budget Referendum shall contain the recommendations of the Board of Selectmen and the Budget Committee both in the warrant and on the ballot. Except when seeking to appropriate funds from the Undesignated Fund Balance, each article on the Annual Budget Referendum ballot shall be worded as follows:

"Shall the Town vote to raise and appropriate \$\_\_\_\_\_ for \_\_\_\_\_."

Board of Selectmen Recommends (Yes/No) (# For / # Against)

Budget Committee Recommends (Yes/No) (# For / # Against)

"If this Article is defeated, the appropriation for this Article shall be the amount approved at last year's Annual Budget Referendum."

If the article seeks to appropriate funds from the Undesignated Fund Balance, the article shall be presented as prescribed in this subsection except that the question shall read as follows:

"Shall the Town vote to appropriate and expend from the Undesignated Fund Balance \$\_\_\_\_\_ for \_\_\_\_\_."

- (4) LD-1 override. If the proposed budget would require an over-ride of the municipal spending limit established by LD-1 [30-A M.R.S.A. § 5721-A(7), as amended], an article for that purpose shall be added to the Annual Budget Referendum ballot. If the over-ride article is defeated, the Board of Selectmen shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may, by ordinance, reduce one or more appropriations.

## Sec. 7.09. Bond issues; ballots.

- (1) Projects financed through bonds must be submitted to voters. All capital projects which are to be financed through the issuance of bonds must be submitted to the qualified voters of the Town by secret ballot referendum at the Annual Town Meeting or at a Special Town Meeting, after public hearings in the manner and form prescribed in Section 2.13(2), and shall become effective immediately after such Town Meeting, provided a majority of the legal votes cast shall be in the affirmative.
- (2) Ballots. The Town Clerk shall prepare the necessary ballots for said secret ballot referendum. The question for each project proposed shall be as follows:

"Shall the Town of Wells Board of Selectmen be authorized to issue bonds in a total amount not to exceed \_\_\_\_\_ for the purpose of \_\_\_\_\_."

Yes \_\_\_\_\_ No \_\_\_\_\_

Board of Selectmen Recommends (Yes/No) (# For / # Against)

Budget Committee Recommends (Yes/No) (# For / # Against)

The municipal Treasurer shall prepare a signed statement which shall be printed on or accompany each ballot. The statement must set forth:

- (1) The total amount of bonds of the municipality outstanding and unpaid; the total amount of bonds of the municipality authorized and unissued; the total amount of bonds of the municipality contemplated to be issued if the project(s) submitted receive voter approval; and the bonding limit of the municipality;
- (2) A brief and general description of each project together with an estimate and explanation of costs involved including varying interest rates, the estimated cost of interest on the bond amount to be issued, the total cost of principal and interest to be paid at maturity and any other substantive information relating to the debt of the municipality as the Treasurer may deem appropriate;
- (3) A statement that the validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the estimate made pursuant to Paragraph (2). If the actual amount of the total debt service for the bonds varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bonds is not affected by reason of the variance; and
- (4) A listing of proposed revenue sources if the bonds are to be financed, in whole or in part, by other than general property taxes.

## Sec. 7.10. Public records.

Copies of the budget and the Capital Improvement Program as adopted shall be public records and shall be made available to the public at suitable places in the Town.

## Sec. 7.11. Amendments after adoption.

- (1) Supplemental appropriations. If during the fiscal year the Town Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Board of Selectmen by ordinance may make supplemental appropriations for the year up to the amount of such excess, but not to exceed an aggregate amount of \$50,000.
- (2) Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the Board of Selectmen may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.14. To the extent that there are no available unappropriated revenues to meet such appropriations, the Board of Selectmen may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals shall be paid not later than the last day of the fiscal year in which the emergency appropriation was made.
- (3) Reduction of appropriations. If at any time during the fiscal year it appears probable to the Town Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report to the Board of Selectmen without delay, indicating the estimated amount of the deficit, any remedial action taken by him/her, and his/her recommendations as to any other steps to be taken. The Board of Selectmen shall then

take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may, by ordinance, reduce one or more appropriations.

- (4) Transfer of appropriations. At any time during the fiscal year the Town Manager may transfer part or all of any unencumbered appropriation balance among programs within a Department or office and, upon written request by the Town Manager, the Board of Selectmen may by ordinance transfer a part or all of any unencumbered appropriation balance from one department or office to another.
- (5) Limitations; effective date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

## Sec. 7.12. Lapse of appropriations.

Except as otherwise provided in this Charter or by law, every appropriation, after review by the Board of Selectmen, may lapse at the close of the fiscal year into the Undesignated Fund Balance to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

## Sec. 7.13. Administration of budget.

- (1) Work plans and allotments. At such time as the Town Manager shall specify, each department or office shall submit work plans for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Town Manager shall review with the Board of Selectmen and authorize such allotments with or without revision as early as possible in the fiscal year. The Town Manager may revise such allotments during the year if he/she deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriation.
- (2) Payments and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Town Manager or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or to meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and the officer shall also be liable to the Town for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action was made or approved by ordinance or by Town Meeting vote.

## Sec. 7.14. Independent annual audit.

The Board of Selectmen shall provide for an independent annual audit of all Town accounts and may provide for such additional audits as it deems necessary. Such audits shall be made



by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Town government or any of its offices.

Prior to the end of the fiscal year, the Board of Selectmen shall designate a firm of certified public accountants to make an independent audit of accounts and other evidence of financial transactions of the Town government for the current fiscal year and to submit their report to the Board of Selectmen. Such accountants shall not maintain any accounts or records of Town business, but shall post-audit the records and documents maintained by the Town and any separate or subordinate accounts maintained by another office or department of Town government. This information shall be published in the Annual Town Report.

## Article VIII. Tax Administration

### Sec. 8.01. Assessor.

There shall be established a Division of Assessment, the head of which shall be a single Assessor, who shall be appointed by the Board of Selectmen. The Assessor shall be chosen for the Assessor's ability with special reference to the Assessor's actual experience or the Assessor's knowledge of accepted practices with respect to the duties of the Assessor's office. The Assessor shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the State of Maine may exercise and may now or hereafter be subject to under the laws of the state. (State law reference: Powers and Duties of Assessors, 36 M.R.S.A. § 701 et seq.)

### Sec. 8.02. Payment of taxes.

Property taxes are due and payable as follows: 1/2 of the taxes shall be due and payable on the date of commitment; the other 1/2 of the taxes shall be due and payable six months from the date of commitment.

### Sec. 8.03. Board of Assessment Review.

There shall be a Town Board of Assessment Review whose members and alternates shall be appointed by the Board of Selectmen as provided in this Charter and in the Code of the Town of Wells, unless otherwise required by law. Members and alternates of the Board of Assessment Review shall not otherwise be connected with Town government and must at all times during their term of office be residents and registered voters of the Town of Wells. Members and alternates of the Board of Assessment Review shall have such powers and perform such duties as provided by law and by the Code of the Town of Wells.

## Article IX. Budget Committee

### Sec. 9.01. Budget Committee.

- (1) Composition. There shall be a Town Budget Committee whose members and alternates shall be appointed by the Board of Selectmen as provided in this Charter and in the Code of the Town of Wells unless otherwise required by law and shall have such powers and perform such duties as provided by law and the Code of the Town of Wells.
- (2) Secretary. The Town Treasurer shall serve as Secretary to the Budget Committee, and he/she shall attend all Budget Committee meetings or send his/her representative to the

meetings. The Town Treasurer, as Secretary, shall prepare and distribute all meeting minutes to members, and he/she shall notify all department heads of scheduled budget review meetings.

- (3) Town Manager. The Town Manager shall attend Budget Committee meetings, when and as appropriate.

## Sec. 9.02. Responsibilities of the Budget Committee.

In addition to those duties and responsibilities prescribed by law and the Code of the Town of Wells, the Budget Committee shall have the following responsibilities:

- (1) The Budget Committee's fiduciary responsibility is to the taxpayers of the Town of Wells.
- (2) The Budget Committee shall meet at least once per month, for each ten-month period of the current Fiscal Year, and at the discretion of the Chairman, may meet more frequently.
- (3) The Budget Committee shall review all individual proposed budgets submitted by department heads, and it shall work with department heads and the Town Manager to improve financial efficiencies within each proposed budget.
- (4) The Budget Committee shall recommend to the Town Manager and the Board of Selectmen additions or subtractions of monies within each proposed budget submitted by individual department heads.

## Sec. 9.03. Budget Committee's review process.

- (1) By December 1 of each year, the Budget Committee and the Board of Selectmen shall conduct a meeting with all department heads to begin the budget process.
- (2) No later than January 15 each year, all department heads shall have completed their proposed budgets to be reviewed by the Budget Committee.
- (3) No later than February 15 each year, all financial requests for the following Fiscal Year shall be completed and ready for the Budget Committee's review.
- (4) By March 1 each year, all revenue projections, bonding issues and requests proposed by the Capital Improvement Committee shall be submitted and reviewed by the Budget Committee.
- (5) No later than April 1 each year, a joint meeting of the Board of Selectmen and the Budget Committee shall take place in order to perform a reconciliation of the proposed budget.
- (6) No later than April 20 each year, the Budget Committee and the Board of Selectmen shall hold a joint public hearing on the proposed budget. After the public hearing is closed, the Budget Committee and the Board of Selectmen shall determine the final reconciled budget, as set forth in Section 7.07(3).

## Article X. Planning

### Sec. 10.01. Planning Board

There shall be a Town Planning Board whose members and alternates shall be appointed by the Board of Selectmen as provided in this Charter and the Code of the Town of Wells unless otherwise required by law and shall have such powers and perform such duties as provided by law and the Code of the Town of Wells.

## Sec. 10.02. Comprehensive Plan.

There shall be a Comprehensive Plan as provided by law.

## Sec. 10.03. Zoning Ordinance.

There shall be a Zoning Ordinance as provided by law.

## Sec. 10.04. Zoning Board of Appeals.

- (1) Composition. There shall be a Town Zoning Board of Appeals whose members and alternates shall be appointed by the Board of Selectmen as provided in this Charter and the Code of the Town of Wells unless otherwise required by law and shall have such powers and perform such duties as provided by law and the Code of the Town of Wells.

# Article XI. Nominations, Elections, and Town Meetings

## Sec. 11.01. Elected officials.

The elected officials of the Town of Wells shall include the Town Clerk and the Board of Selectmen and do not include those quasi-municipal officials governed by charters and/or bylaws other than the Charter of the Town of Wells.

## Sec. 11.02. Municipal elections.

The regular election for all elected municipal and quasi-municipal officials for the Town of Wells shall be held at the Annual Town Meeting in conjunction with the Annual Budget Referendum.

## Sec. 11.03. Nominations.

Any qualified resident voter, subject to the provisions of eligibility found in Section 2.02, may be nominated for elected office in accordance with Maine law. [State law reference: Nomination by Petition, 21-A M.R.S.A. § 351 et seq.; Choice and Qualifications of Town Officials, 30-A M.R.S.A. § 2526(3).]

## Sec. 11.03 . Conduct of elections.

The provisions of the statutes of the State of Maine relating to the qualifications of voters, the registration of voters, the nominations for any office, the manner of voting, absentee voting, the duties of election officers and all other particulars relative to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all elections,

except as otherwise provided in this Charter. (Elections generally, see 21-A M.R.S.A. § 1 et seq.; Town Meetings and Elections, 30-A M.R.S.A. § 2521 et seq.)

## Sec. 11.04. Election officials.

- (1) The Board of Selectmen shall annually, or at least 10 days before any election, appoint a Warden, Deputy Warden and Clerks, in addition to the regular ballot clerks, for each voting place.
- (2) There shall be a Registrar of Voters, who shall be appointed as provided in this Charter, and shall have such powers and perform such duties as provided by law.

## Sec. 11.05. Town Meeting.

- (1) Purpose. The voters of the Town of Wells reserve to themselves the right to approve certain actions as specified in this Charter. To that end, this Charter establishes a Town Meeting, by secret ballot referendum, as provided herein.
- (2) Governing statute. The Town Meeting is governed by the provisions of Titles 30-A and 21-A of the Maine Revised Statutes Annotated, except as otherwise provided in this Charter.
- (3) Subjects requiring Town Meeting approval. Except as otherwise specifically provided in this Charter or required by law, only the following matters are subject to Town Meeting disposition:
  - (a) Amendment, change, revision or repeal of the Comprehensive Plan, or adoption of a new Comprehensive Plan.
  - (b) Adoption, amendment, revision or repeal of land use ordinances, except as provided in Section 2.12(4).
  - (c) Sale, lease, or management control of real property excepting property acquired for nonpayment of taxes.
  - (d) Unless fully funded by bond issue under Section 7.09, or by a dedicated reserve account, any expenditure greater than \$100,000, per item, project, or an aggregate of same, for:
    - (1) Acquisition of real property;
    - (2) Acquisition of motor vehicles or equipment; or
    - (3) Repair, renovation, or new construction of buildings or structures.
  - (e) Unless an emergency appropriation under Section 7.11(2), any appropriation greater than \$100,000:
    - (1) From the unencumbered surplus; or
    - (2) is supplemental to the current annual budget.
- (4) Annual Town Meeting. The Annual Town Meeting shall be held on the second Tuesday in June. In addition to any other issue properly before the Town Meeting, voting on the Annual Budget Referendum and the regular election of all municipal officials shall be conducted at the Annual Town Meeting.

- (5) Voter information. The Town Clerk must make provision for the warrant for the Annual Town Meeting, to be mailed to all legal mailing addresses within the Town of Wells at least 14 days prior to the Annual Town Meeting.

## Article XII. Initiative and Referendum

### Sec. 12.01. Petition for enactment of ordinances.

Voters of the Town may at any time propose the enactment, by secret ballot referendum, of any lawful ordinance or amendments to existing ordinances by filing a petition stating the complete text of such ordinance, and signed by a number of qualified voters of the Town totaling not less than 10% of the number of qualified voters of the Town who cast votes in the previous gubernatorial election with the Town Clerk. The power of petition, however, shall not extend to ordinances regarding the following matters: the budget, the capital improvement program, appropriation of money, levy of taxes, and personnel matters, including, but not limited to, the appointment and/or removal of Town officers or employees. The Board of Selectmen shall call a public hearing in the manner prescribed in Section 2.13(2), but to be held within 30 days from the date of the certification of such petition by the Town Clerk, and shall within 60 days after said public hearing hold a Special Town Meeting, unless another Town Meeting is already scheduled to occur within 90 days of said public hearing. In this case, the initiative shall be voted upon at the scheduled Town Meeting. If prior to the Town Meeting at which the petition is to be acted upon, such ordinance shall be enacted by the Board of Selectmen in the manner prescribed for ordinances in general, such ordinance shall take effect in the same manner as ordinances of the same kind adopted by the Board of Selectmen, provided a majority of those voting shall have voted in the affirmative.

Any such proposed ordinance shall be examined by an attorney for the Town before it is submitted to the voters. The attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, and to assure accuracy in its text and references and clarity and precision in its phraseology, but he/she shall not materially change its meaning and effect. If, in the opinion of the attorney, the proposed ordinance is illegal or unconstitutional, it shall not go forward. (State law reference: 30-A M.R.S.A., Meetings and Elections, Chapter 121, § 2522.)

### Sec. 12.02. Repeat petitions.

Any proposed ordinance failing enactment by referendum vote may be the subject of a subsequent petition, which, if brought within two years next following the failed vote, shall be governed by the provisions of Section 12.01, except the referendum vote must be held at the next Annual Town Meeting, or at any intervening Special Town Meeting called for any purpose other than the petition itself, provided the petition is filed with the Town Clerk at least 90 days prior to the date of such Town Meeting.

### Sec. 12.03. Petition for overrule of ordinance of Board of Selectmen.

If, within 30 days after the enactment of any ordinance by the Board of Selectmen, a petition signed by a number of qualified voters of the Town totaling not less than 5% of the number of qualified voters of the Town who cast votes in the previous gubernatorial election is filed with the Town Clerk requesting its reference to a referendum, the Board of Selectmen shall call a public hearing to be held within 30 days from the date of the certification of a petition requesting such action to be taken with the Town Clerk, and shall, within 14 days after said public hearing set a date for a Special Town Meeting for the purposes of submitting to a

referendum vote the question of repealing such ordinance. The referred ordinance shall be suspended upon certification of the petition by the Town Clerk, pending action by the voters of the Town by a majority of the legal votes cast on said question.

## Sec. 12.04. Form of ballot.

The form of the ballot for the enactment of the proposed ordinance (or repeal of ordinance) shall be substantially as follows: Shall the proposed ordinance(or repeal of ordinance) entitled " \_\_\_\_\_ " be enacted (or repealed)? Yes \_\_\_\_\_ No \_\_\_\_\_.

## Article XIII. General Provisions

### Sec. 13.01. Financial conflict of interest.

- (1) General standard. All Town officials shall attempt to avoid an actual or perceived financial conflict of interest by abstention or disclosure. The Town of Wells establishes these provisions in addition to those set forth in 30-A M.R.S.A. § 2605.
- (2) Definitions. For the purposes of this article, the following definitions apply: "Official" means an elected or appointed member of a Town board. "Family member" means an official's grandparents, spouse, parent, child, sister, brother, stepparent, stepchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and a person with whom any of the foregoing share a committed relationship. "Financial interest" means any direct or indirect interest involving at least 10% ownership in a public or private economic entity, or direct or indirect ownership or control of real property.
- (3) Disclosure. If an official, employee or family member has a financial interest in an issue before the official's board, the official shall disclose that interest and:
  - (a) Abstain from all board discussion debate, and voting on the issue until concluded; or
  - (b) Request a determination be made on the question if the issue involves a financial conflict of interest sufficient to disqualify the member from participation.
  - (c) An official involved in the negotiation or award of a contract does not have a financial conflict of interest when the contract is the result of a publicly advertised bid procedure.
- (4) Determination protocol. Upon disclosure and request for determination, the determination is made by the board members present, excluding the member in question, by majority vote, unless a greater number is required by rule, ordinance, or this Charter. If the vote favors disqualification, the member is excused from all board discussion, debate, and voting on the issue until concluded and is recorded as abstaining.
- (5) Record of conflict. The meeting minutes shall reflect any abstention due to conflict and the reasons therefor.
- (6) Rights retained. An official who is excused from an issue due to the provisions of this section retains the right to such participation as is afforded members of the public.

### Sec. 13.02. Code of Ethics.

The Town shall maintain and update a Code of Ethics as described in Chapter 230 of the Code of the Town of Wells.

## Sec. 13.03. Prohibited conduct.

- (1) Equal opportunity. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any Town position or appointive Town administrative office because of race, gender, age, nationality, handicap, sexual orientation, political or religious opinions or affiliations.
- (2) Impartiality. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made hereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (3) Wrongful monetary consideration. No person who seeks appointment or promotion with respect to any Town position or appointive Town administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with any test, appointment, proposed appointment, promotion or proposed promotion.
- (4) Political solicitation. No Town official shall directly or indirectly, orally, by letter or otherwise solicit or assist in soliciting from any person in the employ of the Town any assessment, subscription or contribution for any political party or political purpose whatever.
- (5) Withholding information. With the exception of information that is confidential by statute, no Town official shall withhold information of any nature relevant to a matter before any board.
- (6) Use of public resources. No Town official shall use public resources that are not available to the general public for private or personal gain, e.g., Town staff time, equipment, supplies or facilities.
- (7) Gifts and favors. No Town official shall, by virtue of public office or position, take advantage of services or opportunities for personal gain that are not available to the public in general. Examples of services or opportunities for personal gain are gifts of any kind, favors, promises of future gifts or gain.

## Sec. 13.04. Summons before Board of Selectmen.

The clerks of the Supreme Judicial, Superior and District Courts may issue summonses for witnesses to attend and produce books, documents and papers at any meeting of the Board of Selectmen for the Town of Wells at which a hearing is had in any matter regarding any alleged dereliction of duty by Town officers or employees.

## Sec. 13.05. Oath of office.

Every official of the Town shall, before entering upon the duties of the office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Wells, and will faithfully discharge the duties of the office of \_\_\_\_\_, so help me God."

## Article XIV. Transitional Provisions

### Sec. 14.01. Repealing clause.

The following private and special laws of Maine, 1959, Chapters 31 and 39, and 1961, Chapter 173, and 1963, Chapter 160, and all other acts and parts of acts of the private and special laws of Maine relating to the Town of Wells, inconsistent with the provisions of this Charter, are repealed.

### Sec. 14.02. Separability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby.

### Sec. 14.03. Short title.

This Charter shall be known and may be cited as the "Board of Selectmen-Town Manager-Town Meeting Charter of the Town of Wells." The Clerk shall cause it to be printed and made available to the public promptly.

### Sec. 14.04. Expiration of terms of present elected officials.

The terms of all of the present elected Town officials shall expire when their successors are duly elected and inducted into office or appointed and sworn into office.

### Sec. 14.05. Officers and employees.

- (1) Rights and privileges preserved. Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are Town officers or employees at the time of its adoption.
- (2) Continuance of office or employment. Except as specifically provided by this Charter, if, at the time this Charter takes full effect, a Town administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he/she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he/she vacate the office or position.
- (3) Continuance of members of present boards. Members of all boards and commissions holding office at the time this Charter takes effect shall continue in office until their term of office has expired and their successors have been duly appointed and qualified.

### Sec. 14.06. Pending matters.



All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the Town department or office appropriate under this Charter.

## Sec. 14.07. Municipal laws.

All ordinances, codes, resolutions, rules and regulations of the Town and votes of the Town Meeting that are in force on the effective date of this Charter, which are not inconsistent with the provisions of this Charter, shall continue in force until amended or repealed.

## Sec. 14.08. Effective date.

After adoption of this Charter by voters of the Town in conformity with Title 30-A M.R.S.A. § 2105(4)(A), this Charter shall become effective on July 1, 2009, which is the first day of the next succeeding municipal year; provided, however, that this Charter shall become effective immediately for the purposes of conducting any Town meetings and elections required by this Charter.

# The Code

## Part I: Administrative Legislation

### Chapter 1. General Provisions

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

## Article I. Adoption of Code

[Adopted 11-7-2000]

### § 1-1. Adoption of Code.

[Amended 6-14-2016]

The various chapters and articles of the 1985 Code of the Town of Wells, and subsequent ordinances of the Town of Wells of a general and permanent nature adopted by the Town Meeting and Board of Selectmen of the Town of Wells, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 212, together with certain regulations contained in Chapter 230, are hereby approved, adopted, ordained and enacted as the "Wells Municipal Code," hereinafter referred to as the "Code."

### § 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede the 1985 Code of the Town of Wells and all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

## § 1-3. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the legislation in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such legislation and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior legislation.

## § 1-4. When effective.

This ordinance shall take effect immediately upon passage and publication according to law.

## § 1-5. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the Town Clerk, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

## § 1-6. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Town Meeting or Board of Selectmen to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Wells Municipal Code" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

## § 1-7. Publication; filing.

The Clerk of the Town of Wells, pursuant to law, shall cause to be published, in the manner required by law, a copy of this Adoption Ordinance. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

## § 1-8. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

## § 1-9. Sale of Code book.

Copies of the Code may be purchased from the Clerk upon the payment of a fee to be set by the Board of Selectmen, following notice and a public hearing, and the Board of Selectmen may also arrange for procedures for the periodic supplementation thereof.

## § 1-10. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Wells to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine of not more than \$100.

## § 1-11. Severability.

- A. Severability of Code provisions. Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.
- B. Severability of ordinance provisions. Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

## § 1-12. General penalty.

- A. Any person violating or failing to comply with any provision of this Code or committing any act or omission to act declared to be a civil violation or unlawful, where no specific penalty is provided therefor, shall be punished by a civil penalty of not more than \$100. All civil penalties collected for violations of the Code shall be paid to the Town of Wells, unless the Code specifies otherwise.
- B. In case of the amendment of any section of the Code for which a penalty is not provided, the general penalty as provided in Subsection A above shall apply to the section as amended or, in case the amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in the other section shall be held to relate to the section so amended, unless the penalty is specifically repealed therein.

## § 1-13. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

## § 1-14. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-13 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to August 1, 2000.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the town's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.

## § 1-15. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Wells Municipal Code, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsections B and C hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Meeting that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. The following changes are made throughout the Code:
  - (1) References to the "Personnel Board" and the "Board of Personnel and Review" are amended to read "Personnel Advisory Board."

- (2) References to the "Board of Assessment Review" are amended to read "Assessment Review Board."
  - (3) References to the "Street Commissioner" are amended to read "Road Commissioner."
  - (4) References to the "Clam Conservation Commission" are amended to read "Shellfish Conservation Committee."
  - (5) References to the "Board of Appeals" and "Board of Zoning Appeals" are amended to read "Zoning Board of Appeals."
  - (6) References to "fine" are amended to read "civil penalty."
  - (7) References to "misdemeanor" are amended to read "civil violation."
  - (8) Each section which contains a specific fee is amended to delete the fee amount and replace it with the wording "as established by the Board of Selectmen, following notice and a public hearing." Each section which already refers to fees being established by the Board of Selectmen is amended to add the wording "following notice and a public hearing."
- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance.<sup>[1]</sup> (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)
- [1] *Editor's Note: Schedule A is included in the copy of this ordinance on file in the Town Clerk's office.*

## Chapter 3. Administrative Procedures

[HISTORY: Adopted by the Town of Wells 11-2-2004. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Sale of municipal equipment — See Ch. 40.

### § 3-1. Short title; authority.

This chapter shall be known and may be cited and referred to as the "Administrative Procedures Ordinance of the Town of Wells." This chapter is enacted pursuant to the home rule authority granted the Town by the Maine Constitution, Article 8, Part Second, and by 30-A M.R.S.A. § 3001.

### § 3-2. Intent and purpose.

It is the intent and purpose of this chapter to delegate to the Board of Selectmen such authority in administrative matters as the Town Meeting has delegated to the Board of Selectmen annually so as to improve the efficiency and effectiveness of the Town government.

### § 3-3. When effective; amendment.

This chapter shall be effective upon enactment by the Town Meeting and shall remain in effect until amended. It may be amended at any Town Meeting.

## § 3-4. Authority granted to the Board of Selectmen:

### A. Tax acquired property.

- (1) The Board of Selectmen is authorized to sell and convey tax-acquired property at a public sale to be conducted in Wells in a manner to be determined by the Board. For property that was tax-acquired by the Town prior to June 13, 2009, there is no duty of notification to the prior owner nor does the prior owner have any right to repurchase the tax-acquired property. For property that was tax-acquired by the Town after June 13, 2009, the Board shall make one attempt to notify the prior owner of any property acquired by reason of the foreclosure of a tax lien within 10 days of the date of the automatic foreclosure and shall offer to sell and convey the property back to its former owner upon payment of all unpaid taxes, interest, and all costs incurred by the Town with respect to the property (including but not limited to notice, recording, publication, attorneys' fees and auctioneer's fees and maintenance costs). If the former owner has not repurchased the property within 60 days of the foreclosure date, the Board of Selectmen shall decide whether the Town should keep the property or sell it. If the Board decides to keep the property, the former owner may repurchase it upon payment of all unpaid taxes of all outstanding taxes, interest, and costs incurred by the Town within 90 days of the Town's decision to keep the property. If the former owner does not repurchase the property within 90 days, the right to repurchase terminates. If the Board of Selectmen decides to sell the property, the former owner may repurchase it at any time prior to a public sale upon payment of all outstanding taxes, interest, and costs incurred by the Town. The Board of Selectmen is hereby authorized to execute and deliver quit-claim deeds without covenant in the furtherance of the same.

[Amended 6-13-2009; 2-7-2012]

- (2) The Board of Selectmen is authorized to sell and convey any time-share estates acquired by the Town through the foreclosure of tax liens as the Board deems necessary or in the best interest of the Town, following the procedure outlined in Subsection A(1) of this section, except that a public sale is not required. The Board is hereby authorized to sell tax-acquired time-share estates using whatever method, including but not limited to, public sale, negotiated sales, or use of internet auction sites, the Selectmen in their discretion consider in the best interests of the Town. The Board of Selectmen shall hold a public hearing to discuss the alternatives for disposing of the units prior to deciding on a method of sale.
- (3) The Board of Selectmen may execute and deliver quit claim deeds at its discretion for the purpose of removing tax liens, which have not been discharged through inadvertence, from public records when the taxes for which the lien is recorded have been paid.

- B. Accept forfeited property and/or funds. The Board of Selectmen, acting as the municipal officers, may accept forfeited property and/or funds, in whatever amounts or types become available, transferred to the Town by the State of Maine or the United States Government pursuant to state or federal civil or criminal forfeiture proceedings, provided that funds may not be expended without an appropriation by the legislative body .
- C. Acceptance of gifts of money or personal property. The Board of Selectmen may accept gifts of money or personal property to the Town, provided that funds may be expended only to the extent the funds supplement a specific appropriation already made.
- D. Acceptance of conditional gifts of money and personal property. The Board of Selectmen may accept conditional gifts of money to the Town, provided that funds may not be

expended without a specific appropriation. The Board may also accept conditional gifts of personal property to the Town and direct the use of the property in the manner specified by the donor.

- E. Authority to accept grants. The Board of Selectmen is authorized to apply for and accept state and federal grants and grants from nonprofit organizations on behalf of the Town for municipal purposes, provided that the expenditure of grant funds shall be pursuant to an appropriation of funds.
- F. Authority to accept drainage, utility, sight distance, sidewalk, snow storage, pedestrian right-of-way and dry hydrant/water supply access easements. The Board of Selectmen is hereby authorized to accept, on behalf of the Town, drainage, utility, sight distance, sidewalk, snow storage, pedestrian rights-of-way and dry hydrant or water supply access easements as the Board deems appropriate and in the best interest of the Town. The Board of Selectmen shall have said easements recorded in the York County Registry of Deeds and shall file a copy of each easement with the Town Clerk.

## Chapter 5. Assessments

[HISTORY: Adopted by the Town of Wells 11-6-1990. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Taxation — See Ch. 204.

### § 5-1. Assessor.

There shall be a single Assessor appointed by the Board of Selectmen as set forth in 30-A M.R.S.A. § 2526(5). He shall perform all duties and responsibilities provided for assessors under general law. The salary, hours and working conditions of the Assessor shall be determined by the Board of Selectmen. The Assessor may be removed by the Board of Selectmen for cause after notice and hearing. Cause shall not include any disagreement with respect to an assessing practice employed by the Assessor where such practice is generally accepted and lawful.

### § 5-2. Assessment Review Board.

- A. An Assessment Review Board consisting of five members and two alternate members shall be appointed by the Board of Selectmen, with the responsibility for arbitration of taxpayer appeals and authority to abate assessments in the light of said appeals. One member shall be appointed for one year, one member for two years, and the remaining member for three years, and one of the alternates shall be appointed for one year and the other alternate for two years. During the transition to a five-member board, with two alternates, the new members shall be appointed as follows: one member for three years and one member for two years; if new alternates are appointed because one or more alternates is appointed as a Board member, then one alternate shall be appointed for one year and one alternate for two years. Thereafter, the terms of each member or alternate shall be for three years.

[Amended 11-8-2005]

- B. The Chairman shall designate which alternate member will serve in the place of the absent or abstaining member and act on said Board in place of any member who may be unable to act. A quorum of three shall be present to act, and abatement shall be allowed by a majority vote of those present and voting. The Assessment Review Board shall follow the procedure set forth in 30-A M.R.S.A. § 2691(3) and § 5-3 of this chapter. The

Assessment Review Board shall annually elect a Chairman and a Secretary from its membership. Vacancies due to death, resignation or other cause shall be filled with a Board of Selectmen appointment for the remainder of the unexpired term.  
[Amended 10-1-1992; 11-7-2000]

## § 5-3. Rules of procedure.

- A. Hearing procedures. When a taxpayer requests a hearing, he is to be notified of the date, time and place for that hearing in writing and he will also be given adequate preliminary information and time to ensure effective preparation of his case. At a minimum, he will be given the following information, which will govern all hearings. All hearings will:
- (1) Be conducted in a convenient place within the Town of Wells, open to the public and to:
    - (a) The taxpayer, witnesses, legal counsel or others whom he wishes to be present; and
    - (b) The Tax Assessor and his agents, legal counsel or others selected by the hearing authority for their planned participation in the hearing.
  - (2) Be opened with a presentation of the issue by the Chairman (or Chairman Pro Tem).
  - (3) Be conducted informally, but under oath, without technical rules of evidence, but subject to requirements of due process. All evidence having reasonable probative value shall be admissible but all immaterial, irrelevant and unduly repetitious evidence shall be excluded.
  - (4) Allow the taxpayer and the Tax Assessor the option to present their positions for themselves or with the aid of others, including legal counsel.
  - (5) Give all participants an opportunity:
    - (a) To present oral or written testimony or documentary evidence;
    - (b) To offer rebuttal;
    - (c) To question witnesses;
    - (d) To examine all evidence presented at the hearing; and
    - (e) To view the property in issue, provided both parties (the taxpayer and the Assessor, together with legal counsel) shall have the right to be present, and evidence or testimony shall not be offered at the time of the review. Both parties may nevertheless call to the attention of the Board those things which they wish the Board to observe, without further comment during the review. The review may precede or follow the hearing itself as the Board shall determine.
  - (6) Result in a decision, based exclusively on evidence or testimony presented at the hearing and the observation of the Board on any view taken.
  - (7) Be permanently recorded, having a written decision (see Subsection B, Disposition of hearing decision) filed with evidence introduced at the hearing. The hearing will allow the taxpayer to establish all pertinent facts and circumstances and to advance any arguments without undue interference. Non-record information that either party does not have an opportunity to hear or see is not used in the hearing decision



or made part of the hearing record. The hearing authority shall not review any material prior to the hearing, unless the same material is made available to both parties and their legal counsel, if any.

- B. Disposition of hearing decision. The decision of the Assessment Review Board will be binding on the Tax Assessor and will be communicated in writing to the taxpayer and to the Tax Assessor, Tax Collector and Town Treasurer within 10 days after completion of the hearing. The taxpayer shall be furnished with a copy of the notice of decision and the hearing record and a copy of the tax or assessment record maintained by the Tax Assessor, if requested.
- (1) Written notice of decision will contain the following:
    - (a) A statement of the issue;
    - (b) Pertinent provisions in the law related to the decision;
    - (c) Relevant facts brought out at the hearing; and
    - (d) The decision and reason for it.
  - (2) The written notice of decision shall comply with the requirements of 36 M.R.S.A. § 842. The notice of decision shall state that the Town or the taxpayer may appeal the decision in accordance with the procedure set forth in 36 M.R.S.A. § 843 if dissatisfied with the decision of the Assessment Review Board. Appeals shall be to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure or to the State Board of Property Tax Review. The notice of decision shall specify that the forum for the appeal is the Superior Court or the State Board of Property Tax Review.  
[Amended 11-7-2000]
- C. Role of the Chairman. The Chairman or Chairman Pro Tem shall:
- (1) Make such rulings as may be required during a hearing, unless any member objects, in which case the ruling shall be determined by majority vote.
  - (2) Swear all witnesses, using the following oath or affirmation: "Do you solemnly swear (affirm) that the testimony you are about to give in the matter now in hearing shall be the truth, the whole truth and nothing but the truth, so help you God (under the pains or penalties of perjury)."
  - (3) Maintain order at all hearings and may exclude any person or persons from the hearing room who are disorderly and interfere with the orderly conduct of the hearing.
- D. Other rules; conflicts of interest.
- (1) The Assessment Review Board shall make such other reasonable rules of procedure as may be required.
  - (2) Any member of the Assessment Review Board shall abstain from acting on an appeal in which said member has a pecuniary or personal interest.

## Chapter 10. Budget Committee

[HISTORY: Adopted by the Board of Selectmen of the Town of Wells 5-4-1982. Amendments noted where applicable.]

## § 10-1. Membership.

[Amended 2-17-1998; 4-27-2007; 1-17-2017]

The Wells Budget Committee, appointed by the Board of Selectmen, shall consist of seven members and three alternate members, all of whom shall be Wells residents. Members and alternates shall be appointed for terms of three years.

## § 10-2. Vacancies.

[Amended 4-27-2007]

Any new member of the Budget Committee shall be appointed by the Board of Selectmen from the alternates. Vacancies which occur among the alternate members shall be advertised in local newspapers and shall be filled by appointment of the Board of Selectmen.

## § 10-3. Compensation.

Budget Committee members shall serve without compensation.

## § 10-4. Responsibilities.

- A. The Budget Committee may participate in an advisory capacity with the Personnel Advisory Board in conducting the salary survey for municipal employees in even years and in the calculating of wages and salaries to be recommended for municipal employees, the mechanics of which are outlined in the Personnel Advisory Board's bylaws, rules and regulations.<sup>[1]</sup>

<sup>[1]</sup> *Editor's Note: See Ch. 49, Personnel Policies.*

- B. The Budget Committee may inquire into and make recommendations on any article presented to an Annual or Special Town Meeting which provides for borrowing, transferring, raising or appropriating any sum of money, the only exception being recommendations on wages and salaries, which shall be determined as outlined in Subsection A. Budget Committee recommendations shall be printed on the warrant.
- C. The Budget Committee will work with the Ogunquit Budget Committee and inquire into and make recommendations on the budget presented to the Wells/Ogunquit Community School District meeting for consideration.

## § 10-5. Budget study.

- A. The Budget Committee shall be furnished with a complete copy of the annual budget, together with the recommendations of the Board of Selectmen, at least six weeks prior to the closing date for the Town Meeting warrant.
- B. The Budget Committee will study the budget and meet with the individual department heads (or representatives) to examine the budget line by line. Prior to making a final recommendation, each department head (or representative) will be informed of any proposed revisions and given a chance of rebuttal.

## § 10-6. Preparation of articles for voters.

The Budget Committee will work with the Board of Selectmen and Town Manager in discussing financial articles to be included in the warrant to be presented to the voters. The Budget Committee report shall include a summary of expenses, by department, for informational purposes (i.e., salaries, operating expenses, capital outlay and total expenses). The format and data should be arranged in a manner to be compatible with the Town computer's capability.

## § 10-7. Duties prior to printing of report.

Prior to the printing of the Budget Committee report, the Budget Committee will meet with the Board of Selectmen and Town Manager to determine which revenue sources and amounts will be applied to which accounts. Figures will be verified at this time, and the warrant will be checked, article by article, for errors, omissions and completeness.

## Chapter 14. Emergency Management

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

### § 14-1. Short title; authority.

[Amended 4-28-2006]

This chapter shall be known and may be cited and referred to as the "Emergency Management Ordinance of the Town of Wells" authorized under 37-B M.R.S.A. §§ 781 to 834 as enacted by P.L. 1983, c. 460.

### § 14-2. Intent and purpose.

- A. It is the intent and purpose of this chapter to establish an office that will ensure the complete and efficient utilization of all of the Town's facilities to combat disaster as defined herein.
- B. The Wells Office of Emergency Management will be the coordinating agency for all activity in connection with emergency management.  
[Amended 4-28-2006]

### § 14-3. Definitions.

[Amended 11-7-2000; 4-28-2006]

The following definitions shall apply in the interpretation of this chapter:

#### **DIRECTOR**

The Director of the Wells Office of Emergency Management, appointed as prescribed in this chapter.

#### **DISASTER**

The occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

**EMERGENCY MANAGEMENT**

The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots or other hostile action or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, fire fighting, police, medical and health, emergency welfare, rescue, engineering, air raid warning and communications services; radiological, chemical and other special weapons defense; evacuation of persons from stricken areas; economic stabilization; allocation of critical materials in short supply; emergency transportation; existing or properly assigned functions of plant protection; other activities related to civilian protection; and other activities necessary to the preparation for the carrying out of these functions.

**EMERGENCY MANAGEMENT FORCES**

The employees, equipment and facilities of all Town departments, boards, institutions and commissions, and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

**EMERGENCY MANAGEMENT VOLUNTEER**

Any person duly registered, identified and appointed by the Director of the Office of Emergency Management.

**LOCAL**

Restricted to the geographic boundaries of Wells or Wells and the municipalities adjacent to it.

**REGULATIONS**

Includes plans, programs and other emergency procedures deemed essential to emergency management.

**TOWN MANAGER**

The person duly appointed to the position of Town Manager by the Board of Selectmen or the designated person selected by the Board of Selectmen in the Town Manager's absence.

## § 14-4. Office of Emergency Management.

[Amended 4-28-2006]

An Office of Emergency Management is hereby established within the Executive Department of the Town government and under the direction of the Town Manager.

- A. Organization. The Town Manager is hereby authorized to organize the Office of Emergency Management utilizing to the fullest extent possible the existing agencies within the Town.
- B. Administration and operation.
  - (1) There shall be an executive head of the Office of Emergency Management who shall be known as the Emergency Management Director. The Director shall be appointed by the Board of Selectmen and work under the direction of the Town Manager.
  - (2) In addition to the Director, the office shall include such other assistants, employees and emergency management volunteers as are deemed necessary for the proper functioning of the organization. Any necessary employee shall be hired by the Director with the consent of the Town Manager.

- (3) The Office of Emergency Management shall operate according to this chapter and regulations which shall be approved by the Wells Selectmen and which may be amended from time to time by the Selectmen. No regulation or amendment shall be approved or adopted by the Selectmen during a declared emergency.

## § 14-5. Emergency proclamation.

Whenever a local disaster exists or appears imminent, the Town Manager, or his designee, by majority approval of the Board of Selectmen, shall, by proclamation, declare that fact and that an emergency exists in the municipality. A copy of the proclamation shall be posted in the same manner as the warrant calling a Town Meeting, and a copy of the proclamation shall be filed with the Clerk. Local representatives of the media shall be contacted and informed about the proclamation as soon as possible.

## § 14-6. Emergency powers and duties.

- A. During any period when a local disaster has been proclaimed or when the Governor has proclaimed a disaster pursuant to 37-B M.R.S.A. §742, the Town Manager may promulgate such regulations as he deems necessary to protect life and property and preserve critical resources. Such regulations may include, but are not limited to, the following:  
[Amended 4-28-2006]
  - (1) Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces to facilitate the mass movement of persons from critical areas within or outside the Town.
  - (2) Regulations pertaining to the movement of persons from areas deemed hazardous or vulnerable to disaster.
  - (3) Such other regulations necessary to preserve public peace, health and safety.
- B. The Town Manager may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people and bind the Town for the fair value thereof.
- C. The Town Manager may require emergency services of any Town officer or employees. If regular Town forces are determined inadequate, the Director may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities provided by state law and ordinances for regular Town employees and other registered and identified civil emergency preparedness and disaster workers.

## § 14-7. Termination of emergency.

Whenever the Town Manager is satisfied that a local emergency or disaster no longer exists, he shall terminate the emergency proclamation by another proclamation. That proclamation shall be published in local newspapers and posted in the same manner as the warrant calling a Town Meeting. Local representatives of the media shall be informed of the termination of the emergency as soon as possible.

## § 14-8. Duties of Director.

[Amended 4-28-2006]

The Director shall be responsible to the Town Manager in regards to all phases of the emergency management activity. Under the supervision of the Manager, he shall be responsible for the planning, coordination and operation of emergency management activity in the Town. Under supervision of the Manager, he shall maintain liaison with the county, state and federal authorities and the authorities of other nearby political subdivisions so as to ensure the most effective operation of the emergency management plan. His duties shall include, but are not limited to, the following:

- A. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the Town for emergency management purposes.
- B. Development of plans for the immediate use of all the facilities, equipment, manpower and other resources of the Town for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare.
- C. Negotiating and concluding agreements with owners or persons in control of buildings or other property for emergency management purposes and designating suitable buildings as public shelters.
- D. Through public informational programs, educating the civilian population as to actions necessary and required for the protection of their persons and property in case of enemy attack, or disaster, as defined herein, either impending or present.
- E. Conducting public practice alerts to ensure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations.
- F. Coordinating the activity of all other public and private agencies engaged in any emergency management activity.
- G. Assuming such authority and conducting such activity as the Town Manager may direct to promote and execute the emergency management plan.

## § 14-9. Emergency management plan.

[Amended 4-28-2006]

A comprehensive emergency management operations plan shall be adopted and maintained by resolution of the Selectmen upon recommendation by the Town Manager.

## § 14-10. Prohibited acts.

[Amended 4-28-2006]

It shall be unlawful for any person to violate any of the provisions of this chapter or of the regulations or plans issued pursuant to the authority contained herein or to willfully obstruct, hinder or delay any member of the emergency management organization as herein defined in the enforcement of the provisions of this chapter or any regulation or plan issued thereunder.

## § 14-11. Violations and penalties.

Any person, firm or corporation violating any provision of this chapter, or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a civil penalty of a minimum of \$100 to a maximum of \$1,000 per occurrence.

## § 14-12. Effect on existing ordinances and regulations.

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

## § 14-13. Effective date.

[Amended 11-7-2000]

This chapter shall take effect on the second day of November 1993

## Chapter 25. Fire Chief

[HISTORY: Adopted by the Town of Wells 10-18-1988; amended 3-10-1990. Subsequent amendments noted where applicable.]

### § 25-1. Appointment and duties.

There shall be a single Fire Chief appointed by the municipal officers who shall have the authority and duties specified in the statutes of the State of Maine.

## Chapter 40. Municipal Equipment, Sale of

[HISTORY: Adopted by the Town of Wells 11-8-1994. Amendments noted where applicable.]

### § 40-1. Authorization.

The Board of Selectmen of the Town of Wells is authorized to sell equipment owned by the Town upon a finding that the Town no longer needs such equipment in accordance with this chapter. Sale shall be made to the highest bidder, either at public auction or after soliciting written bids, upon such terms and conditions as the Board of Selectmen decides is appropriate.

### § 40-2. Identification of property to be sold.

The Town Manager or his designee shall make a recommendation to the Board of Selectmen identifying equipment that is appropriate to be sold and shall include a recommendation as to whether the equipment shall be sold at public auction or by soliciting written bids. The Town Manager may recommend a minimum price for equipment and the Board of Selectmen may include a minimum price in the notice of sale. A used vehicle may be traded in rather than sold when a replacement vehicle is purchased if the Board of Selectmen determines that trading the used vehicle is in the best interest of the Town.

### § 40-3. Notice of sale.

The Board of Selectmen shall advertise the sale of equipment in a newspaper of general circulation within the Town at least two times, the last publication not less than one week

before the date of sale or the due date for return of sealed bids. The advertisement shall state a minimum price if one has been established. All equipment sold pursuant to this chapter shall be sold subject to the understanding that the Board of Selectmen may reject any and all bids if the Board determines that such sale is not in the best interests of the Town.

## § 40-4. Rejection of bids.

If the Board of Selectmen determines that the price offered is unsatisfactory to the Town, the Board shall have the right to reject any and all bids and may solicit new bids using the same or a different procedure or dispose of the equipment in whatever manner the Board determines is in the best interest of the Town, provided that no equipment may be sold for less than the highest bid previously received.

## § 40-5. Amendments.

This chapter may be amended by majority vote at any Town Meeting.

# Chapter 49. Personnel Policies

[HISTORY: Adopted by the Town of Wells 3-8-1985; amended 3-10-1990; 4-23-1994. Subsequent amendments noted where applicable.]

### **GENERAL REFERENCES**

Code of Ethics — See Ch. 230.

## Article I. Personnel Advisory Board

### § 49-1. Designation.

The Board is to be known as the "Personnel Advisory Board," hereinafter to be referred to as the "Board."

### § 49-2. Membership; appointment; terms of office.

The Board is to be made up of five members to be appointed by the Board of Selectmen for staggered three year-terms. Initially, two members shall be appointed for three years, two members for two years and one member for one year. Four members of the Board appointed by the Board of Selectmen shall make application to the Town Clerk as required for any committee, but shall not be a Town employee or Town official. One member of the Board shall be appointed by the Selectmen from eligible full-time employees.

### § 49-3. Officers.

A Chairman and Secretary of the Board shall be elected by the members from their membership at their first meeting after each Annual Town Meeting.

### § 49-4. Meetings.



- A. The Board shall meet as needed, the day and time to be decided by the members.
- B. All meetings shall be public, except that executive sessions may be held consistent with the Maine Freedom of Access Act, 1 M.R.S.A. §§ 401 to 410.

## § 49-5. Votes; minutes; records.

All votes by the Board shall be recorded by the Secretary. All votes shall have a minimum majority of three members' votes. The minutes of each meeting shall be read at the next meeting and approved and signed by a majority of the members. The original copy of the Secretary's minutes of every meeting shall be kept as a permanent record, excepting matters discussed while in executive session. These permanent records are to be kept by the Town Clerk with a copy to the Board of Selectmen.

## § 49-6. Vacancies.

Any vacancy that occurs on the Board between annual appointments shall be filled by an alternate approved by the Board of Selectmen from a list of candidates on file. This alternate will serve until the vacant term is over.

## § 49-7. Compensation.

The members shall serve with no compensation.

## § 49-8. Costs of operation.

The cost of the operation of the Board shall be paid by the Town of Wells and, where applicable, shall be chargeable to the department for which the expense may have been incurred.

## § 49-9. Expenditures.

Expenditures of any moneys appropriated for the operation of the Board shall be handled by the Town Treasurer. All bills shall be approved and signed by a majority of the members before any payment by the Town Treasurer.

## § 49-10. Duties.

[Amended 11-7-2000; 4-27-2007]

The Personnel Advisory Board acts in an advisory capacity to the Human Resources Director and/or Town Manager in the establishment and administration of personnel policies under this chapter. The Human Resources Director and/or the Town Manager shall meet with the Board regularly and shall inform the Board of matters arising under these policies. The Board may prepare an annual wage scale as established in § 49-24 of this chapter and review fringe benefits and other personnel issues as requested by the Human Resources Director, Town Manager, or the Board of Selectmen.

## Article II. Policies

[Amended 4-29-1995; 4-26-1996; 4-19-1997; 4-17-1999; 11-7-2000; 1-22-2002; 4-16-2004; 4-28-2006]

## § 49-11. Applicability.

The policies in this chapter shall apply to all municipal employees with the following exceptions:

- A. Employees of the Community School District, including certified employees, are not municipal employees and are not covered by this chapter.
- B. Municipal employees covered by a collective bargaining agreement shall be covered by the terms of the applicable collective bargaining agreement, established through the negotiation process. Therefore, the terms and conditions of employment for employees covered by this chapter may differ from those for employees covered by a collective bargaining agreement.
- C. The Town Manager shall not be covered by this chapter. The Manager is responsible to the Board of Selectmen and shall have the powers, duties and employment terms established by the Board of Selectmen and applicable Maine law.
- D. The hiring process for employees subject to the exceptions in Subsections A through C shall not be subject to this policy.

## § 49-12. Employee designations.

- A. An exempt employee is one whose position meets specific criteria established for white collar exemptions by the Fair Labor Standards Act and who is exempt from overtime pay requirements under the FLSA.
- B. A non-exempt employee is one whose position does not meet the FLSA criteria for an exemption from the overtime requirements and who is entitled to compensation in the form of wages or compensatory time off for hours worked in excess of 40 hours per week.
- C. A regular full-time employee is one who has satisfactorily completed a probationary period of six months and who is regularly scheduled to work 40 or more hours per week.
- D. A regular part-time employee is one who has satisfactorily completed a probationary period of six months and who is employed to work less than 40 hours per week.
- E. A temporary employee (full-time or part-time) is one who is employed for a specific period, usually not to exceed 15 consecutive weeks or the duration of the project or temporary vacancy which the employee was employed to fill, whichever is longer. Certain positions funded with federal funds or grants may also be considered temporary. Temporary employees retain that status until they are notified of a change in status.
- F. A seasonal employee is one who is employed for temporary work of a seasonal nature. Examples include but are not limited to recreational assistants and lifeguards.
- G. A definite-term employee is one who is appointed for a fixed term. Definite-term employees may be full- or part-time. Examples include but are not limited to reserve police officers who perform paid work pursuant to an appointment for a specific term without expectation of reappointment.

- H. A contract employee is an individual hired through a written agreement specifying the terms and conditions of employment for a specific time period. Contract employees may be either temporary or definite-term employees, part-time or full-time, but do not have an expectation of continued employment beyond the term for which they are appointed and are not considered regular employees.
- I. A probationary employee is one who has not completed six months of employment in the current position and/or who has not been informed that he or she has satisfactorily completed probation.

## § 49-13. Eligibility for benefits.

[Amended 9-1-2015]

Regular full-time employees are eligible for benefits as provided herein. Regular part-time employees whose normal workweek is at least 20 hours per week on an annual basis are eligible for the benefits provided on a pro rata basis, except as otherwise provided. Unless these policies provide otherwise, regular part-time employees whose normal workweek consists of 30 to 39 hours per week are eligible for 75% of the benefits available to full-time employees, and regular part-time employees whose normal workweek consists of 20 to 29 hours per week are eligible for 50% of the benefits available to full-time employees. Part-time employees whose normal workweek is less than 20 hours per week, temporary employees and seasonal employees are paid for hours actually worked, including overtime hours when applicable, but are not eligible for benefits except for workers' compensation, Social Security and unemployment compensation insurance as required by law, and as otherwise provided by law. Contract employees are eligible for benefits only to the extent specified in the employment contract or as required by law. Definite-term employees may be eligible for benefits depending on the nature of the position and the hours worked; the Town Manager shall determine eligibility for benefits when such a position becomes available.

## § 49-14. Workweek and overtime.

- A. The standard workweek for full-time employees covered by these policies shall consist of 40 hours' work within seven consecutive days (24 hours), unless otherwise specified in the job description or at the time of appointment.
- B. Overtime compensation is paid to non-exempt employees in accordance with federal and state wage and hour laws and regulations. Overtime is payable for all hours worked over forty (40) hours per week at a rate of one and one-half times the non-exempt employee's regular hourly rate, except for firefighters whose normal workweek is not 40 hours. Time off on personal time, holidays, vacation, or any leave of absence does not constitute hours worked.
- C. Overtime compensation shall be paid either in the form of wages or compensatory time off. Employees must specify whether they prefer to receive overtime pay or be credited with compensatory time off prior to working the overtime hours. An employee who does not request compensatory time off will receive overtime wages. Employees may accrue up to 40 hours of compensatory time, which they shall be eligible to use when requested, unless use at the requested time would unduly disrupt the operations of the department.
- D. A non-exempt employee who works more than 40 hours in any workweek must have authorization from the employee's supervisor, department head, Human Resources Director, or Town Manager prior to working the overtime hours. Authorization shall be in writing except in cases of emergency. Employees working overtime hours shall document the overtime hours and report such hours in writing to the department head at the end

of the workweek in which the hours were worked. Overtime worked without prior authorization may result in disciplinary action.

[Amended 4-27-2007]

- E. Department heads who supervise three or more full-time employees (or part-time equivalents of three or more full-time employees) are exempt employees. Other employees may be exempt employees because the nature of their duties and responsibilities qualifies them as exempt executive, administrative, computer or professional personnel under the Fair Labor Standards Act. Employees with questions about whether their positions are exempt should consult the job description for their position, and/or the Human Resources Director or the Town Manager. Employees who are not eligible for overtime compensation may arrange for compensatory time off during their normal working hours at times that are not disruptive of the Town's operations by agreement with the Human Resources Director or Town Manager.

[Amended 4-27-2007]

## § 49-15. Setting of standards; and adopting policies.

- A. Job descriptions, qualifications, hiring procedures and promotion standards for municipal employees shall be set by the Human Resources Director or Town Manager. The Human Resources Director or Town Manager may consult with the Personnel Advisory Board on any matter covered in this section.

[Amended 4-27-2007]

- B. The Board of Selectmen may enact such policies and regulations governing employment in the Town, including but not limited to an Employee Handbook, as are not inconsistent with this chapter. For purposes of this section, only a policy or regulation that expressly contradicts this chapter shall be considered inconsistent with this chapter.

## § 49-16. Appointments.

- A. Appointment of department heads. The Town Manager shall appoint and supervise department heads, except the single Assessor, who is appointed by the Board of Selectmen.<sup>[1]</sup> The Town Manager shall supervise the single Assessor. Appointment of department heads is subject to confirmation by the Board of Selectmen.

[1] *Editor's Note: See Ch. 5, Assessments, § 5-1.*

- B. Appointment of other municipal employees. The Town Manager shall appoint and supervise all other municipal employees, except the Town Clerk and the Deputy and Assistant Clerks. The Manager may delegate appointment authority for positions within a department to a department head. Such appointments shall be reported to the Board of Selectmen.

## § 49-17. (Reserved)

## § 49-18. Retirement plan.

[Amended 1-2-2018]

- A. Employees covered by this chapter (full-time employees and part-time employees whose normal workweek consists of at least 20 hours per week) shall be entitled to retirement benefits under both:

- (1) Social security; and
- (2) Either the Maine Public Employees Retirement System (MEPERS, formerly known as "MSRS") or an International City Managers Association Retirement Corporation (ICMA-RC) retirement plan, with a Town match to either of the employee's plan of choice of up to a maximum of 7% of the employee's gross wages. (Union employees who participate in either an ICMA-RC plan or any MEPERS plan under a collective bargaining agreement shall have their contribution/Town match levels in either ICMA-RC or MEPERS governed by the terms of their respective collective bargaining agreement.)
  - (a) MEPERS.
    - [1] As of January 1, 2018, the MEPERS so-called "Plan AN" retirement plan, with benefits provided as per the MEPERS plan documents, shall be available to eligible employees as a retirement plan option.
    - [2] Any employee who had enrolled in the MEPERS so-called "Plan AC" retirement plan as of July 1, 1995, and who has been continuously enrolled in said plan, must continue in this benefit program.
    - [3] Nonunion employees presently enrolled in, or who at hire were hired into a position eligible for, the MEPERS Public Safety so-called "2C Plan" (that was separately introduced through a collective bargaining agreement in 2013) remain eligible (per MEPERS rules) for the Public Safety 2C Plan, with the Town contribution per the current and respective Public Safety collective bargaining agreements.
  - (b) ICMA-RC. As of January 1, 2018, an employee may choose to remain in, or may choose, the ICMA retirement plan as their plan of choice for the Town's contribution. An employee so electing will have their contribution made to an ICMA 457 Plan, and the Town's contribution will be made to an ICMA 401 Plan.

B. All eligible employees continue to be entitled to benefits under social security.

## § 49-19. Vacations.

- A. Regular full-time employees covered under this chapter are entitled to the following vacation benefits:
  - (1) After one consecutive year of employment, two weeks of paid vacation (following probation accrued time can be taken).
  - (2) After seven years of consecutive employment, three weeks of paid vacation.  
[Amended 2-3-2015]
  - (3) After 14 years of employment, four weeks of paid vacation.
  - (4) Eligible regular part-time employees will receive either 75% or 50% of this benefit described in Subsection A(1) through (3) above, as provided in § 49-13 of this chapter. Other employees are not entitled to a vacation benefit unless otherwise agreed at the time of appointment.
- B. Accrued vacation must be taken within one year after the anniversary date on which it is accrued, except for the following: A maximum of five vacation days may be carried over from one year to the next year. Carry-over days shall not accumulate on a year-to-year basis.

- C. Vacations shall be scheduled at a time mutually agreed upon between the employee and the appropriate department head or the employee and the Human Resources Director or the Town Manager. Any day taken without prior agreement by the department head or Human Resources Director or Town Manager will be considered an unexcused absence.  
[Amended 4-27-2007]

## § 49-20. Term of employment.

- A. All regular full-time and regular part-time employees shall serve an initial six-month probationary period and shall be probationary until affirmatively informed that probation has been satisfactorily completed.
- B. Probationary employees may be dismissed without cause. Dismissal of a probationary employee is not subject to appeal under § 49-32.
- C. After satisfactory completion of the probationary period, regular full-time and part-time employees may be removed for cause only after notice and hearing unless otherwise specified by law or this chapter. Lay-offs or terminations arising out of a reduction in force or for similar budgetary reasons do not constitute removal for cause and may be implemented when in the discretion of the Human Resources Director or Town Manager circumstances require such action.  
[Amended 4-27-2007]
- D. Definite-term, temporary, seasonal, or contract employees shall serve for the length of the term specified in the appointment document or contract, unless removed during that term in accordance with the procedure specified therein. Definite-term, temporary, seasonal or contract employees may be required to serve a probationary period during the specified term, during which they may be removed under Subsection B.
- E. Deputy Clerks shall serve at the pleasure of the Town Clerk.

## § 49-21. Sick leave.

- A. Regular full-time employees shall be entitled to accumulate one eight-hour day of sick leave per month, and regular part-time employees eligible for benefits shall be entitled to accumulate either six hours or four hours of sick leave per month, as provided in § 49-13 of this chapter.
- B. To obtain paid sick leave, an eligible employee shall notify his/her department head of his/her absence no later than the time he/she is due to report for work.
- C. On separation, an employee is entitled to be paid for 1/3 of the total unused sick leave, to a maximum of 40 days. The amount of payment shall be calculated based on the employee's straight-time hourly rate of pay on the date of separation. Payment shall be subject to the following:
- (1) Department heads and other exempt employees must provide a minimum of four calendar weeks' notice. All other employees must provide a minimum of two calendar weeks' notice.
  - (2) Employees who are dismissed for cause shall not be eligible for payment of unused sick leave.
  - (3) Employees who are on layoff and choose to receive the one-third payment shall have the option of restoring the accumulated sick leave by returning the one-third

payment should they be recalled.

- (4) Upon an employee's death, the one-third payment shall accrue to the employee's designated beneficiary or estate.

## § 49-22. Holidays.

- A. Town holidays are as follows:

New Year's Day  
Martin L. King Day  
Presidents Day  
Memorial Day  
July 4  
Labor Day  
Columbus Day  
Veterans Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Day

- B. The above is to be defined as follows: All regular full-time employees are to be paid 1/5 of a regular workweek for holidays. Regular part-time employees whose normal workweek is at least 20 hours per week shall receive either 50% of their normal pay for the day or 75% of their normal pay for the day, as provided in § 49-13 of this chapter, provided the holiday falls on a day they would normally work.
- C. An eligible employee who works on a holiday will be paid holiday pay at the rate of time and 1/2 the regular hourly rate in addition to the pay set out in Subsection B above.

## § 49-23. Sickness and accident insurance.

- A. The premium for individual and family plan subscription under the Maine Municipal Employee Health Trust Comprehensive Health Plan or Point of Service Option or a substantially equivalent program will be paid partially by the Town and partially by eligible employees. Prior to the annual renewal of the health insurance, the Board of Selectmen shall determine the Town's contribution for regular full-time and regular part-time employees and the remaining costs shall be the responsibility of the participating employee through payroll deductions. Regular part-time employees whose normal workweek consists of at least 20 hours per week shall be eligible for health insurance, with the Town paying the share of premium costs specified by the Board of Selectmen.
- B. A regular full-time employee who has health insurance coverage from another source may elect to apply 75% of the premium cost of the health insurance for a single subscriber to obtain other forms of insurance available through Town employment or to receive 60% of the premium cost for a single subscriber in cash on an annual basis. To qualify for this election, the full-time employee must provide satisfactory proof of health insurance coverage on an annual basis and must agree to receipt of this payment in accordance with applicable federal laws and regulations.
- A part-time employee: Effective January 1, 2017, a part-time employee who has health insurance from another source and is otherwise eligible for benefits with the Town will be

offered an employer-funded Flexible Spending Account (FSA) with funds of \$500 per year (to be prorated based on date of hire during the year).  
[Amended 12-20-2016]

## § 49-24. Merit pay plan.

- A. As of July 1, 1996, a merit pay plan will replace the previous salary plan for eligible employees. The merit pay plan requires employees to be placed within one of the four compensation bands based on the employee evaluation and productivity progress. The Town Manager will recommend a merit pay increase report to the Personnel Advisory Board for its review and comments. The Board of Selectmen must then approve the merit pay report for it to be implemented.
- B. The Personnel Advisory Board may prepare, at the Selectmen's request, a complete wage scale and yearly increases to said scale and make recommendations to the Selectmen who shall submit the plan for approval at an Annual Town Meeting. In doing so the Board shall take into consideration the cost of living and the various jobs and levels of pay in the surrounding areas. The Board shall consult with the department heads and the Town Manager in preparing said wage scales and increases.

## § 49-25. Discrimination.

- A. The Town of Wells does not discriminate in employment based on race, religion, color, national origin, gender, sexual orientation, mental or physical disability, ancestry, marital status, status as a veteran, age or the assertion of a claim or right under state worker's compensation statutes.
- B. Sexual harassment is prohibited. "Sexual harassment" is defined as unwelcome sexual advances, sexually explicit gestures, unwelcome physical contact that is sexual in nature, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
  - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
- C. Sexual harassment by an employee, including a supervisor, of another employee will be grounds for discipline up to and including discharge. Any employee who experiences or observes sexual harassment should report it to a department head, the Human Resources Director or Town Manager, or another designated individual. Investigations of sexual harassment will be handled as confidentially as possible.  
[Amended 4-27-2007]
- D. Harassment based on race, religion, color, national origin, gender, sexual orientation, mental or physical disability, ancestry, marital status, status as a veteran, age or assertion of a worker's compensation claim is expressly prohibited in the workplace. Any employee who experiences or observes harassment should report it to a department head, the Town Manager, or other designated individual for investigation. Investigations will be handled as confidential to the extent possible. Harassment by any employee, including a supervisor, of another employee, customer, member of the public or other person with



whom the employee comes in contact during the course of his/her employment will be grounds for discipline up to and including discharge.

- E. The Board of Selectmen is authorized to adopt, and from time to time amend, a Workplace Harassment Policy to further define prohibited harassment and sexual harassment and to establish procedures for reporting, investigating and resolving complaints of harassment. Any such Workplace Harassment Policy may address other aspects of workplace discrimination as well.

## § 49-26. Military leave.

Pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA) (39 USC §§ 4301 - 4333), all employees who perform duty, voluntarily or involuntarily, in the United States Armed Forces, National Guard or Coast Guard will be granted leave to serve in the uniformed services of the United States for a period of up to five years (not including certain involuntary extensions of service). Employees who perform and return from service in the Armed Forces, the Military Reserves, the National Guard or certain Public Health Service positions will retain certain rights with respect to reinstatement, seniority, layoffs, compensation, length of service, promotions, and length of service pay increases, as required by applicable federal and state law. The Board of Selectmen is authorized to adopt a Military Leave Policy consistent with state and federal law, which shall provide for paid leave for the first three weeks of military leave for those employees who comply with notice and confirmation of service requirements and provide an official statement of service pay as follows: the employee shall receive from the Town the difference between his/her regular wages and service pay for those first three weeks of military leave. The Board shall include such other provisions as may be required by law or deemed appropriate by the Board of Selectmen.

## § 49-27. Other types of leave.

- A. Citizen obligations. Employees shall be granted leave with pay when it becomes necessary for them to be absent from work for the purpose of such citizenship obligations as jury duty, witness (when properly subpoenaed), voting and other similar obligations; provided, however, that should any fees be paid the employee, the employee shall receive as wages the difference between his/her regular wages and the amount of fees so paid, if any, if such fee is less. All notices to an employee to appear for any citizenship obligation shall be presented to his/her department head in order for him/her to be eligible for payment of wages during his/her absence.
- B. Pregnancy leave. For the purposes of paid leave, pregnancy leave shall be treated as any other temporary disability.
- C. Family medical leave. An employee who has worked for the Town for 12 consecutive months and worked at least 1,250 hours during the twelve-month period is entitled to family medical leave in accordance with the Federal Family Medical Leave Act. Employees who have worked for the Town for 12 consecutive months but have worked less than 1,250 hours during that period may qualify for up to 10 weeks of family medical leave within a two-year period under Maine law. An employee eligible for a family medical leave may use paid leave to the extent it is otherwise available under this chapter. The remainder of the leave will be without pay. An employee is eligible for benefits during his/her leave as specified in the applicable statute. An employee who requests family medical leave in conformity with this section and the Town of Wells Employee Handbook shall be restored to the same or an equivalent position without loss of seniority or other benefits at the end of the leave, provided the employee is able to perform the duties of the position, unless for reasons unrelated to the leave the employee is terminated or the

position is eliminated. Procedures for requesting and obtaining family medical leave and returning to work are stated in the Employee Handbook.

- D. Bereavement leave. In the event of the death of the employee's mother, father, sister, brother, father-in-law or mother-in-law, the employee shall be entitled to up to three days' leave for the purpose of attendance at the funeral and assisting in the necessary family arrangements and up to five days in the case of a spouse or child. In cases where travel arrangements or other unusual circumstances prevail, the Town Manager may, at his discretion, grant additional time which the employee may take without pay. An amount of leave time, to be determined by the Town Manager but in no case to exceed one day, will be allowed at funerals for other relatives or persons actually living in the same household.

## § 49-28. (Reserved)

## § 49-29. (Reserved)

## § 49-30. Annual evaluations.

All regular full-time and part-time employees whose normal workweek consists of at least 20 hours per week shall be evaluated following the procedure outlined in the Employee Handbook. Evaluations shall be made part of the employee's personnel file and be used to assist in determining merit raises.

## § 49-31. Discipline and dismissal.

- A. An employee may be given a written reprimand, suspended, demoted, otherwise disciplined or dismissed for cause. Except where immediate action is required, an employee will be given written notice of the proposed discipline and the reasons for it prior to the effective date of such discipline. In the event of suspension for more than three days or dismissal, an employee will have the opportunity to meet with the department head or other supervisor on whose decision the discipline is based to discuss the proposed discipline before the effective date, except in circumstances warranting immediate suspension or termination. The authority to discipline shall rest with the Human Resources Director or Town Manager and the authority to discharge shall rest with the Town Manager. The Human Resources Director or Town Manager may delegate authority to take initial disciplinary action to department heads for employees under their supervision. The Town Manager shall report all dismissals to the Board of Selectmen.

[Amended 4-27-2007]

- B. Records of discipline less than suspension, including demotion, shall not be considered in subsequent disciplinary decisions if there is no other disciplinary action in the next 18 months. Records of suspension shall not be considered if there is no further disciplinary action for 36 months.

## § 49-32. Appeals.

- A. An employee other than a department head who is aggrieved by the action of a department head under a specific section of this chapter or the Employee Handbook may

file a complaint with the Human Resources Director or Town Manager. The complaint shall be filed in writing within 10 calendar days of the time that the employee knew or should have known of the event giving rise to the complaint. The written complaint shall contain a statement of the action about which the employee complains and the section of this chapter that the employee believes has been violated.  
[Amended 4-27-2007]

- (1) The Human Resources Director or Town Manager shall conduct an informal hearing on the complaint within 15 calendar days of the date it was filed, unless the Human Resources Director or Town Manager requests and the employee agrees to an extension of time. The aggrieved employee shall have an opportunity to present his or her complaint and to question the department head and any adverse witnesses. The Human Resources Director or Town Manager shall render a decision in writing, giving reasons for his/her decision and making findings of fact, within 10 calendar days after the hearing concludes.
  - (2) An appeal of the Human Resources Director's or Town Manager's decision can be made in writing to the Board of Selectmen within 20 calendar days from receipt of the decision. The Board of Selectmen shall hear the appeal at its next regularly scheduled meeting in executive session or as otherwise provided by the Maine Freedom of Access Law. The Selectmen shall render a decision in writing giving reasons for their decision within 10 calendar days after the hearing concludes. The Selectmen's decision is final.
- B. Department head appeals. A department head who is aggrieved by the action of the Town Manager under a specific section of this chapter or the Employee Handbook may file an appeal with the Board of Selectmen. The appeal shall be filed in writing within 10 calendar days of the time that the employee knew or should have known of the event giving rise to the appeal. The written appeal shall contain a statement of the action being appealed and the section of this chapter that he/she believes has been violated. The Board of Selectmen shall conduct a hearing within 15 calendar days of the date the grievance was filed, unless the Board requests and the department head agrees to an extension of time. The aggrieved department head shall have an opportunity to present his or her position, including the right to present witnesses, and to question the Town Manager and any adverse witnesses. The Board shall render a decision in writing, giving reasons for its decision and making findings of fact, within 10 calendar days after the hearing concludes.
- C. The final written decision in any disciplinary action shall be confidential except to the extent the Freedom of Access law, 1 M.R.S.A. § 401, et seq., requires the decision to be a public record.

## § 49-33. Amendments.

This chapter may be amended and/or changed by an article to be voted on at a Town Meeting. Copies of any proposed amendment and/or changes shall be given to all Town employees covered by this chapter.

## § 49-34. Distribution.

A copy of this chapter and any amendments shall be provided to all Town employees covered by this chapter.

## Chapter 53. Planning Board

[HISTORY: Adopted by the Town of Wells 3-9-1991. Amendments noted where applicable.]

## § 53-1. Title; authority.

The title of this chapter shall be the "Wells Planning Board Ordinance." It is enacted by the Town Meeting pursuant to 30-A M.R.S.A. § 4324(2)(A) to govern the appointment, terms and procedures of the Wells Planning Board.

## § 53-2. Membership; appointments; officers; rules of conduct.

This chapter shall govern the Wells Planning Board, its members, terms, officers and manner of transacting business as follows:

- A. **Members and qualifications.** Effective April 18, 1998, the Board shall consist of five members and two associate members, all of whom shall be residents of the Town of Wells. Following the Annual Town Meeting in April 1998, the Board of Selectmen may appoint new associate members, not to exceed a total of four, to ensure that during the transition to a smaller Board the Planning Board retains the benefit of the experience of any member or associate member whose term expired January 31, 1998, provided the member or associate member wishes to be reappointed. Thereafter, no new associate members shall be appointed until the number of associate members is fewer than two.  
[Amended 4-18-1998]
- B. **Appointment and terms.** Members and associate members of the Board shall be appointed by the Board of Selectmen for terms of three years after the initial appointments are made for terms beginning January 1, 1994. Any new member shall be chosen from the alternates. A municipal officer may not be a member or associate member of the Board.  
[Amended 11-7-2000]
- C. **Vacancies and removal.** The Board of Selectmen shall fill any vacancy for the remainder of the unexpired term in the manner provided for original appointments. A vacancy shall exist if a member or associate member misses either five consecutive regular meetings or more than 30% of the regular Board meetings in a calendar year, unless the absence is excused by the Chairman. The Chairman may excuse such absences, upon the request of a Board member or associate member, due to serious illness, temporary absence from the community or other good reason. The Board of Selectmen may remove any member of the Board, after notice and hearing, for misconduct or nonperformance of duty.  
[Amended 4-18-1998]
- D. **Officers.** The Planning Board shall elect a Chairman, Vice Chairman and Secretary from its membership. The Chairman shall be counted to determine a quorum and shall have the same rights as other members of the Board, including the right to vote.
- E. **Rules.** The Board may adopt and amend rules to govern the conduct of its business consistent with the provisions of this chapter.
- F. **When a member is unable to act** because of interest, physical incapacity or absence from the meeting, the Planning Board Chairman shall designate an associate member to act in his stead. An associate member may attend all meetings of the Board and participate in its proceedings but may vote only when he has been designated by the Chairman to act for a member.

- G. A quorum of the Board shall consist of four, and any action by the Board to approve or deny an application shall require three affirmative votes.  
[Added 4-18-1998]
- H. The existing Planning Board is hereby disbanded on December 31, 1993, and a new Planning Board shall be appointed with terms beginning January 1, 1994.

## Chapter 65. Town Meetings

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

### Article I. Filing of Proposed Ordinances

[Adopted 3-15-1980]

#### § 65-1. Required filing date.

Boards or individuals are required to have the final draft of any ordinance or revision of any existing ordinance for consideration at the Annual Town Meeting filed with the Town Clerk the same date as required for nomination papers.

### Article II. Special Town Meetings

[Adopted 3-19-1983; amended in its entirety 4-19-1997]

#### § 65-2. Quorum required for certain appropriations.

[Amended 4-27-2007]

Special Town Meetings which seek appropriations of funds in excess of \$20,000 shall require that a quorum of 150 registered voters be in attendance at the posted time; provided, however, that this requirement shall not apply to the appropriation of funds from the Harbor Reserve Fund, which come from mooring fees, to maintain the harbor or repair, maintain or replace the moorings, floats, piers, gangways, tackle, hardware and related equipment.

## Chapter 66. Town Property, Designation of

[HISTORY: Adopted by the Town of Wells 4-12-2003. Amendments noted where applicable.]

#### **GENERAL REFERENCES**

Planning Board — See Ch. **53**.

Groundwater protection — See Ch. **122**.

Land use — See Ch. **145**.

Residential growth management — See Ch. 175.

#### § 66-1. Statement of purpose.

A. Statement of purpose.

- (1) The Town of Wells owns a significant amount of land; some is used for municipal facilities, some is reserved for future use, and some is managed for conservation

purposes. Some Town land is subject to conditions that limit or restrict its use in some way. The Town has become increasingly aware of the need to be a responsible custodian of its lands, particularly undeveloped land, and to take steps to preserve land as conservation lands for future generations when it is appropriate to do so. The Town's Comprehensive Plan also recognizes the importance of preserving the Town's rural character and the potential to use Town-owned land to enhance the rural character of the community. The 2002 Comprehensive Plan contains policies and implementation strategies that call for the protection of wetlands and wildlife habitat and to protect, manage and enhance the Town's open space and resource conservation areas.

- (2) The 2002 Comprehensive Plan called for the establishment of a process to inventory Town-owned lands to determine the most appropriate long-term use. Recently, the Town completed such an inventory. This chapter recognizes the importance of compiling, maintaining and updating the inventory of Town property, develops a methodology for evaluating newly acquired land to determine appropriate current and future uses, and sets the standards for designating certain Town land as "conservation land" or wildlife commons."
- B. This chapter is adopted pursuant to the home rule provisions of Article VIII, Part 2, Section 1, of the Maine Constitution and 30-A M.R.S.A. § 3001 as well as the Growth Management Act, 30-A M.R.S.A. §4312 et seq., and to implement the Town of Wells, Maine Comprehensive Plan, Year 2000 Update: Toward the Year 2010 (adopted April 12, 2002).

## § 66-2. (Reserved)

## § 66-3. Inventory of Town-Owned Land.

- A. Conservation Commission to inventory Town-owned lands. The Conservation Commission of the Town of Wells shall prepare an Inventory of Town-Owned Land, as directed by the Board of Selectmen, and shall update the inventory from time to time, but at least every three years. The inventory shall identify Town-owned real property, including easements and other interests in land, and shall reference any deed restrictions or covenants limiting the use of said land.
- B. The Conservation Commission shall solicit comments from the Office of Planning and Development and the Planning Board regarding the properties contained in the Inventory, and the Planning Board shall provide those comments, in writing, to the Conservation Commission before the Inventory is submitted to the Board of Selectmen.
- C. Inventory submitted to the Board of Selectmen. The Conservation Commission shall submit the initial Inventory of Town-Owned Land to the Board of Selectmen by September 30, 2003, and thereafter whenever the Conservation Commission updates the Inventory. The Board of Selectmen shall review the Inventory, and any updates thereto, and accept them with such corrections as the Board of Selectmen deems appropriate. Upon approval by the Board of Selectmen, the Inventory shall be filed in the Town Clerk's Office. The Town Clerk shall provide copies of the Inventory to the Town Manager, the Planning Board, and the Office of Planning and Development.

## § 66-4. Conservation Commission to recommend designation of parcels as "conservation lands" or "wildlife commons."

- A. As part of the Inventory of Town-Owned Land, the Conservation Commission shall recommend that the Town designate appropriate parcels of Town-owned land to be reserved as "conservation land" when the Conservation Commission finds that the land, either of its own value or in conjunction with other parcels that are or may be acquired by the Town, will be useful in advancing one or more of the following objectives:
- (1) Preserve and enhance wildlife habitat to sustain wildlife.
  - (2) Serve as a field site(s) for environmental education.
  - (3) Provide the public with opportunities for nonintensive traditional, typically nonmotorized, outdoor recreation activities, which are dependent on the presence of undeveloped natural features. Nonintensive traditional outdoor recreation activities include hiking, snowshoeing, skiing, fishing, hunting, birding, picnicking, photography, and orienteering.
- B. Large parcels of conservation land that are suitable in size, access, and resource features may additionally be designated as "wildlife commons." A wildlife commons, such as the Fenderson Wildlife Commons, is a site of particular ecological value offering especially good opportunities for nonintensive traditional outdoor recreation, with appropriate size, access, and natural features that would attract public visitation and provide suitable wildlife habitat for a number of species.
- C. When the Conservation Commission recommends that a parcel of land be designated as "conservation land" or "wildlife commons" in accordance with this chapter, the Board of Selectmen shall forward this designation to the Town Meeting for approval. Such designation shall become effective, and the Town's use of the land limited by the designation, only after the designation is confirmed by vote of the Town at any Town Meeting.
- D. The Town may accept donations of conservation land and wildlife commons, either of which may come with restrictions affecting the future use of the property. Any such restrictions are reflected in the inventory prepared by the Conservation Commission. The Town Meeting vote on accepting any donation of land that is subject to restrictions on the development or use of the donated lands shall make specific reference to the restrictions.

## § 66-5. Management of conservation lands and wildlife commons.

- A. Land designated as "conservation land" shall be managed by the Town to preserve the conservation objectives specified in § **66-4A** of this chapter. Nonintensive traditional outdoor recreation activities shall be encouraged, provided that these activities do not significantly impair the purpose of sustaining wildlife or threaten public safety. The Town may provide amenities or improvements, such as parking areas, trails, shelters or other small improvements on conservation lands to facilitate use for nonintensive traditional outdoor recreation activities, after consultation with the Conservation Commission.
- B. The Town may cut trees on conservation lands only if there is no significant overall impairment of wildlife habitat. In the case of donated lands, logging will take place only if consistent with the intent of the donor. Logging activity will proceed according to a management plan written by a certified forester, which will be recorded in the Town Assessor's office.
- C. Land designated as "wildlife commons" shall be managed by the Town to preserve the conservation objectives specified in § **66-4B** of this chapter. Development of a wildlife

commons will be limited to cutting and marking trails, interpretive signage, creation of access points, environmental education, and ecological management to enhance habitat. Construction of any facilities shall take place only if it is necessary to serve these goals. The Conservation Commission shall review any proposals for development on a wildlife commons and make a recommendation to the Board of Selectmen regarding the proposal.

- D. Policy regarding the Town's management of conservation lands and wildlife commons shall be drafted by the Conservation Commission and submitted to the Board of Selectmen for review and approval. The Board of Selectmen is authorized to adopt and implement policies relating to the management of conservation lands and wildlife commons, following notice and a hearing.

## Chapter 67. Enterprise Funds

[HISTORY: Adopted by the Town of Wells 2-5-2013. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Beach parking fees — See Ch. 86, Art. III.

### § 67-1. Purpose.

The purpose of this chapter is to establish ways to finance the costs of certain municipal programs and services by charging actual users, with the goal of making said programs and services self-sustaining.

### § 67-2. Beach dedicated revenue account.

- A. All revenues generated from the Town's municipal parking lots, including, but not limited to, beach parking passes and daily parking fees, shall be placed in a nonlapsing dedicated revenue account. Funds in said account may only be used for the purposes of creating, operating, improving and/or maintaining the Town's beach facilities, including but not limited to parking lots, associated structures, public rest rooms, and general beach operations and maintenance.
- B. Funds in the dedicated revenue account may not exceed \$750,000 at any given time. Any revenues in excess of \$750,000 shall be placed or transferred into the Undesignated Fund Balance (Surplus).

### § 67-3. Recreation Department dedicated revenue account.

- A. All revenues generated from the Town's Recreation Department, including, but not limited to, program fees, shall be placed in a nonlapsing dedicated revenue account. Funds in said account may only be used for the purposes of operating, improving and/or maintaining the Town's Recreation Department and its facilities and programs.
- B. Funds in the Recreation Department dedicated revenue account may not exceed \$350,000 at any given time. Any revenues in excess of \$350,000 shall be placed or transferred into the Undesignated Fund Balance (Surplus).

### § 67-4. Transfer station dedicated revenue account.



- A. All revenues generated from the Town's transfer station, including, but not limited to, user fees, shall be placed in a nonlapsing dedicated revenue account. Funds in said account may only be used for the purposes of operating, improving and/or maintaining the Town's transfer station and its facilities.
- B. Funds in the dedicated revenue account may not exceed \$750,000 at any given time. Any revenues in excess of \$750,000 shall be placed or transferred into the Undesignated Fund Balance (Surplus).

## § 67-5. Dedicated revenue accounts and annual budget.

All dedicated revenue accounts referenced in this chapter shall be prepared, submitted, and reviewed for budgetary purposes in the same manner as required by Sections 7.02, 7.03, 7.04, and 7.14 of the Town Charter and shall also be described and included in the annual Town Meeting warrant's "Fiscal Year Proposed Budget Summary" and in appropriate tables appended to said warrant.

## § 67-6. Use of funds in dedicated revenue accounts.

Funds in the dedicated revenue accounts referenced in this chapter shall be available for use by the Selectmen, after public hearing, at any time during the fiscal year for the purposes set forth herein.

# Part II: General Legislation

## Chapter 80. Animals

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Animals on beaches — See Ch. 86.

o80a Quarantine Chart 

## Article I. Control

[Adopted 8-16-1988; amended 9-17-1991; 4-26-1996; 6-4-1996]

### § 80-1. Purpose.

- A. The purpose of this article is to require that all animals in the Town of Wells be kept under the control of their owners at all times so that they will not injure persons, damage property or create a nuisance.
- B. The provisions which apply to the owners of an animal apply equally to any person having its custody or possession.
- C. It is also the Town's responsibility to prevent the spread of contagious disease and virus in relation to domesticated and undomesticated animals.

## § 80-2. Definitions.

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

**ANIMAL**

Includes all domesticated and undomesticated animals.

**AT LARGE**

Any animal off the premises of the owner and not under the control of any person by means of personal presence and detention as will reasonably control the conduct of said animal.

**CONFIRMED RABID ANIMAL**

An animal that has been confirmed as rabid by the Health and Testing Laboratory using the direct fluorescent antibody (DFA) test of nervous tissue.  
[Amended 11-7-2000]

**CONTROL**

To limit by reasonable means all unnecessary exposure for the suspected rabid animal to humans or to other animals.

**CURRENTLY VACCINATED**

Domesticated animals are considered currently vaccinated for rabies if at least 30 days have elapsed since the initial vaccination and the duration of the vaccination has not exceeded the time period recommendation for that species based upon the type of vaccine used. A Maine certificate of rabies vaccination or a form approved by the Commissioner of the Department of Agriculture, Food and Rural Resources is proof of immunization.

**DANGEROUS DOG**

A dog which has bitten a person who was not a trespasser on the owner's premises at the time of the incident or a dog which causes a reasonable person, acting in a peaceable manner outside the owner's premises, to be put in apprehension of imminent bodily harm.

**DOMESTICATED ANIMAL**

A mammal accustomed to home life, tamed for man's use; a typical household pet, including but not limited to dogs, cats, ferrets, wildlife hybrids and livestock.

**LAW ENFORCEMENT OFFICER**

Any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this state or municipality establishing a civil violation, prosecute offenders or make arrest for crimes, whether that duty extends to all crimes or is limited to specific crimes.

**LEASH**

A hand-held device no longer than six feet in length.

**MUNICIPALITY**

The Town of Wells.  
[Amended 11-7-2000]

**NUISANCE**

The causing of unreasonable noise, litter or other property damage; the chasing of automobiles, motorcycles, bicycles or other vehicles; and the entry onto school grounds while school is in session.

**OWNER**

Any person, firm, organization, partnership, association or corporation who or which owns, possesses or has custody of an animal.

**PACK**

A dog in the company of three or more other dogs.

**QUARANTINE**

Term used to describe the period of time that a domestic animal is to remain separate and apart from other animals and humans after having bitten or otherwise exposed another domestic animal or human to rabies.

**RABIES**

A viral disease of the central nervous system (brain and spinal cord) that is almost always fatal.

**SUSPECTED RABID ANIMAL**

- A. Any mammal, undomesticated or domesticated, showing signs of rabies.
- B. Any undomesticated mammal which has potentially exposed, through bite or non-bite exposure, a human or domesticated animal to rabies.
- C. Any domesticated mammal which has bitten a human or domesticated animal.

**UNDOMESTICATED ANIMAL**

A mammal considered to be wild by nature by the Department of Inland Fisheries and Wildlife.

**UNVACCINATED ANIMAL**

An animal with no previous rabies vaccination; an animal whose first vaccination was given within the last 30 days; an animal whose last vaccination has expired (per the vaccine manufacturer's recommendation); or an animal for which no approved vaccine exists.

**WILDLIFE HYBRID**

The offspring of a breeding between a domesticated animal and a wild counterpart. This would include but is not limited to a coydog, wild/domesticated cat hybrid and wolf/dog hybrids. These animals are considered domesticated but have no established quarantine or isolation period for the incubation of the rabies virus.

## § 80-3. Noise.

Anyone owning, possessing or harboring any animal which barks, howls or makes other sounds common to its species continuously for 20 minutes or intermittently for one hour or more shall be deemed to constitute a nuisance. Exceptions: dogs barking at trespassers or threatening trespassers on private property on which the dog is situated or any legitimate cause for provocation.

## § 80-4. Running at large.

It is unlawful for any animal, licensed or unlicensed, to run at large except when used for hunting. Any stray or abandoned animal roaming at large shall be impounded by the Animal Control Officer and taken to a shelter. Any dog or ferret leaving the property of its owner or custodian must be on a leash of suitable strength or must be under the supervision and verbal control of its master. Any animal in violation may be impounded by the Animal Control Officer.

Any animal so impounded may be destroyed if it is not claimed within eight days following impoundment. The Animal Control Officer, his designee or other law enforcement officer may take the animal to its owner, if known. However, the offender will be subject to a charge as established by the Board of Selectmen, following notice and a public hearing, for services rendered, payable to the Town.

## § 80-5. Feces removal.

[Added 4-14-2000; amended 4-7-2001]

It shall be a violation of this article for any person who owns, possesses or controls a dog or any other animal to fail to remove and dispose of any feces left by his/her animal, except on property belonging to the animal's owner or keeper. For the purposes of this section, disposal shall be accomplished by transporting such feces to an appropriate waste receptacle. Exceptions: working police dogs while on duty or a dog or animal accompanying a person who, because of a disability, is physically unable to comply with the requirements of this article.

## § 80-6. Confinement of certain dogs.

Dogs of fierce, dangerous or vicious propensities or in heat shall be properly confined or tied by the owner or keeper in a reasonable manner to prevent harm to the public. If the owners or keepers of fierce, dangerous or vicious dogs or dogs in heat are found in violation of this section, such dogs shall be impounded and not released except on the approval of the Animal Control Officer, the Police Chief or a police officer and only if all provisions of § 80-10, Impoundment fees, have been met.

## § 80-7. Animal Control Officer.

A suitable person shall be employed by the Selectmen who shall be known as and perform the duties of Animal Control Officer. He or she shall have the same powers as a police officer and shall be under the supervision and direction of the Police Chief. He or she shall hold office for such time as the Selectmen may direct and shall receive as compensation an amount as may from time to time be prescribed by the Selectmen. The Animal Control Officer shall be responsible for the control, regulation and enforcement of all laws related to dogs, cats and domesticated and undomesticated animals in accordance with 7 M.R.S.A. Chapter 725.

## § 80-8. License required.

- A. All dogs kept, harbored or maintained by their respective owners in the Town of Wells shall be licensed and tagged in accordance with the appropriate laws of the State of Maine (7 M.R.S.A. § 3921 et seq.).
- B. By January 1 of each year, all dogs over the age of six months must be licensed in the Town of Wells by registering the dog(s) at the Town Clerk's office. Proof of a rabies vaccination must be shown to obtain a license. The fee for a license shall be as specified in 7 M.R.S.A. § 3923-A, as it may be amended from time to time.

[Amended 11-7-2000]

## § 80-9. Registry and notification of impoundment.

When impounding any animal, the Animal Control Officer or police officer shall, at the time of such impoundment, list the number and description of the violation(s), make a complete registry of the date of impoundment, breed, color, sex and general condition of the animal as can be reasonably ascertained and if licensed or unlicensed and the name of the owner or keeper, if known, on a registry form. A copy of this form shall be furnished to the shelter together with written instructions setting forth conditions under which the animal may be released. When any animal is impounded under the provisions of this article, the person who has control of the shelter shall, when possible, contact the owner within 48 hours and report to the Town Clerk a description of the animal and its place of impoundment. If the owner does not claim said animal, then the animal shelter shall dispose of the animal by adoption or otherwise in a proper and humane manner consistent with applicable state laws.

## § 80-10. Impoundment fees.

Owners may reclaim their animal by first licensing, if applicable, according to Town regulation, and by paying to the Town a fee as established by the Board of Selectmen, following notice and a public hearing, for each offense. The owner will also be responsible for any additional costs incurred by the animal at the shelter prior to reclamation. Fees must be paid and a receipt of the same presented to the shelter prior to the release of an animal. All fees shall be deposited in the separate account as required by 7 M.R.S.A. § 3945.

## § 80-11. Animals which have bitten humans and/or been exposed to disease.

The owner or keeper of an animal which has bitten a human or may have been exposed to a contagious or viral disease shall be served a quarantine notice. The owner or keeper shall confine and control the animal for at least 10 days, 45 days or six months or as ordered. The owner or keeper must observe and obey all written instructions and procedures included in the quarantine notice. Failure to comply with this section may result in civil penalties as described in § 80-13. Further, failure to comply with this section may result in a court-ordered seizure of the animal, to be placed in a state-licensed facility that houses such animals. All related expenses shall be paid by the owner or keeper. See the Town of Wells **Quarantine Chart** for description and lengths of confinement.<sup>[1]</sup>

[1] *Editor's Note: The Quarantine Chart is included at the end of this article.*

## § 80-12. Animals creating a public health threat.

The Municipal Health Officer or his/her designee shall order suppression and removal of animals and conditions posing a public health threat when there is a reasonable cause to suspect the presence of a communicable disease or viral disease and the owner or keeper has failed to comply with the properly served quarantine notice.

## § 80-13. Violations and penalties.

[Amended 11-7-2000]

Any person found in violation of any provision contained in § 80-3, 80-4, 80-6 or 80-11 shall be subject to a civil penalty of not less than \$50 and not more than \$250 for each violation. Any person found in violation of § 80-8 shall be subject to a civil penalty not to exceed \$100 for each offense. Any civil penalty collected shall be recovered to the use of the Town of Wells and deposited in a separate account, if required by 7 M.R.S.A. § 3945 (Use of license fees retained by municipalities).

## Article II. Deer Feeding and Baiting

[Adopted 8-14-2001]

### § 80-14. Title.

This article shall be known and may be cited as the "Deer Feeding Control Ordinance of the Town of Wells."

### § 80-15. Statement of fact.

The large number of deer attracted by feeding and baiting in and around public and private property increases the local deer population. Deer carry the deer tick known to cause Lyme disease, which is a serious debilitating illness that threatens the public health. When there are more deer and the deer move into areas frequented by people, such as roads and yards, there is a corresponding increase in the potential for deer ticks to come into contact with people. In addition, overpopulation and domestication of deer contribute to traffic safety problems and the destruction of important plants and vegetation on public and private property. When deer come to depend on humans for food, the natural order and balance in nature are upset and it is harmful to their long-term well-being.

### § 80-16. Purpose.

The purpose of this article is to control the feeding and baiting of wild deer by the general public throughout the Town of Wells but, in particular, in areas where deer have become overpopulated, creating a traffic hazard because of their proximity to public roads and a threat to the public health of residents and visitors who face an increased risk of contracting Lyme disease. In addition, the presence of deer in yards and similar areas threatens gardens and other vegetation that are important to the community.

### § 80-17. Prohibited conduct; exceptions.

No person, except the Commissioner of the Maine Department of Inland Fisheries and Wildlife or his/her designee or the Director of the United States Fish and Wildlife Service or his/her designee, shall feed or bait deer in the Town of Wells. This prohibition shall not apply within the boundaries of the Rachel Carson National Wildlife Refuge, which is property owned by the United States and managed by the United States Fish and Wildlife Service.

### § 80-18. Definitions.

The following definitions shall apply unless the context clearly indicates another meaning:

#### **DEER**

Any wild deer.

#### **FEEDING AND BAITING**

The placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled corn, shucked or unshucked corn, wheat or other grains, bread, salt or any other feed or nutritive substances, in any manner or form, so as to lure, attract, or entice deer to, on or over any areas where such feed items and/or materials have been placed,

exposed, deposited, distributed or scattered, including public and private properties and along any road and/or rights-of-way in the Town of Wells.

## § 80-19. Enforcement.

This article may be enforced by the Animal Control Officer, the Town's Health Officer or his/her designee, and police officers of the Town of Wells.

## § 80-20. Violations and penalties.

Whoever violates any provision of this article shall be subject to a civil penalty of not less than \$100 nor more than \$500 for the first offense and not less than \$200 for any subsequent offenses. All civil penalties shall be recovered, on complaint, for use by the Town of Wells for its efforts to educate the public about this article and its purpose. If the Town is the prevailing party in any action brought to enforce this article, the Town must be awarded reasonable attorney's fees, expert witness fees and costs. Civil process may be waived, upon complaint, by payment to the Town of Wells of the minimum penalty set forth herein within seven days of the date of complaint.

## Chapter 86. Beaches

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Harbor — See Ch. 124.

Vending on beaches — See Ch. 150, § 150-22.

Shellfish conservation program — See Ch. 190.

## Article I. General Restrictions

[Adopted 8-22-1967 by the Board of Selectmen]

### § 86-1. Dogs.

[Amended 9-21-1993; 4-14-2000]

- A. Between April 1 and June 15, dogs are not permitted within the beach areas unless on a leash and under charge of a responsible person. From June 16 through September 15, dogs are not permitted within beach areas between the hours of 8:00 a.m. and 6:00 p.m. From 6:00 p.m. until 8:00 a.m., dogs are permitted within beach areas only when on a leash and under charge of a responsible person. Exceptions: This section does not apply to dogs on the property of their owner or on another property with the owner's permission, to Seeing Eye dogs or other dogs assisting an individual with a disability or to working police dogs.

[Amended 4-7-2001]

- B. It shall be a violation of this article for any person who owns, possesses or controls a dog to fail to remove and dispose of any feces left by his/her dog at the Harbor Park, on any public beach, beach access point, beach area road or anywhere within the boundaries of the estuary as depicted on the map prepared by the Wells National Estuarine Research Reserve on December 16, 1999. Exception: licensed hunters actively engaged in duck hunting with a dog.

- (1) For the purposes of this section, disposal shall be accomplished by transporting such feces to an appropriate waste receptacle.
- (2) This section shall not apply to working police dogs while on duty or to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

[1] *Editor's Note: See also Ch. 80, Animals.*

## § 86-2. Horses and other large domesticated animals.

[Added 4-14-2000; amended 9-20-2016]

- A. Horses, ponies, llamas, vicunas, alpacas and other large domesticated animals are not permitted within the beach areas between April 1 and October 1.
- B. It shall be a violation of this article for any person who owns, possesses or controls a horse or other large domesticated animals to fail to remove and dispose of any feces left by his/her horse or large domesticated animal at the Harbor Park, on any public beach, beach access point, beach area road, or Wells Harbor, including parking lots.
  - (1) For the purposes of this section, disposal shall be accomplished by transporting such feces to an appropriate nonmunicipal waste receptacle.

## § 86-3. Litter.

Papers, bottles, cans or other refuse must not be left within the beach areas unless deposited in receptacles provided for that purpose.<sup>[1]</sup>

[1] *Editor's Note: Former § 142-3, Hunting and firearms, which immediately followed this section, was deleted at time of adoption of Code 11-7-2000 (see Ch. 1, General Provisions, Art. I.).*

## § 86-4. Golf.

Any phase of golf shall not be played on the beaches from March 1 to November 1.

## § 86-5. Smoking.

[Added 10-18-2016<sup>[1]</sup>]

- A. Smoking is not permitted on any beach in the Town of Wells.
- B. For the purposes of this section, the term "smoking" includes carrying or having in one's possession a lighted or heated cigarette, cigar or pipe or a lighted or heated tobacco or plant product intended for human consumption through inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

[1] *Editor's Note: This ordinance also renumbered former § 86-5, Violations and penalties.*

### § 86-5.1. Violations and penalties.



[Amended 11-7-2000]

Any person who violates this article commits a civil violation and shall be subject to a civil penalty not to exceed \$20 for each violation.

## Article II. Fires

[Adopted 3-18-1978; amended in its entirety at time of adoption of Code 11-7-2000]

### § 86-6. Permit required.

Fires on the beach are prohibited without a fire permit from the Fire Chief.

### § 86-7. Violations and penalties.

Any person, persons, firm or corporation who or which violates this article shall, upon conviction, be punished by a civil penalty of \$25 for each offense, the money to be paid to the Town of Wells for the use of the Town.

## Article III. Parking Fees

[Adopted 3-15-1980]

### § 86-8. Residential beach parking fees.

[Amended 4-24-1993]

The resident and real estate taxpayer beach parking fee shall be as established by the Board of Selectmen, following notice and a public hearing.

### § 86-9. Daily beach parking fees.

[Added 3-9-1985]

The Selectmen are authorized to set the daily parking rates for the Town's municipal parking lots. Notice and a public hearing are required before any change in the daily parking rates.

#### § 86-9.1. (Reserved)

[1] *Editor's Note: Former § 86-9.1, Dedicated revenue account, added 1-17-2012, was repealed 2-5-2013.*

## Article IV. Lifeguards

[Adopted 3-11-1989; amended in its entirety at time of adoption of Code 11-7-2000]

### § 86-10. Employment and supervision.

The Town may employ lifeguards to serve at beaches within the Town, and all lifeguards shall be under the supervision of the Fire Chief.

## Article V. Protection of Piping Plover Habitat

[Adopted 4-17-1999]

### § 86-11. Beach management plan.

The Board of Selectmen is authorized to adopt regulations providing for the management of Town-owned beaches to protect piping plover habitat and piping plovers during their nesting season (April 1 to September 1 of each year) consistent with the Guidelines for Managing Recreational Activities in Piping Plover Breeding Habitat on the U.S. Atlantic Coast to Avoid Take Under Section 9 of the Endangered Species Act, promulgated by the United States Fish and Wildlife Service, Northeast Region, dated April 15, 1994, following notice and a public hearing. The regulations shall contain such other provisions as the Board deems necessary and appropriate, including but not limited to a process pursuant to which the Board of Selectmen, on behalf of the Town, may agree to manage other beaches in accordance with the Town's management plan upon the request of the property owners.

### § 86-12. Violations and penalties.

It shall be a violation of this article to engage in activities prohibited by the regulations adopted pursuant to this article. Any person, firm or corporation who or which engages in activities prohibited by the regulations shall be deemed to have committed a civil violation and shall be subject to a civil penalty not to exceed \$1,000 for each violation. If a violation occurs more than once or continues for more than one day, then each occurrence or each day that the violation continues shall be a separate violation.

## Article VI. Procedure for Closing of Beaches

[Adopted 11-8-2005]

### § 86-13. (Reserved)

### § 86-14. Procedure for evaluating threats at Town beaches.

- A. Purpose. This article is intended to establish a procedure for closing the beaches, or sections of beaches, in situations when public safety officials identify a potential threat to the public health or safety. Water quality considerations, such as contamination, storm activity, the presence of sharks near the beaches or other hazards can lead to questions about whether the beaches should be closed or warnings issued to the public. By enacting this ordinance, the Town provides a clear procedure for public safety personnel to follow and identifies the appropriate decisionmakers.
- B. Procedure. Lifeguards and other public safety personnel, including dispatchers and the Police Department, shall notify the Fire Chief of any perceived threat to the safety of members of the public or lifeguards at Town beaches. A threat could arise from the presence of water contamination or sharks in the vicinity of the beach, storm conditions or other events. The Fire Chief shall verify the presence and the scope of the threat to the best of his/her ability and evaluate possible responses. The Fire Chief may consult with department heads and/or other experts to formulate a recommendation as to an appropriate response. The Fire Chief shall recommend a course of action to the Town

Manager, who shall decide what action to take. The Town Manager is authorized to close the beaches, or a specified section of the beach, to the public and/or to issue and post warnings of a threat to the public health or safety which does not justify a beach closure. The Town Manager shall inform the Board of Selectmen of the situation and may consult with them prior to making a decision, which shall be communicated to the Board of Selectmen, Town staff and the public as expeditiously as possible. The Town Manager shall reopen the beaches or remove the warnings as conditions warrant.

- C. Public notice. The Town Manager shall provide public notice of the beach closure or issuance of a warning by posting notices at the beaches or taking other appropriate steps. The posted notice shall identify the hazard, the area of the beaches affected and whether the notice applies to entering the water and/or to adjacent beaches.  
[Amended 4-28-2006]
- D. Notice. Lifeguards shall be responsible for informing the public of beach closings when present on the beaches. The Town Manager or the Fire Chief may authorize other public safety personnel, including but not limited to lifeguards, to inform the public of beach closures and/or warnings.  
[Amended 4-28-2006]
- E. If the Town Manager is not available and in the opinion of the Fire Chief the situation is urgent, the Fire Chief is authorized to act in the Town Manager's stead, provided the Town Manager shall be informed of any action taken as soon as possible. If the Fire Chief is absent or unavailable, the Police Chief shall assume the duties and responsibilities assigned to the Fire Chief in this section.  
[Amended 4-28-2006]
- F. Violations and enforcement. The Police Department is authorized to enforce this Article. It shall be a violation of this Code to disobey any order regarding beach closure or the presence of hazards to the public health or safety after notice thereof. Notice is achieved either by posting or by an order from a lifeguard, police officer, firefighter or other authorized person. The unauthorized removal of any notice posted pursuant to this section is a violation of this Code. Penalties for violation of this section shall be as specified in § 1-12 of this Code.  
[Amended 4-28-2006]

## Chapter 88. Bicycles

[HISTORY: Adopted by the Town of Wells 3-9-1974. Amendments noted where applicable.]

### GENERAL REFERENCES

Vehicles and traffic — See Ch. 212.

## § 88-1. General regulations.

- A. No person shall ride or propel a bicycle upon any public street or highway or across any sidewalk except in a careful and prudent manner and at a reasonable rate of speed.
- B. No person shall ride or propel a bicycle upon any public street or highway or across any sidewalk in said Town unless said bicycle is equipped with a bell, horn or other warning device.
- C. Persons riding bicycles shall observe all traffic rules and regulations applicable thereto, shall turn only at intersections, shall signal for all turns, shall ride at the right-hand side of any street or highway and shall pass only to the left when passing slow-moving vehicles,

with the exception that a pass may be made to the right when slow-moving vehicles are about to make left-hand turns.

- D. No person shall operate or propel any bicycle without having at least one hand on the handlebars thereof.
- E. No person shall ride or propel a bicycle with any passenger where said bicycle is designed to carry only one person.
- F. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- G. No person riding or operating a bicycle shall hold onto any vehicle while said vehicle is in motion.  
[Amended 11-7-2000]
- H. No person shall ride or propel a bicycle on any street or highway of the Town after dark unless the same shall be equipped with sufficient light, attached to the front of said bicycle, visible from the front thereof not less than 200 feet and properly lighted, nor without a rear taillight or, in lieu thereof, a reflector attached to and visible from the rear of said bicycle for a distance of 50 feet.
- I. No person shall ride or propel a bicycle upon any street or highway or across any sidewalk in the Town abreast or to the left of any person so riding or propelling another bicycle.

## § 88-2. Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

## § 88-3. Riding on sidewalks.

- A. No person shall ride a bicycle upon a sidewalk within a business district.
- B. The Chief of Police is authorized to erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, and when such signs are in place no person shall disobey the same.
- C. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such a pedestrian.<sup>[1]</sup>

[1] *Editor's Note: Former §§ 60-4 through 60-14, regarding bicycle registration and equipment, which immediately followed this section, were deleted at time of adoption of Code 11-7-2000 (see Ch. 1, General Provisions, Art. I).*

## § 88-4. Disposition of unclaimed bicycles.

Any bicycle that has been in possession of the Wells Police Department for a period of 90 days and is not claimed by the owner will be disposed of by the direction of the Chief of Police of Wells. One item will be printed in the York County Coast Star for one week prior to the

disposal of said bicycle or bicycles giving a complete description of the bicycle or bicycles and stating that said bicycle or bicycles will be disposed of if not claimed by a given date.

## § 88-5. Violations and penalties.

[Amended 11-7-2000]

Any person of the age of 17 or over who violates any of the provisions of this chapter shall, upon conviction, be punished by a civil penalty of not more than \$10. The Chief of Police, when satisfied that a juvenile under the age of 17 years has ridden a bicycle in violation of any of the provisions of this chapter, may impound the bicycle for a period not to exceed five days for the first offense and for a period not to exceed 10 days for a second offense and for a period not to exceed 30 days for any subsequent offense.

## Chapter 91. Building Construction

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Floodplain management — See Ch. **116**.

Historic preservation — See Ch. **132**.

Land use — See Ch. **145**.

Subdivision of land — See Ch. **202**.

## Article I. Permit and Inspection Fees

[Adopted 3-10-1990; amended in its entirety 11-7-2000]

### § 91-1. Building permit fees.

No building permit shall be issued by the Code Enforcement Officer without payment to the Town of Wells of a fee according to the schedule established by the Board of Selectmen following notice and a public hearing. A copy of the current fee schedule is available in the office of Planning and Development and in the office of the Town Clerk. When work has begun prior to the issuance of a permit, the fee for the permit shall be double, and the Town reserves the right to pursue any other remedies available to it under applicable laws.

### § 91-2. Inspection fees.

There will be no charge for the first inspection necessary to obtain a use permit, certificate of occupancy or temporary certificate of occupancy pursuant to Article VIII or Article X of Chapter **145**, Land Use, of the Wells Municipal Code. If a reinspection is required due to a failure to pass the previous inspection, there shall be a fee for each reinspection in an amount established by the Board of Selectmen following notice and a public hearing.

## Article II. Wells Residential Code (International Residential Code for One- and Two-Family Dwellings)

[Adopted 11-7-2006]

[1] *Editor's Note: This ordinance also repealed former Art. II, Adoption of Building Code, adopted 4-19-1997, as amended. The Building Code was adopted by Section 1 of this ordinance as follows:*

*"SECTION 1. ADOPTION OF BUILDING CODE. That a certain document, one (1) copy of which is on file in the office of the Town Clerk of the Town of Wells being marked and designated as "THE INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS 2003," published by The International Code Council, Inc., including the following appendices: Appendix G, Appendix H, Appendix J, and Appendix K, be and is hereby adopted as the Residential Building Code of the Town of Wells in the State of Maine; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Code are hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions, and changes, if any, prescribed in Section 3 of this Ordinance. [Editor's Note: See Article II.] Additionally, a certain document, one copy of which is on file in the office of the Town Clerk of the Town of Wells marked and designated as "THE INTERNATIONAL BUILDING CODE 2003," published by The International Code Council, Inc., including Appendix I set forth therein, be and is hereby adopted as the Building Code of the Town of Wells in the State of Maine; for the control of buildings and structures not covered by The International Residential Code; and each and all of the regulations, provisions, penalties, conditions and terms of said Code are hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions, and changes, if any, prescribed in Section 4 of this Ordinance. [Editor's Note: See Article III.]*

## § 91-3. Additions, insertions, and changes.

The following sections of the "International Residential Code for One- and Two-Family Dwellings 2003" are hereby revised as follows:

**Section R101.1. Title.** Insert: "The Town of Wells" to replace "[name of jurisdiction]."

**Section R101.2. Scope.** Delete: **Exception.**

**Section (EB) R102.7. Existing structures.** Delete [the International Property Maintenance Code or the International Fire Code.]

**Section R103.3. Deputies.** Delete.

**Section R104.10.1. Areas prone to flooding.** Delete [without the granting of a variance to such provisions by the board of appeals.]

**Section R105.1. Required.** Delete [or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code,]

**Section R105.2. Work exempt from permit.** Delete.

Building:

- [1. One story detached accessory structures, provided the floor area does not exceed 200 square feet (18.58 m<sup>2</sup>).
9. Window awnings supported by an exterior wall which do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support.

Electrical:

Repairs and maintenance: A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Gas:

1. Portable heating, cooking or clothes drying appliances.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Mechanical:

1. Portable heating appliances.
2. Portable ventilation appliances.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative cooler.
7. Self contained refrigeration systems containing 10 pounds (4.54kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746W) or less.
8. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

#### Plumbing:

The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.]

**Note:** All Electrical, Gas, Mechanical, Subsurface Waste Water Disposal, and Internal Plumbing Installation are regulated by and shall comply with the Standards, Rules, and Procedures promulgated by the State of Maine regarding these activities.

#### **Section R105.3.1. Action on application.** Delete and replace with:

The Code Official shall approve, deny, or refer applications for building permits as prescribed in § 145-61C(1) of Chapter 145 of the Code of the Town of Wells.

**Section R105.3.1.1. Substantially improved or substantially damaged existing buildings and structures.** Delete: [the findings shall be provided to the board of appeals for a determination of substantial improvement or substantial damage. Applicants determined by the board of appeals to constitute substantial improvement or substantial damage] and insert: "the application" before the words "shall meet the requirements of Section R323."

**Section R105.5. Expiration.** Delete [180 days] in each occurrence and insert "twelve (12) months" in each occurrence.

#### **Section R105. PERMITS.** Insert:

**Section R105.9. Cross Reference.** The following sections of Chapter 145, Land Use, of the Code of the Town of Wells shall also apply to building permits: §§ 145-61, 145-62, 145-63, and 145-64.

**Section R107.3. Temporary power.** Delete.

**Section R107.4. Termination of approval.** Delete.

#### **Section R108. Fees:**

**Section R108.2. Schedule of permit fees.** Delete and replace with:

**R108.2. Fee Schedule.** Effective February 10, 2005.

The permit fee schedule enacted by the Selectmen of the Town of Wells shall apply to all building permits. The permit fee schedule may be amended from time to time by the Board of Selectmen after notice and a public hearing thereon, and such revised fee schedule shall take effect upon adoption.

**Section R108.3. Building permit valuations.** Delete.

**Section R108.4. Related fees.** Renumber R108.3.

**Section R108.5. Refunds.** Delete.

**Section R109.1.2. Plumbing, mechanical, gas and electrical systems inspection.** Delete.

**Section R109.3. Inspection requests.** Insert at the end of the paragraph: The request for an inspection shall be made at least one (1) business day prior to the desired time of the inspection.

**Section R109.** Add and insert.

**R109.5 Inspection fees.** There will be no charge for any initial inspection required to obtain a use permit, certificate of occupancy or temporary certificate of occupancy pursuant to Article VIII or Article X of Chapter 145, Land Use, of the Code of the Town of Wells, or any initial inspections required by the building permit. If a reinspection is required due to issues of noncompliance identified in a previous inspection, or for failure of the work to be ready for inspection when scheduled, there shall be a reinspection fee assessed for each such reinspection as established by the fee schedule adopted by the Board of Selectmen.

**Section R110.2. Changes in use.** Delete [Sections 3405 and 3406 of the International Building Code] and insert "this Code and Chapter 145, Land Use of the Code of the Town of Wells."

**SECTION R111 SERVICE UTILITIES.** Delete.

**SECTION R112 BOARD OF APPEALS.**

**Section R112.1. General.** Delete: Paragraph and insert:

The Board of Appeals is established and standards and procedures are provided by Maine Revised Statutes Annotated Title 30-A and Chapter 145, Article IX, of the Code of the Town of Wells.

**Section R112.2. Limitations on authority.** Delete.

**Section R112.3. Qualifications.** Delete.

**Section R112.4. Administration.** Delete.

**SECTION R113. VIOLATIONS.** Insert: **R113.5 Penalty.** Any person, firm, or corporation violating any of the provisions of this code commits a civil land use violation and each such person shall be deemed to have committed a separate offense for each day or portion thereof during which any violation of any of the provisions of this code is committed, continued or permitted. Upon conviction of any such violation such person shall be punished by a civil penalty of not less than \$100 nor more than \$2,500 for each violation as provided for by Maine Revised Statutes Annotated Title 30-A § 4452.

## Part II

### Chapter 2

#### DEFINITIONS

**R201. GENERAL.** Insert a new **Section R201.5. Miscellaneous.**

Definitions of terms related to sections of the code that have been deleted are hereby also deleted.

**R201. GENERAL.** Insert a new **Section R201.6 Terms defined in Chapter 145, Land Use.**

When definitions of terms herein conflict with the definitions of the same term found in Chapter 145, Land Use, of the Code of the Town of Wells, the definition of Chapter 145 shall govern.

The following terms shall be added or amended to read:

**HABITABLE.** Any portion of a building designed for human occupation that has a ceiling height greater than 6.5 feet.

**MOBILE HOME.** A structure constructed prior to June 15, 1976, transportable in one or more sections, which is eight body feet or more in width and 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.



**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 or mobile home, and designed for use with recreational vehicles or mobile homes.

**RECREATIONAL VEHICLE.** A vehicle that is built on a single chassis, contains 400 square feet or less of floor area, is self-propelled or towed by a passenger car or light-duty truck, and is designed as temporary living quarters for recreational, camping, travel or seasonal use, not as a dwelling unit.

**SHED.** A freestanding structure not more than 140 square feet in floor area, a maximum of 10 feet in width, less than 10 feet in height and not used as habitable space.

**STRUCTURE.** Anything constructed, assembled or erected having a fixed location uninterrupted for more than 10 days on the ground or in the water. Any attachment to a structure shall be considered 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 the 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 the use of mechanical assistance. The term "structure" includes utility transmission lines.

### Part III — Building Planning and Construction

#### Chapter 3

#### BUILDING PLANNING

**Table R301.2(1).** Insert for:

Ground Snow Load	50
Wind Speed	100
Seismic Design Category	B
Weathering	Severe
Frost Line Depth	4 feet
Termite	None to Slight
Decay	None to Slight
Winter Design Temp	0 degrees
Ice Shield Under-Layment Required	Yes
Flood Hazards	FIRM, 06-02-1987 amended 11-05-2002
Air Freezing	
Index	Yes
Mean Annual Temperature	45°

Note: The insertion of these values into Table R301.2(1) designates which standards in this code are applicable for the Town of Wells and which are not.

**Section R302. LOCATION ON LOT.** Add below section title: All structures shall be located in compliance with the provisions of Chapter 145, Land Use, of the Code of the Town of Wells, applicable laws, and the following fire separations.

**Section R310.1.1. Minimum opening area.** Delete **Exception:** [Grate floor openings shall have a minimum net clear opening of 5 square feet (0.465 m<sup>2</sup>).]

**Section R311.5. Stairways.**

**R311.5.3. Stair treads and risers.** Amend as follows:

**R311.5.3.1. Riser height.** Delete [7 3/4 inches (196 mm)] and insert "8 1/4 inches (210 mm)."

**R311.5.3.2. Tread depth.** Delete [10 inches (254 mm)] and insert "9 inches (229 mm)."

**R311.5.3.3. Profile. Exceptions:** Delete [11 inches (279 mm)] and insert "10 inches (254 mm)."

**R311.5.6.2. Continuity. Exceptions:** Add: 3. When the first part of an interior stairway is open and the remainder is between full walls, the handrail of the open section may dead end in the wall. The handrail for the remaining stairs shall be returned to the wall at both top and bottom. The dimension between the graspable sections of the interrupted rail shall not be greater than ten (10) inches.

**R312.2. Guard opening limitations.** Add "and shall not by design or construction provide a ladder effect."

## **SECTION R323 FLOOD-RESISTANT CONSTRUCTION**

**NOTE:** This material is the same as the standards found in the locally adopted Chapter 116, Floodplain Management, of the Code of the Town of Wells.

### **Chapter 4 FOUNDATIONS**

#### **R403.1.4.1. Frost protection.**

##### **Exceptions:**

Add to Exception 1. Such a structure may be placed upon eight inch by six inch concrete blocks in a manner that provides adequate distribution of the structure's load. Such a structure shall be located a minimum of six feet from any other structure and must comply with the zoning setbacks of the district. Such a structure shall be used for incidental storage only.

Add:

3. A deck or porch attached to or adjacent to a recreational vehicle or part of a recreational vehicle accessory enclosure need not meet the frost protection requirements of this section when such recreational vehicle or recreational vehicle accessory enclosure is located within a recreational vehicle park or campground.
4. A deck or porch or recreational vehicle accessory enclosure attached to or adjacent to a mobile home unit need not meet the frost protection requirements of this section, provided the mobile home itself is not frost protected with a frost wall or full foundation.

### **Chapter 5 FLOORS**

#### **R502.1. Identification.** Add:

##### **Exception:**

1. Custom-sawn lumber from native species cut to standard dimensional sizes is exempt from this section of the code.

### **Chapter 6 WALL CONSTRUCTION**

#### **R602.1. Identification.** Add:

##### **Exception:**

1. Custom-sawn lumber from native species cut to standard dimensional sizes is exempt from this section of the code.

### **Chapter 8 ROOF-CEILING CONSTRUCTION**

#### **R802.1. Identification.** Add:

##### **Exception:**

Custom-sawn lumber from native species cut to standard dimensional sizes is exempt from this section of the code.

## **Part V — Mechanical**

**Chapter 12 MECHANICAL ADMINISTRATION.** Delete.

**Chapter 13 GENERAL MECHANICAL SYSTEM REQUIREMENTS.** Delete.

**Chapter 14 HEATING AND COOLING EQUIPMENT.** Delete.

**Chapter 16 DUCT SYSTEMS.** Delete.

**Chapter 17 COMBUSTION AIR.** Delete.

**Chapter 18 CHIMNEYS AND VENTS.** Delete.

**Chapter 19 SPECIAL FUEL-BURNING EQUIPMENT.** Delete.

**Chapter 20 BOILERS AND WATER HEATERS.** Delete.

**Chapter 21 HYDRONIC PIPING.** Delete.

**Chapter 22 SPECIAL PIPING AND STORAGE SYSTEMS.** Delete.

**Chapter 23 SOLAR SYSTEMS.** Delete.

**Note #1.** Boilers and heating systems are areas regulated by rules, procedures, and licenses promulgated by the State of Maine Oil and Solid Fuel Board, and the State Fire Marshal of the State of Maine.

**Note #2.** Chapter 15 EXHAUST SYSTEMS is to remain as a chapter of this Code.

#### **Part VI — Fuel Gas**

**Chapter 24 FUEL GAS.** Delete.

Note: Fuel gas is regulated by rules, procedures, and licenses promulgated by the State of Maine, Gas Fuel Licensing Board and the State Fire Marshal.

#### **Part VII — Plumbing.** Delete.

**Chapter 25 PLUMBING ADMINISTRATION.** Delete.

**Chapter 26 GENERAL PLUMBING REQUIREMENTS.** Delete.

**Chapter 27 PLUMBING FIXTURES.** Delete.

**Chapter 28 WATER HEATERS.** Delete.

**Chapter 29 WATER SUPPLY AND DISTRIBUTION.** Delete.

**Chapter 30 SANITARY DRAINAGE.** Delete.

**Chapter 31 VENTS.** Delete.

**Chapter 32 TRAPS.** Delete.

**NOTE:** Chapters 25, 26, 27, 28, 29, 30, 31, and 32 are areas regulated by the State of Maine Plumbing Rules.

#### **Part VIII — Electrical.** Delete.

**Chapter 33 GENERAL REPRESENTATION.** Delete.

**Chapter 34 ELECTRICAL DEFINITIONS.** Delete.

**Chapter 35 SERVICES.** Delete.

**Chapter 36 BRANCH CIRCUIT AND FEEDER REQUIREMENTS.** Delete.

**Chapter 37 WIRING METHODS.** Delete.

**Chapter 38 POWER AND LIGHTING DISTRIBUTION.** Delete.

**Chapter 39 DEVICES AND LUMINAIRES.** Delete.

**Chapter 40 APPLIANCE INSTALLATION.** Delete.

**Chapter 41 SWIMMING POOLS.** Delete.

**Chapter 42 CLASS 2 REMOTE-CONTROL, SIGNALING AND POWER-LIMITED CIRCUITS.** Delete.

**NOTE:** Chapters 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 are areas regulated by the NFPA 70, Electrical Code, the State of Maine Electricians Examining Board, and the State Fire Marshal.

Delete Appendices A, B, C, and D.

Delete **APPENDIX E MANUFACTURED HOUSING USED AS DWELLINGS**

**NOTE:** Manufactured housing in the State of Maine is regulated by rules promulgated and enforced by the State of Maine Manufactured Housing Board. While the manufactured unit is regulated by the rules of the Manufactured Housing Board, construction done on site within the Town of Wells as part of and/or in conjunction with a manufactured unit must meet the applicable standards of this code.

#### **APPENDIX F RADON CONTROL METHODS**

Insert as an addition to the Appendix AF 104: This appendix is to be used for those who wish recommendations; it is not mandatory provision of this code.

Delete **APPENDIX I PRIVATE SEWAGE DISPOSAL.**

**NOTE:** Appendix I is an area regulated by the State of Maine Subsurface Waste Water Disposal Rules.

Delete **APPENDIX L Electrical Cross Reference.**

[1] *Editor's Note: Throughout this section, brackets [ ] indicate strike-through text to be deleted from the international Residential Code.*

## Article III. Wells Building Code (International Building Code)

[Adopted 11-7-2006]

### § 91-4. Additions, insertions, and changes.

The following sections of the "International Building Code, 2006" are hereby revised as follows:

**Section 101.1. Title.** Insert "the Town of Wells" to replace "[name of jurisdiction]."

**Section 101.4 Referenced codes.**

Sections 101.4.1 through 101.4.7. Delete.

Section 102.6. Delete [the International Property Maintenance Code or the International Fire Code,]

**Section R103.3. Deputies.** Delete.

**Section 105.1. Required.** Delete [or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code,]

**Section 105.2. Work exempt from permit.** Delete:

- [1. One story detached accessory structures, provided the floor area does not exceed 200 120 square feet (18.58 m<sup>2</sup>). (11M2)
12. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

Electrical:, Gas, Mechanical, Plumbing

Repairs and maintenance: A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Gas:

Portable heating, cooking or clothes drying appliances.

Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

**Mechanical:**

Portable heating appliances.

Portable ventilation appliances.

Portable cooling unit.

Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Portable evaporative cooler.

Self-contained refrigeration systems containing 10 pounds (4.54kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746W) or less.

Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

**Plumbing:**

The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.]

Note: All Electrical, Gas, Mechanical, Subsurface Waste Water Disposal, and Internal Plumbing Installation are regulated by and shall comply with the standards, rules, and procedures promulgated by the State of Maine regarding these activities.

**Section 105.3.1. Action on application.** Delete and replace with:

The Code Official shall approve, deny, or refer applications for building permits as prescribed in § 145-61C(1) of Chapter 145 of the Code of the Town of Wells.

**Section 105.5. Expiration.** Delete [180 days] in each occurrence and insert "12 months" in each occurrence.

**Section 105. PERMITS.** Insert:

**Section 105.8. Cross reference.** The following sections of Chapter 145, Land Use, of the Code of the Town of Wells shall also apply to building permits: §§ 145-61, 145-62, 145-63, and 145-64.

**Section 107.3. Temporary power.** Delete.

**Section 107.4. Termination of approval.** Delete.

**Section 108. FEES:**

**Section 108.2. Schedule of permit fees.** Delete and replace with:

**108.2. Fee Schedule.** Effective February 10, 2005. The permit fee schedule enacted by the Selectmen of the Town of Wells shall apply to all building permits. The permit fee schedule may be amended from time to time by the Board of Selectmen after notice and a public hearing thereon, and such revised fee schedule shall take effect upon adoption.

**Section 108.3. Building permit valuations.** Delete.

**Section 108.4. Work commencing before permit issuance.** Renumber as 108.3.

**Section 108.5. Related fees.** Renumber as 108.4.

**Section 108.6. Refunds.** Delete.

**Section 109.5. Inspection requests.** Insert: "The request for an inspection shall be made at least one business day prior to the desired time of the inspection" at the end of the paragraph.

**Section 109. INSPECTIONS.** Add and insert:

**109.7. Inspection fees.** There will be no charge for any initial inspection required to obtain a use permit, certificate of occupancy or temporary certificate of occupancy pursuant to Article VIII or Article X of Chapter 145, Land Use, of the Code of the Town of Wells, or any initial inspections required by the building permit. If a reinspection is required due to issues of noncompliance identified in a previous inspection, or for failure of the work to be ready for inspection when scheduled, there shall be a reinspection fee assessed for each such reinspection as established by the fee schedule as adopted by the Board of Selectmen.

**SECTION 111: SERVICE UTILITIES.** Delete.

**SECTION 112: BOARD OF APPEALS**

**SECTION 112.1. General.** Delete and insert:

The Board of Appeals is established and standards and procedures are provided by Maine Revised Statutes Annotated Title 30-A and Chapter 145, Article IX, of the Code of the Town of Wells.

**SECTION 112.2. Limitations on authority.** Delete.

**SECTION 112.3. Qualifications.** Delete.

**SECTION 113. VIOLATIONS.** Insert:

**113.5 Penalty.** Any firm, or corporation violating any of the provisions of this code commits a civil land use violation, and each such person shall be deemed to have committed a separate offense for each day or portion thereof during which any violation of any of the provisions of this code is committed, continued or permitted. Upon conviction of any such violation such person shall be punished by a civil penalty of not less than \$100 nor more than \$2,500 for each violation as provided for by Maine Revised Statutes Annotated Title 30-A § 4452.

**SECTION 1612.3.** Insert: "Town of Wells, Maine FLOOD DATA."

[1] *Editor's Note: Throughout this section, brackets [ ] indicate strike-through text to be deleted from the international Building Code.*

## Chapter 97. Cable Television

[HISTORY: Adopted by the Board of Selectmen of the Town of Wells 8-6-1996. Amendments noted where applicable.]

### § 97-1. Purpose.

This chapter provides for Town regulation and use of the cable television system, including its construction, operation and maintenance in, along, upon, across, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereto, in the Town of Wells, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for a cable television system, and provides conditions accompanying the grant of franchise and provides for the Town regulation of cable television system operation.

### § 97-2. Definitions.

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

**CABLE TELEVISION COMPANY or COMPANY**

Any person, firm or corporation owning, controlling, operating, managing or leasing a cable television system within the Town of Wells.

**CABLE TELEVISION SYSTEM**

Any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services. The term does not include any such facility that serves fewer than 50 subscribers or that serves only the residents of one or more apartment dwellings under common ownership, control or management and commercial establishments located on the premises of the apartment dwellings.

## **TOWN**

The Town of Wells organized and existing under the laws of the State of Maine and the area within its territorial limits.

### **§ 97-3. Franchise required.**

No person, firm or corporation shall install, maintain or operate within the Town or any of its public streets or other public areas any equipment or facilities for the operation of a cable television system unless a franchise authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this chapter and unless said franchise is in full force and effect.

### **§ 97-4. Franchise contract.**

- A. The municipal officers of the Town may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more cable television companies for the operation of a cable television system within the Town, including the granting of a nonexclusive franchise or franchises for the operation thereof for a period not to exceed 15 years.
- B. Applications.
  - (1) Applicants for a franchise, including applicants for renewal of a franchise, shall pay a nonrefundable filing fee to the Town as established by the Board of Selectmen, following notice and a public hearing, to defray the cost of public notices, advertising and other expenses relating to, or incurred by the Town in acting upon, such applications.
  - (2) The application shall be filed with the Town Clerk and shall contain such information as the Town may require, including but not limited to a general description of the applicant's proposed operation, a schedule of proposed changes, a statement detailing its previous two fiscal years, an estimated ten-year financial projection of its proposed system and its proposed annual Town franchise fee or the basis for the same and a statement detailing the prior operational experience of the applicant in both cable television and microwave service, including that of its officers, management and staff to be associated with the proposed operation.
  - (3) Franchise applications, including renewal applications, and any submittals in response to a request for proposals or solicitation of bids are public records. Upon the filing of such documents, the Town shall provide reasonable notice to the public of the filing of such documents and indicating that such documents are open to public inspection during reasonable hours.
- C. Said franchise contract may be revoked by the municipal officers for good and sufficient cause after due notice to the company and a public hearing thereon with the right to

appeal to the York County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure in accordance with due process.

## § 97-5. Public hearing.

Before authorizing the issuance of any such franchise, including transfers of ownership or renewals, contract or contracts, the municipal officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a cable television system within the Town and shall conduct a public hearing thereon with at least seven days' advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed franchise agreement or transfer.

## § 97-6. Performance bond and insurance coverage.

- A. Upon the execution of any such franchise contract the cable television company shall file a surety company performance bond in the amount and in such form as is acceptable to the Town. The Town, in making this determination, may rely upon the advice of the municipal officers, Town Manager, Town Attorney and/or other appropriate Town officials. The amount of said bond shall not be less than the estimated cost of performing any work specified in the franchise agreement and shall include the cost of dismantling the cable television system. Said bond shall be conditioned upon the faithful performance of said contract and full compliance with any laws, ordinances or regulations governing said franchise.
- B. When the cable television company has completed construction of the system as set forth in the franchise agreement and provided that the cable television company is otherwise in compliance with the terms of the franchise agreement, the municipal officers shall permit the company to reduce said bond to an amount sufficient to cover the cost of dismantling the system.
- C. The cable television company shall also, upon execution of any such franchise contract, provide evidence of such public liability, copyright infringement and other insurance coverage as the municipal officers may require.
- D. The Board of Selectmen may opt to allow for a corporate guaranty in lieu of a performance bond and appropriately condition the corporate guaranty.

## § 97-7. Cable Television Regulatory Board.

The Board of Selectmen is hereby authorized to enter into an interlocal agreement with the Towns of North Berwick, Ogunquit and York for the purpose of establishing a Cable Television Regulatory Board.

- A. **Membership.** The Board of Selectmen is hereby authorized to appoint two volunteer members to the Cable Television Regulatory Board for the Town of Wells. In addition, the Town Manager shall be an advisory member to the Wells delegates.
- B. **Duties of the Board.** The Cable Television Regulatory Board shall have the following duties:
  - (1) To adopt such rules and regulations as it may deem necessary for monitoring the operation of the system, said rules and regulations being subject to the approval of the Selectmen of each town which is the signatory to the interlocal agreement



mentioned in the first paragraph hereof. All such rules and regulations shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission (FCC) for the operation of such systems but may, unless expressly preempted, be more detailed, more restrictive or more strict than applicable FCC regulations.

- (2) To make recommendations to the cable television company concerning educational and local interest programming.
  - (3) To resolve complaints, disputes or disagreements between subscribers and the company.
  - (4) To conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiency in the operation of said system. The Board's decisions and findings shall be final and binding upon all parties, including the company, except such a decision or finding may be appealed to the municipal officers and/or to the York County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure.
  - (5) To prepare specifications for bids or requests for proposals for cable television franchises and invite bids or issue requests for proposals for said franchises. Before issuing a request for proposals or soliciting bids, the Cable Television Regulatory Board shall determine any special local needs or interests, whether by actively seeking to determine those needs or interests or by allowing a period for public comment on a proposed request for proposals. Upon receipt of bids or proposals, it shall study the same and make recommendations on the awarding of a franchise, said recommendations being subject to the approval of each Board of Selectmen of each town which is the signatory to the interlocal agreement mentioned in the first paragraph hereof.
- C. The Cable Television Regulatory Board shall negotiate the franchise agreement between the company and the municipalities who are signatories to the interlocal agreement as mentioned in the first paragraph above, said recommendations being subject to the final and full approval of each municipality.

## § 97-8. Contents of franchise contract.

Each franchise contract between the Town and any cable television company shall contain, but is not limited to, the following provisions:

- A. A statement of the area or areas to be served by the cable television company;
- B. A line extension policy;
- C. A provision for renewal, the term of which may not exceed 15 years;
- D. Procedures for the investigation and resolution of complaints by the cable television company;
- E. An agreement to comply with the requirements of 30-A M.R.S.A. § 3010 regarding consumer rights and protection and any amendments thereto;
- F. Any other terms and conditions that are in the best interest of the Town; and
- G. Provisions for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and

requirements of the Cable Communications Policy Act of 1984, Public Law 98-549, and any amendments thereto.

## § 97-9. Rules, regulations and procedures.

A. The municipal officers of the Town of Wells shall:

- (1) Adopt such rules and regulations as they may deem necessary for monitoring the operation of a cable television system;
- (2) Make recommendations to the cable television company concerning educational and local interest programming;
- (3) Resolve complaints, disputes or disagreements between subscribers and the company;
- (4) Conduct public hearings and issue such appropriate orders as they may deem necessary to correct any deficiencies in the operation of the system. The municipal officers' decisions and findings shall be final and binding upon all parties, including the company, except such decision or finding may be appealed to the York County Superior Court under Rule 80-B; and
- (5) Enforce the requirements of any franchise agreement with a cable television company and enforce the provisions of any local ordinances, regulations, rules and orders, including the provisions of this chapter. As part of such enforcement authority, the municipal officers have the authority to bring legal action for damages and penalties and for injunctive relief. The Town shall be entitled to recover its costs, including reasonable attorney fees, incurred in the enforcement of this chapter, the provisions of a franchise agreement or any local rules or regulations adopted pursuant to this chapter.

B. All such ordinances, regulations, rules and orders of the municipal officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems, except that, unless expressly preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations.

## § 97-10. Compliance with all laws required.

Cable television companies shall at all times comply with all applicable federal, state and local laws, statutes, rules, regulations, ordinances, codes and orders.

## Chapter 100. Cemeteries

[HISTORY: Adopted the Town of Wells 3-6-1987. Amendments noted where applicable.]

### § 100-1. Purpose.

[Amended 4-7-2001]

The purpose of this chapter is to protect all public and private cemeteries, burial grounds, and grave sites within the Town of Wells from destruction and desecration.

### § 100-2. Applicability.

[Amended 4-7-2001]

Unless otherwise specifically provided herein, the provisions of this chapter shall apply to every existing and future cemetery, burial ground and grave site within the boundaries of the Town of Wells.

## § 100-3. Definitions.

[Amended 4-7-2001]

For the purpose of this chapter, the following words shall have the meanings indicated:

### **BURIAL GROUND**

A place known to be used for the burial of human remains, including but not limited to family burying grounds, but not designated as a cemetery.

### **CEMETERY**

A place designated for the burial of human remains, whether or not the boundaries of the cemetery are identified in a deed recorded in the York County Registry of Deeds.

### **GRAVE SITE**

Any place where human remains are buried, whether marked with a stone or other marker or unmarked.

### **ROAD**

A public or private way which provides access to two or more abutting properties.

## § 100-4. Prohibited acts.

[Amended 11-2-1993]

A. The following acts are violations of this chapter:

- (1) The willful disfigurement, marking, defacement or tampering with any tomb, gravestone monument or other object placed or designed as a memorial to the dead or any fence, railing or other thing placed about or enclosing a burial place; except:  
[Amended 4-7-2001]
  - (a) Gravestone rubbings and the cleaning of monuments pursuant to the guidelines of the Maine Old Cemeteries Association (MOCA) shall be exempt from this section.
  - (b) The repair, maintenance and removal of any gravestone, marker, monument or other structure designed as a memorial to the dead, or a portion or fragment of a memorial, in accordance with the provisions of 13 M.R.S.A. § 1371, shall be exempt from this section, provided that the Historic Preservation Commission of the Town of Wells is given at least 30 days notice of the action intended and does not object in writing within said notice period. The Historic Preservation Commission is hereby designated to receive the notice required by 13 M.R.S.A. § 1371(2) and to approve or deny a request when municipal action is required by 13 M.R.S.A. § 1371(1).
- (2) Posting of any signs except those incidental to the operation of the cemetery, placards or advertisements except historical markers in a cemetery area.
- (3) Willfully littering a cemetery or allowing materials to be scattered or blown about a cemetery so as to cause litter.

- (4) Operating snowmobiles, minibikes, trail bikes or other all-terrain-type off-the-road, recreational vehicles in a cemetery area.  
[Amended 4-7-2001]
  - (5) The removal or disinterment of a dead human body or remains from a grave site, whether marked or unmarked, except in accordance with a permit from the Municipal Clerk or a court order. If the body is located in an historic grave site, burial ground or cemetery, the person or entity seeking removal must seek the recommendation of the Historic Preservation Committee, which shall be obtained in writing. In making its recommendation, the Historic Preservation Committee shall consider the historic significance of the grave site, burial ground or cemetery and of the person or persons buried there, the reasons removal or disinterment is requested, the final disposition proposed for the body, any proposals for relocating and preserving the gravestones, markers, monuments or other memorials and such other information as the Committee deems relevant.  
[Added 4-7-2001]
- B. No building, structure or edifice, except those existing on the effective date of this chapter and those incidental to the operation of the cemetery, shall be erected or placed within 25 feet of any grave site.
- C. No new road shall be located such that the traveled portion of the road is located within 25 feet of the boundary of a cemetery or burial ground, if the boundary is marked in some way, or in any other case, within 50 feet of any grave site. If the grave site is marked, the measurement shall be taken from the stone or other marker; provided, however, that when there is no other reasonable location for a road providing the only access to one or more properties, the fifty-foot setback may be reduced the minimum amount necessary to provide reasonable access; but in no event less than 25 feet from a grave site.

## § 100-5. Enforcement.

[Amended 4-7-2001]

The Code Enforcement Officer shall be responsible for the protection of the individual grave sites, cemeteries and burial grounds from any construction prohibited under this chapter, utilizing the document entitled "Cemetery Locations in Wells, Maine" compiled by Hope M. Shelley, dated 1997 and updated in 2000, as it may be amended, a copy of which is on file in the Code Enforcement Office, and other available and reliable information. The Town police shall enforce all other provisions of the chapter.

## § 100-6. Violations and penalties.

[Amended 11-2-1993]

Any person/persons violating the provisions of this chapter shall be punished by a civil penalty of not less than \$100 nor more than \$2,500. In addition, any such person shall also bear the costs of returning each site, to the extent possible, to its original condition.

## Chapter 104. Drug-Free Zones

[HISTORY: Adopted by the Town of Wells 4-28-2006. Amendments noted where applicable.]

## § 104-1. Statement of purpose and authority.

The State Legislature has authorized municipalities to designate areas of the Town frequented by minors as "safe zones" as defined by 17-A M.R.S.A. § 1101(23). This chapter expresses the Town's intent to designate each of the areas identified herein as being an area frequented by minors that should be a drug-free safe zone. The Town does so with the understanding and intent that persons convicted of certain drug offenses will face more severe penalties under state law if the offense occurs within 1,000 feet of real property designated as a "safe zone" under this Ordinance.

## § 104-2. Safe zones designated.

Each area designated herein as a safe zone is an athletic field, park, playground or recreational facility consistent with the statutory definition of "safe zone" in 17-A M.R.S.A. § 1101(23). The following are designated as "Safe Zones" in the Town of Wells:

- A. Wells Recreation Area, Route 9A.
- B. Wells Activity Center, Route 109.
- C. Wells Harbor Park, Harbor Road.
- D. Mile Road Playground, Mile Road.
- E. Tilcon Little League Fields, Route 9.
- F. Drakes Island Beach Association Playground.
- G. Moody Beach Association Park, Furbish Road.

## § 104-3. Signage required.

Each Safe Zone designated in § 104-2 shall be conspicuously marked as a Town of Wells Drug-Free Safe Zone with an informational sign using wording provided by the Commissioner of Public Safety. The Wells Police Department shall be responsible for ensuring that appropriate signage is placed and maintained in the designated safe zones.

## Chapter 109. Firearms

[HISTORY: Adopted by the Town of Wells 3-7-1981. Amendments noted where applicable.]

### § 109-1. Prohibited acts.

It shall be unlawful for any person to shoot or discharge firearms of any kind or description, other than shotguns, on the east side of U.S. Route 1, except on his own property.

### § 109-2. Violations and penalties.

Any person violating § 109-1 shall be subject to a civil penalty of not less than \$100 plus costs of repairs to properties and administrative costs, which civil penalty shall be recovered on complaint to the use of the Town of Wells.

## Chapter 115. Fireworks, Consumer

[HISTORY: Adopted by the Town of Wells 12-20-2011. Amendments noted where applicable.]

## § 115-1. Purpose.

The purpose of this chapter is to prohibit the use and/or sale of consumer fireworks in order to protect public health, safety and welfare.

## § 115-2. Authority.

The Town has authority to enact an ordinance to prohibit or restrict the sale or use of consumer fireworks pursuant to Title 8 M.R.S.A. § 223-A.

## § 115-3. Definitions.

The terms used in this chapter shall be as they are defined herein, and as in Title 8 M.R.S.A. § 221-A, as amended.

### **CONSUMER FIREWORKS**

This term has the same meaning as in 27 Code of Federal Regulations, Section 555.11, or subsequent provision, but includes only products that are tested and certified by a third-party testing laboratory as conforming with the United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. However, "consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

### **FIREWORKS**

- A. This term includes any:
  - (1) Combustible or explosive composition or substance;
  - (2) Combination of explosive compositions or substances;
  - (3) Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;
  - (4) Fireworks containing any explosive or flammable compound; or
  - (5) Tablets or other device containing any explosive substance or flammable compound.
- B. The term "fireworks" does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100

grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

#### **USE OF CONSUMER FIREWORKS**

The lighting or other setting off of consumer fireworks.

### **§ 115-4. Use and sale prohibited.**

- A. The sale of consumer fireworks is prohibited anywhere within the Town of Wells.
- B. The use of consumer fireworks is prohibited anywhere within the Town of Wells.
- C. This chapter does not apply to a person issued a fireworks display permit by the Town and/or State of Maine pursuant to 8 M.R.S.A. § 227-A, as may be amended from time to time.
- D. This chapter is intended only to govern consumer fireworks. The use, sale, and possession of fireworks is governed by the applicable provisions of 8 M.R.S.A. § 221 et seq. THE POSSESSION, AND/OR SALE OF FIREWORKS IN MAINE IS ILLEGAL, except as permitted under 8 M.R.S.A. § 227-A, as may be amended from time to time.

### **§ 115-5. Administration and enforcement.**

The Wells Police Department shall administer and enforce this ordinance.

### **§ 115-6. Violations and penalties.**

- A. Use of consumer fireworks. Use of consumer fireworks in violation of this chapter shall be subject to a fine of not less than \$100 nor more than \$250 plus attorney's fees and costs for the first offense, or a fine of not less than \$250 nor more than \$500 plus attorney costs for each subsequent offense.
- B. Sale of consumer fireworks. Sale of consumer fireworks in violation of this chapter shall be subject to a fine of not less than \$500 nor more than \$1,000 plus attorney's fees costs for the first offense, or a fine of not less than \$1,000 nor more than \$2,500 plus attorney costs for each subsequent offense.
- C. Seizure of consumer fireworks. The Town may seize consumer fireworks that it has probable cause to believe are used or sold in violation of this chapter. All consumer fireworks lawfully seized under this chapter shall be forfeited to the State of Maine pursuant to Title 8 M.R.S.A. § 237(2).

### **§ 115-7. Appeals.**

Any appeals with respect to decisions made under this chapter shall be taken to York County Superior Court within 30 days of the decision being appealed.

### **§ 115-8. Savings clause.**

In the event any provision of this chapter is found by a court of competent jurisdiction to be invalid, the remainder of this chapter shall remain in effect.

## § 115-9. When effective.

This Ordinance shall take effect 30 days after adoption by the Board of Selectmen.

## Chapter 116. Floodplain Management

[HISTORY: Adopted by the Town of Wells 11-5-2002. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. **91**.

Historic preservation — See Ch. **132**.

Land use — See Ch. **145**.

Subdivision of land — See Ch. **202**.

## § 116-1. Purpose; statutory authority; establishment of areas of special flood hazard.

- A. Certain areas of the Town of Wells, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.
- B. Therefore, the Town of Wells, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this chapter.
- C. It is the intent of the Town of Wells, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.
- D. The Town of Wells has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., Sections 3001 through 3007, 4352 and 4401 through 4407.
- E. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Wells having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This chapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the Town of Wells, Maine.
- F. The areas of special flood hazard, Zones A, AE, AO, and/or VE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Wells, Maine, York County," dated January 16, 2003 with accompanying Flood Insurance Rate Map, dated January 16, 2003, which are hereby adopted by reference and declared to be a part of this chapter.

## § 116-2. Permit required.



Before any construction or other development (as defined in § 116-14), including the placement of manufactured homes, begins within any areas of special flood hazard established in § 116-1, a flood hazard development permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Wells, Maine.

### § 116-3. Application for permit.

The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[NOTE: Subsections H through K(3) apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
  - (1) Base flood at the proposed site of all new or substantially improved structures, which is determined:
    - (a) In Zones AE, AO, and VE from data contained in the Flood Insurance Study - Town of Wells, Maine, as described in § 116-1; or,
    - (b) In Zone A:
      - [1] From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to §§ 116-6K and 116-9D;
      - [2] From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data;
      - [3] To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - (2) Highest and lowest grades at the site adjacent to the walls of the proposed building;

- (3) Lowest floor, including basement, and whether or not such structures contain a basement; and,
- (4) Level, in the case of nonresidential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in § 116-6;
- J. A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in § 116-6 by a registered professional engineer or architect:
  - (1) A floodproofing certificate (FEMA Form 81-65, o 8/99, as amended) to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of §§ 116-3H(4), 116-6G, and other applicable standards in § 116-6;
  - (2) A V-Zone certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of § 116-6P, and other applicable standards in § 116-6;
  - (3) A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of § 116-6L(2)(a);
  - (4) A certified statement that bridges will meet the standards of § 116-6M;
  - (5) A certified statement that containment walls will meet the standards of § 116-6N;
- L. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in § 116-6 will be met.

## § 116-4. Application fee; expert's fee.

- A. A nonrefundable application fee as established by the Board of Selectmen following notice and a hearing shall be paid to the Code Enforcement Officer and a copy of a receipt for the same shall accompany the application. Application fees established as of the date of enactment of this chapter shall remain in effect unless changed by the Board of Selectmen.
- B. An additional fee may be charged if the Code Enforcement Officer and/or Zoning Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the Town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the chapter and be grounds for the issuance of a stop-work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Zoning Board of Appeals.

## § 116-5. Review standards for flood hazard development permit applications.

The Code Enforcement Officer shall:

- A. Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of § 116-6, Development standards, have been, or will be met;
- B. Utilize, in the review of all flood hazard development permit applications:
  - (1) The base flood data contained in the Flood Insurance Study - Town of Wells, Maine, as described in § 116-1;
  - (2) In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to § 116-3H(1)(b), § 116-6K, and § 116-9D, in order to administer § 116-6 of this chapter; and,
  - (3) When the community establishes a base flood elevation in a Zone A by methods outlined in § 116-3H(1)(b), the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in § 116-1 of this chapter;
- D. In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this chapter, approve the issuance of one of the following flood hazard development permits, based on the type of development:
  - (1) A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, as built, for verifying compliance with the elevation requirements of § 116-6F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or
  - (2) A flood hazard development permit for floodproofing of nonresidential structures that are new construction or substantially improved nonresidential structures that are not being elevated but that meet the floodproofing standards of § 116-6G(1)(a), (b), and (c). The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or
  - (3) A flood hazard development permit for minor development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to accessory

structures as provided for in § 116-6J, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

- G. Maintain, as a permanent record, copies of all flood hazard development permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Zoning Board of Appeals on variances granted under the provisions of § 116-10 of this chapter, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of §§ 116-3, 116-6, and 116-8 of this chapter.

## § 116-6. Development standards.

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. All development. All development shall:
- (1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) Use construction materials that are resistant to flood damage;
  - (3) Use construction methods and practices that will minimize flood damage; and,
  - (4) Use electrical, heating, ventilation, plumbing, and air-conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- C. Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.
- D. On-site waste disposal systems. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. Watercourse carrying capacity. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential. New construction or substantial improvement of any residential structure located within:
- (1) Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  - (2) Zone AO shall have adequate drainage paths around structures on slopes to guide floodwater away from the proposed structures.
  - (3) Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

- (a) At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
    - (b) At least three feet if no depth number is specified.
  - (4) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ **116-3H(1)(b)**, **116-5B**, or 116-9D.
  - (5) Zone VE shall meet the requirements of § **116-6P**.
- G. Nonresidential. New construction or substantial improvement of any nonresidential structure located within:
- (1) Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - (a) Be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (c) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § **116-3K**, and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
  - (2) Zone AO shall have adequate drainage paths around structures on slopes to guide floodwater away from the proposed structures.
  - (3) Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
    - (a) At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
    - (b) At least three feet if no depth number is specified; or
    - (c) Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of § **116-6G(1)**.
  - (4) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ **116-3H(1)(b)**, **116-5B**, or 116-9D, or together with attendant utility and sanitary facilities meet the floodproofing standards of § **116-6G(1)**.
  - (5) Zone VE shall meet the requirements of § **116-6P**.
- H. Manufactured homes. New or substantially improved manufactured homes located within:
- (1) Zone AE shall:

- (a) Be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- (b) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- (c) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.

[1] Methods of anchoring may include, but are not limited to:

- [a] Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by
- [b] Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

[2] All components of the anchoring system described in § 116-6H(1)(c)[1][a] and [b] shall be capable of carrying a force of 4,800 pounds.

- (2) Zone AO shall have adequate drainage paths around structures on slopes to guide floodwater away from the proposed structures.
- (3) Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
  - (a) At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
  - (b) At least three feet if no depth number is specified; and
  - (c) Meet the anchoring requirements of § 116-6H(1)(c).
- (4) Zone A shall:
  - (a) Be elevated on a permanent foundation, as described in § 116-6H(1)(b), such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 116-3H(1)(b), 116-5B, or 116-9D; and
  - (b) Meet the anchoring requirements of § 116-6H(1)(c).
- (5) Zone VE shall meet the requirements of § 116-6P.

I. Recreational vehicles. Recreational vehicles located within:

- (1) Zone AE shall either:
  - (a) Be on the site for fewer than 180 consecutive days;
  - (b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

- (c) Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in § **116-6H(1)**.
  - (2) Zone VE shall meet the requirements of either § **116-6I(1)(a)** or **(b)**, or 116-6P.
- J. Accessory structures. Accessory structures, as defined in § **116-14**, located within Zone AE, AO, and A, shall be exempt from the elevation criteria required in § **116-6F** and **G** above, if all other requirements of § **116-6** and all the following requirements are met. Accessory structures shall:
  - (1) Be 500 square feet or less and have a value of less than \$3,000;
  - (2) Have unfinished interiors and not be used for human habitation;
  - (3) Have hydraulic openings, as specified in § **116-6L(2)**, in at least two different walls of the accessory structure;
  - (4) Be located outside the floodway;
  - (5) When possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and
  - (6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the special flood hazard area.
- K. Floodways.
  - (1) In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - (2) In Zone AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in § **116-6K(3)**, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
    - (a) Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
    - (b) Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/January 1995, as amended).
  - (3) In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain.
- L. Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones AE, AO, and A that meets the development standards of § **116-6**,

including the elevation requirements of § 116-6, F, G, or H and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the base flood elevation requirements, provided all the following criteria are met or exceeded:

- (1) Enclosed areas are not basements as defined in § 116-14;
  - (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
    - (a) Be engineered and certified by a registered professional engineer or architect; or
    - (b) Meet or exceed the following minimum criteria:
      - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
      - [2] The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and
      - [3] Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of floodwaters automatically without any external influence or control, such as human intervention, including the use of electrical and other nonautomatic mechanical means.
  - (3) The enclosed area shall not be used for human habitation; and
  - (4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. Bridges. New construction or substantial improvement of any bridge in Zones AE, AO, A, and VE shall be designed such that:
- (1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
  - (2) A registered professional engineer shall certify that:
    - (a) The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of § 116-6K; and
    - (b) The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. Containment walls. New construction or substantial improvement of any containment wall located within:
- (1) Zones AE, A, and VE shall:
    - (a) Have the containment wall elevated to at least one foot above the base flood elevation;
    - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and



- (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 116-3K.
- (2) Zone AO shall have adequate drainage paths around containment walls on slopes to guide floodwater away from the proposed walls.
- (3) Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
  - (a) At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
  - (b) At least three feet if no depth number is specified; and
  - (c) Shall meet the requirements of § 116-6N(1)(b) and (c).
- O. Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE, AO, A, and VE, in and over water and seaward of the mean high tide if the following requirements are met:
  - (1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  - (2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.
- P. Coastal floodplains.
  - (1) All new construction located within Zones AE, A, and VE shall be located landward of the reach of mean high tide.
  - (2) New construction or substantial improvement of any structure located within Zone VE shall:
    - (a) Be elevated on posts or columns such that:
      - [1] The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
      - [2] The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
      - [3] Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
    - (b) Have the space below the lowest floor:
      - [1] Free of obstructions; or
      - [2] Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or

other structural damage to the elevated portion of the building or supporting piles or columns; or

- [3] Constructed with nonsupporting breakaway walls which have a design safe loading resistance of not less than 10 nor more than 20 pounds per square foot.

(c) Require a registered professional engineer or architect to:

- [1] Develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/June, 2000); and [Amended 4-12-2003]
- [2] Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of **§ 116-6P(2)**.

- (3) The use of fill for structural support in Zone VE is prohibited.
- (4) Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
- (5) The enclosed areas may be used solely for parking vehicles, building access, and storage.

## § 116-7. (Reserved).

## § 116-8. Certificate of compliance.

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For new construction or substantial improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
  - (1) An elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with **§ 116-6F, G, H, or P**; and
  - (2) For structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with **§ 116-6P(2)**.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this chapter.
- C. Within 10 working days, the Code Enforcement Officer shall:
  - (1) Review the required certificate(s) and the applicant's written notification; and
  - (2) Upon determination that the development conforms with the provisions of this chapter, shall issue a certificate of compliance.

## § 116-9. Review of subdivision and development proposals.

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five or more disturbed acres, or in the case of manufactured home parks divided into two or more sites or lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any site or lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with § 116-6 of this chapter. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## § 116-10. Appeals; variances.

- A. The Zoning Board of Appeals of the Town of Wells may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this chapter.
- B. The Zoning Board of Appeals may grant a variance from the requirements of this chapter consistent with state law and the following criteria:
  - (1) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - (2) Variances shall be granted only upon:
    - (a) A showing of good and sufficient cause; and
    - (b) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and
    - (c) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and
    - (d) A determination that failure to grant the variance would result in undue hardship, which in this subsection means:

- [1] That the land in question cannot yield a reasonable return unless a variance is granted; and
  - [2] That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
  - [3] That the granting of a variance will not alter the essential character of the locality; and
  - [4] That the hardship is not the result of action taken by the applicant or a prior owner.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Zoning Board of Appeals may impose such conditions to a variance as it deems necessary.
- (4) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use, provided that:
- (a) Other criteria of §§ **116-10** and **116-6K** are met; and
  - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (5) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:
- (a) The development meets the criteria of § **116-10B(1)** through **(4)** above; and
  - (b) The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (6) Any applicant who meets the criteria of § **116-10B(1)** through **(5)** shall be notified by the Zoning Board of Appeals in writing over the signature of the Chairman of the Zoning Board of Appeals that:
- (a) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - (b) Such construction below the base flood level increases risks to life and property; and
  - (c) The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- (7) Appeal procedure for administrative and variance appeals.
- (a) An administrative or variance appeal may be taken to the Zoning Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

- (b) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Zoning Board of Appeals all of the papers constituting the record of the decision appealed from.
- (c) The Zoning Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
- (d) The person filing the appeal shall have the burden of proof.
- (e) The Zoning Board of Appeals shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
- (f) The Zoning Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.
- (g) Any aggrieved party who participated as a party during the proceedings before the Zoning Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Zoning Board of Appeals.

## § 116-11. Enforcement; violations and penalties.

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter pursuant to Title 30-A M.R.S.A. § 4452.
- B. The penalties contained in Title 30-A M.R.S.A. § 4452 shall apply to any violation of this chapter.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  - (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  - (2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
  - (3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  - (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
  - (5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## § 116-12. Severability.

If any section or provision of this chapter is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this chapter.

## § 116-13. Conflict with other ordinances.

This chapter shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this chapter imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this chapter shall control.

## § 116-14. Word usage; definitions.

- A. Unless specifically defined below, words and phrases used in this chapter shall have the same meanings as they have at common law and to give this chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.
- B. As used in this chapter, the following terms shall have the meanings indicated:

### **ACCESSORY STRUCTURE**

A small detached structure that is incidental and subordinate to the principal structure.

### **ADJACENT GRADE**

The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

### **AREA OF SHALLOW FLOODING**

A designated AO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent-or-greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

### **AREA OF SPECIAL FLOOD HAZARD**

The land in the floodplain having a one-percent-or-greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in § 116-1 of this chapter.

### **BASE FLOOD**

The flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the "one-hundred-year flood."

### **BASEMENT**

Any area of the building having its floor subgrade (below ground level) on all sides.

### **BREAKAWAY WALL**

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

### **BUILDING**

See "structure."

### **CERTIFICATE OF COMPLIANCE**

A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this chapter.

### **CODE ENFORCEMENT OFFICER**

Any person or board appointed by the Town of Wells to administer and enforce this chapter and other local ordinances.

### **DEVELOPMENT**

Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

### **ELEVATED BUILDING**

- (1) A nonbasement building:
  - (a) Built, in the case of a building in Zones AE, A, or AO, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or stilts; and
  - (b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
- (2) In the case of Zones AE, A, or AO, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwaters, as required in § 116-6L. In the case of Zone VE, "elevated building" also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of § 116-6P(2)(b)[3].

### **ELEVATION CERTIFICATE**

An official form (FEMA Form 81-31, 0 7/00, as amended) that:

- (1) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
- (2) Is required for purchasing flood insurance.

### **FLOOD OR FLOODING**

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (2) The overflow of inland or tidal waters.
  - (3) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (4) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or

by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) of this definition.

**FLOOD ELEVATION STUDY**

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**FLOOD INSURANCE RATE MAP (FIRM)**

An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY**

See "flood elevation study."

**FLOODPLAIN or FLOOD-PRONE AREA**

Any land area susceptible to being inundated by water from any source. (See "flooding.")

**FLOODPLAIN MANAGEMENT**

The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS**

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOODPROOFING**

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**FLOODWAY**

See "regulatory floodway."

**FLOODWAY ENCROACHMENT LINES**

The lines marking the limits of floodways on federal, state, and local floodplain maps.

**FREEBOARD**

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**FUNCTIONALLY DEPENDENT USE**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.



**HISTORIC STRUCTURE**

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**LOCALLY ESTABLISHED DATUM**

For purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

**LOWEST FLOOR**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements described in § 116-6L of this chapter.

**MANUFACTURED HOME**

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**MANUFACTURED HOME PARK OR SUBDIVISION**

A parcel (or contiguous parcels) of land divided into two or more manufactured home sites or lots for rent or sale.

**MEAN SEA LEVEL**

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

**MINOR DEVELOPMENT**

All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in § 116-6J, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)**

The national geodetic vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)."

**NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**ONE-HUNDRED-YEAR FLOOD**

See "base flood."

**RECREATIONAL VEHICLE**

A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection, not including slideouts;
- (3) Designed to be self-propelled or permanently towable by a motor vehicle; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOODWAY**

- (1) The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
- (2) When not designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**RIVERINE**

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SPECIAL FLOOD HAZARD AREA**

See "area of special flood hazard."

**START OF CONSTRUCTION**

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start

means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE**

For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**SUBSTANTIAL DAMAGE**

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

**SUBSTANTIAL IMPROVEMENT**

Any singular or successive repairs, reconstructions, rehabilitations, additions, or other improvements of a structure, the cumulative cost (value) of which equals or exceeds 50% of the market value of the structure before the start of construction of the first improvement project following the effective date of April 19, 1997. In determining whether a development project constitutes a substantial improvement, the total cost (value) of all repairs, reconstructions, additions or other improvements shall be accrued over a period of 10 years from the time of the first permit application following the effective date of April 19, 1997. This term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Zoning Board of Appeals.

**VARIANCE**

A grant of relief by a community from the terms of a floodplain management regulation.

**VIOLATION**

The failure of a structure or development to comply with a community's floodplain management regulations.

## § 116-15. Repealer.

This chapter repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended), and specifically repeals Chapter 115 Floodplain Management of the Code of the Town of Wells, Maine.

## Chapter 120. General Assistance Program

[The current General Assistance Program, as amended, is on file in the Town offices.]

## Chapter 122. Groundwater Protection

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

122a Exhibit A 

122b Exhibit B 

## Article I. Burnt Mill Road Soil Vault and Groundwater Protection Area

[Adopted 11-6-2001]

### § 122-1. Title.

This article shall be known and may be cited as the "Burnt Mill Road Soil Vault and Groundwater Protection Ordinance of the Town of Wells, Maine."

### § 122-2. Purpose.

- A. The purpose of this article is to protect the health, safety and general welfare of residents of Wells and to assist in remediation of an area in the vicinity of Burnt Mill Road affected by the operations of the former Portland Bangor Waste Oil Company ("company").
- B. Beginning in the 1950's, the company disposed of waste oil sludge and oily water and stored and processed waste oil for use off site on a site adjacent to Burnt Mill Road in Wells. Investigations into the activities of the company identified petroleum-related compounds and other chemicals at levels of concern in the Burnt Mill Road area. To address these concerns, the contaminated soils will be cleaned up and soils will be stabilized and solidified and capped in an on-site soil vault in perpetuity. Clean soils will be brought in to replace the contaminated soils. To protect the public health, groundwater adversely affected by the company's past activities, which may remain affected by chemicals for some time, should not be extracted or used.
- C. This article identifies and establishes two areas subject to restrictions. The first area identified is a certain soil vault area ("SVA") consisting of a portion of the former company property, identified to protect an area of consolidated, treated, and capped soils (the "soil vault"), constructed to contain the soils and prevent human and environmental exposure to the soils. The second area is a larger groundwater protection area ("GPA"), which encompasses the areas of groundwater contamination, to aid in the protection of groundwater and to prevent use of that groundwater.
- D. The SVA is intended to promote remediation and environmental protection by limiting activities that could interfere with the integrity of the soil vault. The GPA protects the

environment by prohibiting removal of groundwater and certain other activities that might affect groundwater quality, to prevent exposure to and migration of that groundwater, until such time as groundwater may become potable. The GPA includes only those properties identified during the environmental investigation as having groundwater that was adversely affected by operations of the company. Environmental investigations have shown that groundwater under other properties in the vicinity shows no effects from company operations. If analysis of ongoing test results indicates that contamination is spreading beyond the current GPA, the Town may amend this article to expand the GPA at any Town meeting.

## § 122-3. Scope and authority.

- A. Within the boundaries of the SVA as established by § 122-5A of this article, there shall be no disturbing of the surface soils or the area below the ground surface. Any activities other than those necessary to maintain the vault are prohibited, notwithstanding the provisions of any other Town ordinance, unless specifically allowed by this article. This prohibition includes, but is not limited to, erection of structures, building of roads, and paving areas for parking and/or storage. Planting, cultivation and mowing of grass are permitted.
- B. Within the boundaries of the GPA, as established by § 122-5A of this article, no groundwater shall be extracted from the ground except as allowed by this article. Other activities in the GPA that may affect the groundwater quantity or quality are also prohibited by this article. This article shall apply to the area designated as the GPA notwithstanding the provisions of any other Town ordinance.
- C. This article is adopted pursuant to Article VIII-A of the Maine State Constitution and 30-A M.R.S.A. §§ 3001 and 3002.
- D. Prior to amendment or repeal of this article, the Town shall notify the Maine Department of Environmental Protection.

## § 122-4. Definitions.

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

### **GROUNDWATER**

All the water found beneath the surface of the ground. In this article the term also includes the slowly moving subsurface water present in aquifers and recharge areas.

## § 122-5. Establishment and delineation of SVA and GPA; regulations; exemptions; permits.

- A. SVA and GPA established.
  - (i) For the purpose of this article, there is hereby established within the Town of Wells a certain soil vault area as depicted on the Wells Plan, entitled "Portland Bangor Waste Oil, Wells Maine, **Exhibit A**," prepared by TRC, dated July 2001, which is hereby incorporated into this article by reference, and attached as **Exhibit A**.<sup>[1]</sup> This SVA is in an area formerly owned by the company and used in its operations. The area depicted as the SVA on **Exhibit A** may be larger than the area actually constructed as a soil vault. The Board of Selectmen is hereby delegated the authority to refine the boundaries of the SVA by adopting a revised plan in

accordance with the following: there shall be notice and a hearing on the proposed boundary change; the SVA boundaries shall be established by a survey, and the survey shall be incorporated into the article; and the area of the SVA may be reduced in size to correspond with the final boundaries of the SVA as constructed but may not be expanded by action of the Selectmen. No other change to the boundaries of the SVA may be accomplished by action of the Selectmen.

[1] *Editor's Note: Exhibit A is located at the end of this chapter.*

- (2) For the purpose of this article, there is hereby established within the Town of Wells a certain groundwater protection area as depicted on the Wells Plan, entitled "Portland Bangor Waste Oil, Wells, Maine, **Exhibit B**," prepared by TRC, dated July 2001, which is hereby incorporated into this article by reference, and attached as **Exhibit B**.<sup>[2]</sup> This GPA may be amended from time to time on the basis of ongoing testing and analysis of groundwater. If the State of Maine Department of Environmental Protection certifies that groundwater in a particular area of the GPA meets the state drinking water standards for the petroleum-related compounds and chemicals of concern, this article shall be amended to remove that area from the GPA. If test results indicate that groundwater contamination is spreading into new areas, this article may be amended to enlarge the GPA.

[2] *Editor's Note: Exhibit B is located at the end of this chapter.*

#### B. Regulations affecting SVA and GPA.

- (1) Within the SVA, these regulations shall apply:
- (a) There shall be no disturbance of soils or subsoils, or excavation or construction at or below grade. Maintenance of the soil vault and related appurtenances, including any fences or other barriers, and the cultivation of grass are permitted.
  - (b) Any activity within the SVA must follow appropriate occupational health and safety measures, as may be required by law, to protect workers against exposure to potential hazardous substances.
- (2) Within the GPA, these regulations shall apply:
- (a) The drilling for, use or extraction of groundwater by any means or for any purpose, including residential drinking wells, is prohibited except that groundwater may be withdrawn for sampling to assess water quality upon receipt of a permit from the Code Enforcement Officer. A permit shall be issued by the CEO within 14 days after submittal of a map showing the location of the monitoring wells and a description of the testing protocols;
  - (b) Mineral extraction is permitted in accordance with the Town of Wells Land Use Ordinance<sup>[3]</sup> regulations pertaining to mineral extraction, specifically including the prohibition on extracting materials below five feet above the water table;
  - (c) Any activity that would alter a groundwater or surface water table level (other than what would occur naturally) is prohibited, except that a subsurface septic system for a household residence may be constructed and operated in accordance with applicable state and local laws;
  - (d) Irrigation or watering of nonresidential fields, including playing fields, is permitted upon receipt of a permit from the CEO, who shall issue the permit, provided an off-site water supply is used; and

[3] *Editor's Note: See Ch. 145, Land Use.*

- (e) Typical household activities such as watering lawns or gardens, washing cars, and grading, and/or construction of building additions or new structures in accordance with state and local laws are permitted.
- C. Exempt activities. Activities conducted in accordance with and pursuant to the requirements of the consent decree, *Maine v. United States, et al.*, No. 00-64-B-C (D. Me., entered May 31, 2000), including activities of remedial contractors conducting environmental investigation and cleanup in accordance with and pursuant to that consent decree, are exempt from the requirements of this article.
- D. Notice of permit applications and decisions.
  - (1) Whenever the Code Enforcement Officer receives an application for a permit to authorize activities requiring a permit under this article, a copy of the application shall be forwarded to the Maine Department of Environmental Protection, Bureau of Remediation and Waste Management.
  - (2) The Town shall provide written notice, of any permit decision by the Code Enforcement Officer allowing or prohibiting any activity occurring in the SVA or the GPA, to the applicant, the owner of the property (if different from the applicant) and the Maine Department of Environmental Protection, Bureau of Remediation and Waste Management. Any decision may be appealed to the Zoning Board of Appeals<sup>[4]</sup> by any person or entity receiving written notice of the decision from the Town, by the owner of any property within either the SVA or the GPA, or by the owner of any property abutting the property on which the activity was proposed within 30 days after the date of the decision. The Zoning Board of Appeals shall have jurisdiction to consider any such appeal as a de novo appeal, following the procedures outlined in 30-A M.R.S.A. § 2691.

[4] *Editor's Note: See Ch. 145, Art. IX, Zoning Board of Appeals.*

## § 122-6. Enforcement; violations and penalties.

- A. The Code Enforcement Officer shall be responsible for enforcing this article.
- B. The Code Enforcement Officer or the municipal officers shall institute or cause to be instituted, in the name of the Town, any and all actions, legal and equitable, that shall be appropriate or necessary for the enforcement of the provisions of this article.
- C. Any person, firm or corporation found to violate any provision of this article or, being the owner or occupant of, or having control over the use of land, on which a violation of any provision of this article is found to occur, shall be guilty of a civil violation and, upon conviction thereof, shall be punished by a civil penalty of not less than \$100, and not more than \$250. Each day such violation is permitted to exist after notification thereof by the Town shall constitute a separate offense. Such persons shall also be liable for the Town's court costs and reasonable attorneys' fees. Any penalty assessed for violation of this article shall be in addition to any liability for violation of state laws regulating the installation of groundwater extraction systems. (If a person installs a groundwater extraction system without prior approval and that activity alters the groundwater system in such a manner to cause an adverse impact, that person may be held liable, under state law (38 M.R.S.A. § 1361 et seq.), for all costs related to mitigating the impact.)

## Chapter 124. Harbor

[HISTORY: Adopted by the Town of Wells 3-11-1967; amended in its entirety 8-2-2011. Subsequent amendments noted where applicable.]



**GENERAL REFERENCES**

Beaches — See Ch. 86.

Shellfish conservation program — See Ch. 190.

## § 124-1. Purpose.

This Harbor Ordinance is hereby established to regulate marine activities within Wells Harbor of the Town of Wells, Maine, in order to ensure safety to persons and property, promote availability and use of valuable public resources, and to create a fair and efficient framework for the administration of these waters.

## § 124-2. 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.

## § 124-3. Definitions.

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

**ANCHORAGE**

The area of Wells Harbor where the wake zone is enforced from the green day mark "5" south to the southernmost mooring in the Webhannet River.

**COMMERCIAL FISHERMAN**

A fisherman who is licensed by the State of Maine and/or other applicable entities to engage in commercial fishing.

**MOORING PERMIT**

A permit issued annually by the Harbor Master to an applicant, authorizing the applicant to use a specific mooring space for a specific overall length and type of vessel, for a period of one year.

**OVERALL LENGTH**

Includes all fixed fore and aft extensions.

**PRIVATE MOORING**

Moorings placed within Wells Harbor that are governed by the provisions of § 124-14A and C and for which private individuals are largely responsible for installation and maintenance.

[Added 2-21-2017]

**PUBLIC MOORING**

Moorings placed within Wells Harbor that are governed by the provisions of § 124-14A and B and for which the Town of Wells is largely responsible for installation and maintenance.

[Added 2-21-2017]

**STRUCTURALLY UNSAFE**

A vessel lacking structural integrity due to neglect, design, or damage, thereby creating an unsafe environment for vessels, persons, or property in its vicinity.



**UNSANITARY**

A vessel discharging or otherwise emitting toxic or environmentally damaging materials above and beyond normal operating standards or promoting the congregation of waterfowl.

**WELLS HARBOR**

The Webhannet River and all of its tributaries both now and hereafter appearing where the tide ebbs and flows.

**§ 124-4. Applicability.**

- A. This chapter shall apply to all shores of Wells Harbor as described in the definition of "Wells Harbor" in § 124-3, with the addition of the channel to the outer end of the north and south jetties, all of its access roads and lands adjacent thereto, both now and hereafter created by natural or mechanical erosion, including acreage on all public properties.
- B. This chapter and all applicable state, federal and local regulations shall apply to the jetties, access roads, parking lots and all other public properties adjacent thereto.

**§ 124-5. Selectmen to make rules and regulations and set fees.**

- A. The Board of Selectmen shall be authorized to make rules and regulations governing the use of Wells Harbor and all areas set forth in § 124-4, by resolution, after a public hearing held at least 10 days before their enactment.
- B. The Board of Selectmen shall be authorized to set fees for the use of all harbor facilities, after a public hearing held at least 10 days before the fees being set.

**§ 124-6. Appointment of Harbor Master and Assistant Harbor Master.**

The Board of Selectmen shall be authorized to appoint a suitably qualified Harbor Master and Assistant Harbor Master and fix a reasonable compensation for such service.

**§ 124-7. Duties of Harbor Master.**

The Harbor Master shall enforce all ordinances, rules and regulations and state and federal statutes applicable to Wells Harbor and other public properties as herein described in this chapter.

**§ 124-8. Enforcement.**

The enforcement of this chapter shall be the duty of the Harbor Master whenever not otherwise provided. The Assistant Harbor Master shall have the powers and duties of the Harbor Master in the Harbor Master's absence.

**§ 124-9. Compliance required.**

All orders and directions of the Harbor Master shall be complied with.

## § 124-10. Permit for construction required.

No dock, floats or any other type of structure shall be erected in Wells Harbor without first obtaining all necessary permits, including from the Board of Selectmen and the Army Corps of Engineers whenever required.

## § 124-11. Laying out and marking of channel.

The Harbor Master may, after consultation with the Town Manager and subject to the approval of the Board of Selectmen and confirmation and approval by the Coast Guard, lay out a channel through the anchorage and place markers determining such channel if necessary.

## § 124-12. Marking of shoals.

The Harbor Master shall mark for public safety any shoal or other submerged object with the approval of the Coast Guard.

## § 124-13. Tenders.

- A. All tenders using the tender floats shall not be longer than 12 feet.
- B. All tenders shall be properly tied up and shall be pumped or bailed out after each rain.

## § 124-14. Moorings.

[Amended 2-21-2017]

- A. General provisions. The following provisions are applicable to all moorings located within Wells Harbor (regardless of whether they are public or private):
  - (1) Designation of mooring area. The Harbor Master shall plot plan the anchorage area and designate the area where all boats, vessels or any type flotation may be moored in consultation with the Town Manager and subject to the approval of the Board of Selectmen.
    - (a) Placement of moorings. All moorings shall be placed at the discretion of the Harbor Master.
    - (b) Denial of mooring placement or use. Except as otherwise specified in § 124-14C, the placement or use of a private mooring within the limits of Wells Harbor is prohibited. The Town may deny use of the Town-owned dock(s), piers, moorings and other float facilities, as well as of private moorings, within the limits of Wells Harbor for the following reasons:
      - [1] Boat, vessel or flotation is structurally unsafe.
      - [2] Boat, vessel or flotation shows neglect where such neglect can be construed as dereliction.

- [3] Boat, vessel or flotation is unsanitary.
  - [4] Boat, vessel or flotation whose overall length does not permit proper moorage or imparts greater than normal strain on hardware, tackle or lines for dock and float facilities.
  - [5] Boat, vessel or flotation whose overall length does not permit proper moorage or imparts greater than normal strain on hardware, tackle or lines for the mooring area.
  - [6] Boat, vessel, houseboat or any other type of flotation is being used for living quarters for more than five days.
  - [7] Boat, vessel or flotation would be dangerous to persons or property, including docks, wharves and floats.
  - [8] Boat, vessel or flotation is emanating noxious fumes, oils or any other materials detrimental to the safety and comfort of others, including the pollution of its waters, shores and floats.
  - [9] Boat, vessel or flotation is moored without permit.
- (c) Unapproved moorings restricted. No moorings shall be placed in Wells Harbor by anyone other than the Harbor Master except by permission of the Harbor Master in case of emergency.
- (d) Tying up to moorings required. No boat, vessel or any type of flotation shall be moored or tied up to any other device in the mooring area or any other part of the river within the limits of Wells Harbor for the purpose of mooring, except at a mooring or float assigned for that purpose by the Harbor Master or by an individual or entity previously approved by the Harbor Master or Board of Selectmen. This section shall not apply in the event of emergency or by written permit of the Harbor Master.
- (2) Mooring standards. All moorings shall conform to the specifications as set forth by the Harbor Master for public and private moorings, respectively. The Harbor Master shall have the discretion to assign boats, vessels and any type of flotation to a mooring or a float meeting appropriate specifications, but in no event shall there be more than one boat, vessel or any type of flotation per mooring, except with permission from the Harbor Master for a short duration.
- (a) Moorings for smaller boats, vessels or any type of flotation. The Harbor Master may develop standards for the placement of boats, vessels or any type of flotation of certain overall length on floats versus moorings.
- (3) Mooring fee schedule. Mooring fees are payable in advance as per the mooring fee schedule as established by the Board of Selectmen pursuant to § **124-5B**. Said fee schedule shall be based on overall length of the vessel, which shall include all fore and aft extensions, pulpits, tender davits, and similar equipment.
- (a) All boats, vessels or any type of flotation shall be charged by their overall length.
- (4) Mooring space assignment and reassignment. All mooring spaces are under the exclusive control of the Harbor Master and must be assigned annually from established lists maintained by the Harbor Master of persons either holding or desiring a mooring permit, except for designated mooring spaces which the Harbor Master may assign to transient boats, vessels or any type of flotation.

- (a) Mooring space assignees may change their boat, vessel or type of flotation on their assigned mooring only with the permission of the Harbor Master. In general, assignees will be limited to the same approximate overall length and type of boat, vessel or type of flotation unless, in the judgment of the Harbor Master, a change can be made without adversely affecting the Harbor mooring plan or adjoining mooring space assignees.
  - (b) Any change in the overall length of a boat, vessel or any type of flotation assigned to a mooring must be requested, in writing, and approved by the Harbor Master. In the event that the request to go from a small boat, vessel or flotation mooring to a large boat, vessel or flotation mooring is approved, the mooring holder will be placed on the appropriate mooring waiting list, which list is on file with the Town Clerk and the Harbor Master.
  - (c) Moorings not transferable. Moorings are not transferable to others except to commercial fishermen's next of kin for continued commercial fishing purposes as indicated by Maine State Law. See 38 M.R.S.A. § 3-A, as amended.
  - (d) When a mooring holder does not put a boat, vessel or any type of flotation on the mooring assigned to him/her after the mooring fee is paid, he/she shall have a one-year grace period in which to replace the boat, vessel or flotation with one that is similar in overall length. After the year's grace period, if the same boat, vessel or flotation or a boat, vessel or flotation similar in overall length is not placed back on the leased mooring by July 1, the mooring will be forfeited and opened to the mooring waiting list applicants.
  - (e) It is the responsibility of the mooring holders to provide proof of ownership of a boat, vessel or any type of flotation assigned to a specific mooring. Ownership is to be proven at the time of application for a mooring permit.
- (5) Mooring permit holder. The application for a mooring permit shall include the overall length, draft, and type of boat, vessel or flotation proposed for the mooring space, the application fee, and other pertinent information requested on the application form. It is the responsibility of the applicant to fill out the application and submit it to the Town of Wells. An application shall not be considered received until the application and fees, excise taxes and any applicable penalties are received by the Town of Wells. The Harbor Master shall review the application, approve it, and issue the mooring permit or deny the application. All mooring permits and renewals must be paid in full by April 15 unless a prior signed agreement has been made, in writing, and approved by the Harbor Master. Any mooring not paid for by April 15 shall be revoked and given to the next appropriate vessel on the governing waiting list.
- (6) Waiting list: All new mooring assignments shall be made on a first-come-first-served basis from established waiting lists maintained by the Harbor Master, except as provided by statute. See 38 M.R.S.A. § 7-A, as amended. Applicants will be listed chronologically according to the overall length of their boat, vessel or type of flotation. The Harbor Master shall review mooring applications with regard to space available for the overall length, draft and type of boat, vessel or flotation indicated, as evaluated by the Harbor Master. Applicants on a waiting list may refuse an offered mooring space and retain their relative position on the list only twice before being stricken from their respective list. Applicants will have 14 days to respond to mooring assignment offers. Applications shall be good for one year and must be renewed annually on or before April 1 in order to retain the applicant's relative position on the list. The waiting lists shall be available for inspection by the public during regular business hours at the office of the Harbor Master and at Wells Town Hall.

- (7) Any person with special circumstances needing special accommodations may submit a written letter to the Harbor Master to be considered for special placement. If such needs are deemed valid, special placement may be granted to mooring or slip holders if such space is available.
  - (8) General mooring prohibitions.
    - (a) Except for emergencies or when approved by the Harbor Master, no boat, vessel or any type of flotation shall be tied alongside any municipal float for more than 30 minutes at any one time, except that commercial boats, vessels or any type of flotation having an assigned mooring are allowed a maximum of 45 minutes upon return. Upon violation of this subsection, the boat, vessel or any type of flotation will be subject to a fine of \$50 and must be moved. The Harbor Master may extend these time limits for vessel repairs.
- B. Public moorings. In addition to the general provisions governing all moorings set forth in Subsection A above, the following provisions shall govern public moorings:
- (1) Public mooring blocks. All public mooring blocks shall be of stone, granite, heavy reinforced concrete or its equivalent or metal Helix-type anchors, but in no event shall a block be more than 14 inches in height nor more than 48 inches in length or width, except with the written permission of the Harbor Master.
  - (2) Inspection of public moorings. All public moorings and floats shall be inspected at least once each year by the Harbor Master, who shall direct any repairs necessary for the safety of persons, moored boats, vessels and flotation devices and other property. In addition, the Harbor Master may require additional inspections administered by a licensed and insured company.
  - (3) Public moorings will be limited to boats, vessels, and any type of flotation, which do not exceed 42 feet in overall length. Existing public mooring permits for boats, vessels and any type of flotation issued before October 1, 2011, which exceed 42 feet shall be allowed.
  - (4) All public mooring holders must maintain liability insurance (minimum \$100,000) on their boat, vessel or any type of flotation, and proof of insurance must accompany the mooring application. If an insurance policy is not maintained, the mooring holder's permit shall be revoked.
  - (5) A public mooring or slip may be held without a boat, vessel or any type of flotation for one year. The Harbor Master shall grant a conditional permit of one year for that public mooring or slip to the next eligible person from the public mooring or slip waiting list in order to use all available spaces in the harbor. After one year, if the original public mooring or slip holder does not place a boat, vessel or any type of flotation on their mooring, the Town will revoke that public mooring permit and grant it to the next eligible person on the waiting list.
    - (a) If a public mooring holder's mooring or slip will not accommodate his/her boat, vessel or type of flotation due to loss of water depth due to sand encroachment, that person shall be allowed to hold that public mooring space until conditions permit placement of that same boat, vessel or type of flotation in the space by paying the base mooring fee of \$250 as a holding fee. During such time, conditional use of that public mooring or slip will be granted to the next eligible person from the public mooring or slip waiting list in order to use all available spaces in the harbor.
    - (b) All persons who accept a conditional permit do so with the understanding that it is a conditional permit for one season and all fees must be paid and

documentation provided prior to use of said berth.

- C. Private moorings. In addition to the general provisions governing all moorings set forth in Subsection A above, the following provisions shall govern private moorings:
- (1) The Harbor Master reserves the right to move, pull, or inspect any private mooring at any time.
  - (2) All private moorings will be assigned a specific number which shall be painted on or somehow displayed on said mooring's mooring ball.
  - (3) The responsibility for all installation, maintenance, construction, and removal of private moorings fall to the owner of the mooring.
  - (4) Construction specifications. All private moorings must meet the following construction specifications:
    - (a) Minimum requirements for vessels up to 18 feet:
      - [1] One-hundred-pound Dor-Mor-style pyramid anchor.
      - [2] Thirty-five feet of one-half-inch domestic mooring chain.
      - [3] Five-eighths-inch domestic shackles.
      - [4] Domestic swivels.
      - [5] Eighteen-inch white mooring ball, either inflated or hard shell, with blue stripe and assigned number clearly marked.
      - [6] Seven-sixteenths-inch nylon pendant with length of three times the height of the bow from the water with appropriate pickup buoy and flotation.
    - (b) Minimum requirements for vessels 18 feet to 24 feet:
      - [1] One-hundred-fifty- or two-hundred-pound pyramid anchor (Harbor Master needs to approve).
      - [2] Thirty-five feet of one-half-inch domestic mooring chain.
      - [3] Five-eighths-inch domestic shackles.
      - [4] Domestic swivels.
      - [5] Twenty-four-inch white mooring ball, either inflated or hard shell, with blue stripe and assigned number clearly marked.
      - [6] One-half-inch nylon pendant with length of three times the height of the bow from the water with appropriate pickup buoy and flotation.
  - (5) Vessel types. Vessels of not more than 24 feet and of appropriate construction may request a private mooring. Vessel construction must be suitable and allow for potential grounding. All vessels electing to use the private mooring scheme must be approved by the Harbor Master.
  - (6) Inspection requirements. All private moorings must be of appropriate construction and be certified every two years by a licensed mooring inspection service, a Town-designated entity, or the Harbor Master. A fee may be associated to this service as determined by the Board of Selectmen.

- (7) Seasonal removal. All private moorings must be removed and placed in designated areas of the river or stored off site between November 1 and April 30 unless otherwise approved by the Harbor Master. Sparring or "dead-heading" of moorings is prohibited.

## § 124-15. Boats, vessels and flotations.

- A. Boats, vessels or any type of flotation shall not be left tied up unattended at the Town piers system, except by permission of the Harbor Master.
- B. No boat, vessel or any type of flotation shall be abandoned or left to disintegrate in Wells Harbor.
- C. The Harbor Master shall notify the owner, owners or agents of any boat, vessel or any type of flotation he deems abandoned or left to disintegrate after consultation with the Town Manager and subject to the approval of the Board of Selectmen. The owner, owners or agents shall remove the boat, vessel or type of flotation within a reasonable length of time. If the boat, vessel or type of flotation is not removed within a reasonable length of time by the owner, owners or agents, the Harbor Master shall remove the abandoned boat, vessel or flotation, the cost of which removal shall be levied upon its owner, owners or agents.
- D. Any boat, vessel or any type of flotation which sinks at a mooring, dock or float in Wells Harbor shall be subject to § 124-15C.
- E. All boats, vessels or any type of flotation using the anchorage and facilities shall be liable for all damages to moorings, floats, docks, and other Town-owned equipment unless caused by the material failure of Town-owned equipment.

## § 124-16. Fishing gear.

- A. The Harbor Master shall be authorized to make reasonable rules and regulations as to the storage of bait, bait barrels and all types of fishing gear, including skiffs, punts and tenders, applicable to all for the purpose of safety, cleanliness and to prevent facility deterioration.
- B. From June 1 to October 31 of each year, no person or persons shall place or cause to be placed any type of fishing gear, such as lobster traps, pots, nets, trawls or the like, in the areas depicted in Wells Harbor, except in areas as approved by the Harbor Master.

## § 124-17. Speed limit.

- A. No boat, vessel or any type of flotation shall travel at more than bare steerage when approaching the anchorage, through the anchorage or near its docks or floats.
- B. Upon all tidal waters within the Town it shall be unlawful to operate a boat, vessel or any type of flotation at a speed that is not safe and prudent, including, but not limited to, damaging any wharf, float, or anchored or moored boat, vessel or any type of flotation, or endangering any person or property, or impairing another boat's, vessel's or flotation's ability to maneuver or proceed safely. Operating a boat, vessel or any type of flotation at more than bare steerage speed within 10 feet of a person in the water or within a defined bathing area when persons are in the water shall be considered endangering a person, and is unlawful.

- C. The speed of any boat, vessel or flotation from the anchorage to the outer end of the jetties shall be reasonable so as not to endanger others.

## § 124-18. Diving and swimming.

- A. All scuba divers using the anchorage or channel shall display a float with the proper flag.
- B. There shall be no diving, jumping off, or swimming from floats, docks, or watercraft in Wells Harbor. Swimming or surfing is prohibited at all times within the confines of the mooring basin and in the areas between the jetties. Swimming in other areas of Wells Harbor is at one's own risk.  
[Amended 2-21-2017]

## § 124-19. Prohibitions.

- A. It shall be unlawful to throw rocks or any hard objects at boats, vessels or any type of flotation or in the water of Wells Harbor.
- B. No aircraft or airboat shall be operated in the area as set forth in Wells Harbor without written permission from the Harbor Master.
- C. All children under 12 years of age going onto the floats in Wells Harbor area must be accompanied by an adult at least 18 years of age.

## § 124-20. Violations and penalties.

Whoever violates or fails to comply with any section of this chapter or rules or regulations may be punished by a civil penalty of not less than \$50 plus the costs for each offense, and where a hazard or defiance exists, a civil penalty of not less than \$50 per day may be levied, and all moneys derived from such violations shall be retained by the Town of Wells for enforcement purposes, subject to costs and other charges by the court.

## § 124-21. Appeal procedure.

- A. In all cases, a person aggrieved by a decision of the Harbor Master as it relates to the implementation of this Ordinance must file an appeal to the Board of Selectmen within 31 days after the issuance of the decision from the Harbor Master. The appeal shall be filed with the Town Manager. A filing fee as established by the Board of Selectmen shall accompany any appeal. The Town shall also be reimbursed for the costs of notification and advertisements concerning an appeal.
- B. Before taking action on any appeal, the Board of Selectmen shall schedule a public hearing within 31 days of the filing of an appeal. Notice of the public hearing shall be made by the Board of Selectmen to the appellant by certified mail, and notification shall include the nature of the appeal and the time and place of the public hearing. Notice of all appeals shall be mailed, published in a newspaper of general circulation, and posted in at least three public places within the Town at least 10 days before the specified date of such hearing.
- C. The Harbor Master, or the Assistant Harbor Master, shall attend all hearings, and shall present to the Board of Selectmen all plans, photographs or other material deemed appropriate for an understanding of the appeal and upon which they relied in making the



decision appealed from. The appellant's case shall be heard first. The aggrieved party may appear by agent or attorney. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chairperson. All persons at the hearing shall abide by the order of the Chairperson. Hearings may be continued to other times.

- D. Written notice of the decision of the Board of Selectmen shall contain a statement of findings and conclusions, as well as reasons or basis therefor, and shall be sent to the appellant, the Harbor Master and the Town Manager within seven business days of the decision. Written notices of decision shall be mailed to the appellant via certified mail. The concurring vote of a majority of the members of the Board of Selectmen present and voting shall be required to reverse an order, requirement, decision, or determination of the Harbor Master. The appellant shall have the burden of proof. The standard of review to be applied by the Board of Selectmen is appellate, not de novo, review, and the Board of Selectmen may modify or reverse a decision of the Harbor Master only if it finds that the decision was contrary to specific provisions of law, this Code, or the facts presented to the Harbor Master. If the Board of Selectmen modifies or reverses a decision of the Harbor Master, the Board of Selectmen shall remand with instructions for such further action as may be necessary.
- E. If the Board of Selectmen shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board of Selectmen within one year from the date of denial of the first appeal by the Board, 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.
- F. Any decision of the Board of Selectmen may be appealed to Superior Court within 45 days after the decision is rendered according to the Maine Rules of Civil Procedure, Rule 80B.

## § 124-22. Separability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or application thereof to any person(s) or circumstance(s) is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision or application and such holding shall not affect the validity of the remaining portions or applications thereof.

## Chapter 127. Hazardous Waste

[HISTORY: Adopted by the Town of Wells 3-19-1983. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Solid waste — See Ch. 196.

## § 127-1. Disposal or storage prohibited.

[Amended 11-7-2000]

The disposal or storage of hazardous wastes as designated under the United States Clean Water Act, Section 311, Public Law 92-500, and/or the disposal or storage or transportation of hazardous waste and radioactive waste material as defined by 38 M.R.S.A. §§ 1303-C and 1451 within the boundaries of the Town of Wells, Maine, is prohibited. Those in the waste oil business at this time shall be allowed to stay in business.

## § 127-2. Violations and penalties.

Any person or firm found guilty of violating this chapter shall be subject to the highest penalty allowed by law.

## Chapter 132. Historic Preservation

[HISTORY: Adopted by the Town of Wells 3-8-1985. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. **91**.

Floodplain management — See Ch. **116**.

Land use — See Ch. **145**.

## § 132-1. Authority; purpose; intent.

[Amended 11-7-2000]

This chapter is adopted pursuant to the state's constitutional and statutory home rule authority and in accordance with the state's Growth Management Program, which encourages the identification and preservation of historical resources located in Wells. Its purposes are to protect, enhance and preserve buildings and sites possessing particular historic, cultural or archaeological significance in order to promote the educational, cultural and economic welfare of the residents, property owners and visitors to Wells. To achieve these purposes it is intended that certain areas may be designated as historic districts and sites and certain structures as historic buildings, as to which a set of regulations and review standards will be applied to prevent inappropriate exterior alterations to or demolition of historic buildings. Such a procedure will help to preserve the essential character of the Town of Wells.

## § 132-2. Definitions.

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

### **AGGRIEVED PARTY**

Any participant in proceedings of the Commission in disagreement with any determination of the Commission.

### **ALTERED**

Includes rebuilt, reconstructed, added to, rehabilitated, restored, renovated, moved and demolished.

### **CERTIFICATE OF APPROPRIATENESS**

The formal authorization by the Commission for activities.

### **CODE ENFORCEMENT OFFICER**

The duly appointed Code Enforcement Officer of the Town of Wells.

[Amended 11-7-2000]

### **HISTORIC BUILDING**

Any building within the Town of Wells which is, in whole or in part, 50 or more years old and which is being or has been designated by the Historic Preservation Commission of the Town of Wells to be an historical building after a finding by the Commission that a building is historically or architecturally significant (in terms of period, style, method of

building construction or association with a famous person, architect or builder) either by itself or in the context of a group of buildings.

### **HISTORIC DISTRICT**

A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this chapter as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically but linked by association or history.

### **HISTORIC PRESERVATION COMMISSION**

A body appointed by the Selectmen of Wells, whose function it is to carry out the provisions of this chapter.

### **HISTORIC SITE**

Any parcel of land of special significance in the history of the Town of Wells and its inhabitants or upon which an historic event has occurred and which has been designated as such by the procedures in this chapter.

## **§ 132-3. Effect on zoning regulations.**

This chapter does not alter the existing land use regulations under Chapter 145, Land Use, which continues to apply to all property regulated by this chapter.

## **§ 132-4. Creation and organization of Historic Preservation Commission.**

- A. The Wells Historic Preservation Commission shall be comprised of nine voting residents of the Town, as appointed and designated by the Board of Selectmen. One member shall be so designated from the membership of the Historical Society of Wells and Ogunquit.  
[Amended 11-2-1993; 4-14-2000]
- B. The members of the Commission shall serve terms of three years. Initially, two members shall be appointed for one year, three members shall be appointed for two years, and four members shall be appointed for three years. Thereafter, each appointee shall serve a term of three years, except in those instances in which the appointment is made to fill a vacancy in an unexpired term, in which case the appointment shall be for the remainder of the unexpired term. The Board of Selectmen shall act within 60 days to fill a vacancy, including expired terms.  
[Amended 4-14-2000]
- C. Four members constitute a quorum and a tie vote a refusal. A majority vote of the membership of the Commission shall be required for action under this chapter.
- D. The Commission shall elect a Chairman and Secretary from its membership. The Chairman shall be responsible for the administration of the activities of the Commission, and the Secretary shall be responsible for maintaining complete and accurate records of the activities of the Commission. A Vice Chairman may be named to serve in the absence of the Chairman.
- E. Whenever possible the Board of Selectmen shall make appointments to the Commission from the legal and architectural design professions and shall strive to make appointments of individuals who are knowledgeable in the field of historic preservation.

## § 132-5. Powers and duties of Commission.

The duties, functions and powers of the Commission shall be to:

- A. Assist and advise owners of historic buildings on the physical and financial aspects of preservation, renovation, rehabilitation and additions.
- B. Assist and advise owners in complying with the requirements of this chapter to the extent possible.
- C. Receive fees and accept grants, appropriations and gifts of money and service and use its financial resources to employ clerical and technical assistance, publish educational materials, conduct surveys of properties or carry out any of its duties.
- D. Make recommendations for establishing historic houses and historic districts to the appropriate local governing body, according to the procedures listed in §§ 132-7 and 132-9 of this chapter.
- E. Review all proposed additions, reconstruction, alterations, construction or demolition of the properties designated under the jurisdiction of this chapter.
- F. Review all proposed National Register nominations for properties within its jurisdiction with the advice and assistance of the local historical society.
- G. Serve an advisory role to local government officials regarding local, historical and cultural resources and act as a liaison between local government and those persons and organizations concerned with historic preservation.
- H. Conduct or initiate a continuing survey of local, historic and cultural resources, in accordance with the Maine Historic Preservation Commission guidelines, with the advice and help of the local historical society.
- I. Work to provide continuing education on historic preservation issues to local citizens with the advice and help of the local historical society.
- J. Provide the Code Enforcement Officer with a continually updated list of the historic houses and sites under its jurisdiction.
- K. Provide current lists of historic buildings and sites, to be on file not only with the Code Enforcement Officer but also with the Town Clerk, the Maine State Historic Preservation Commission and the local historical society.

## § 132-6. Qualifications for review.

The historic buildings, sites and historic districts established in accordance with this chapter shall have one or more, or any combination of, the following characteristics and qualifications:

- A. Structures at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of the Town of Wells and the nation, including buildings at which visitors may gain insight or see examples, either in particular items or of larger patterns, in the North American heritage.
- B. Structures associated with historic personages, great ideas and/or ideals.

- C. Structures embodying examples of architectural types of specimens valuable for study of a period, style or method of building construction, of community organization and living or a notable building representing the work of a master builder, designer or architect.
- D. Those buildings which are listed on the National Register of Historic Places or which are the subject of pending application for such listing.

## § 132-7. Establishment of historic districts.

- A. Historic districts shall be established or enlarged by amendment to § 132-8 of this chapter. Such amendments shall be initiated by the local historical society, the Commission itself or by petition by 10 or more residents of the Town of Wells.
- B. Any application for establishment of an historic district shall be in writing to the Commission and shall include the following, as appropriate:
  - (1) A description of the physical elements, qualities, architectural style, period or historical significance represented by the district, including a consideration of scale, materials, workmanship and spatial qualities, as relevant.
  - (2) A statement of how the district meets the review criteria in § 132-6 of this chapter.
  - (3) A statement on the remaining physical elements which make this area an historic district and a description of building types, architectural styles and the periods represented, as relevant.
  - (4) A justification of the boundaries of the district.
  - (5) A map showing all district structures with the identification of contributing structures or a site map illustrating significant details of a structure.
- C. Studies and recommendations. Before making its recommendations concerning the proposed establishment of an historic district, the Commission may conduct studies and research on the proposal with the assistance of consultants. The Commission shall forward a draft to the local historical society, to the Planning Board and to the Maine Historic Preservation Commission for review and comment.
- D. Public hearing.
  - (1) A public hearing shall be held within 60 days of receipt of the application. Written notice of the proposal shall be given to the applicants, owners of all property abutting or to be included within the proposed district and all other persons found by the Commission to have a special interest in the proposal, including the local historical society.
  - (2) Failure of any property owner to receive notice of the hearing shall not necessitate another hearing and shall not invalidate any recommendations made by the Commission.
  - (3) Notice of the hearing shall be included in a newspaper of general circulation at least 10 days prior to the hearing date.
  - (4) Final report. Not later than 30 days after said public hearing, the Commission shall submit a final report with its written recommendations, including the views of affected and interested parties, to the Selectmen.

- (5) Amendments shall be enacted by Town Meeting in accordance with state and municipal laws to establish historic districts.

## § 132-8. Established districts.

(Reserved)

## § 132-9. Establishment of historic buildings and sites.

- A. The local historical society, the Commission itself or 10 or more voting residents of the Town of Wells may submit lists of buildings and sites to be included under this chapter as historic buildings and historic sites.
- B. Any application for the establishment of an historic building or historic site shall be in writing and shall include the following, as appropriate:
- (1) The written permission of the owners for the establishment of such buildings and sites.
  - (2) A statement of how the building and site meet the review criteria in § 132-6 of this chapter.
  - (3) The location of the proposed historic building and historic site.
- C. Before making its decision concerning the proposed establishment of historic buildings or historic sites, the Commission may consult studies and research on the proposal with the assistance of consultants. Within 30 days after receipt of the proposed historic building or historic site, the Commission shall notify in writing the Maine State Historic Preservation Commission, the local historical society and the local Planning Board of its decision as to whether the proposed buildings and/or sites meet the requirements of § 132-6 of this chapter. Reasons for its decision must be clearly stated.
- D. Public hearing.
- (1) A public hearing shall be held within 60 days of receipt of the application. Written notice of the proposal shall be sent to the applicants, the owners of the property involved, the abutters and all other persons found by the Commission to have a special interest in the proposal, including the local historical society.
  - (2) Failure of any property owner to receive notice of the hearing shall not necessitate another hearing and shall not invalidate any recommendations made by the Commission.
  - (3) Notice of the hearing shall be included in a newspaper of general circulation at least 10 days prior to the hearing date.
  - (4) Final report. Not later than 30 days after the public hearing, the Commission shall make its decision as to whether the proposed historic building or historic site meets the review criteria in § 132-6 of this chapter and shall be established as an historic building or historic site. The Commission's decision is final and binding, and when an historic building or site is established by the Commission, it is subject to the terms of this chapter as it relates to it. Written notice of this final decision shall be sent to the Maine State Historic Preservation Commission, the local historical society, the Planning Board and the owner of the historic building or historic site, and if the

request for historic status has been by petition, the final decision shall be sent to the 10 or more signers of the petition.

- E. A list of the historic buildings and historic sites, as established by the Commission, shall be submitted and continuously updated to the Code Enforcement Officer. Current lists of historic buildings and sites shall be on file not only with the Code Enforcement Officer but also with the Town Clerk, Maine State Historical Preservation Commission and the local historical society. These lists shall be available for review during regular working hours of these individuals and organizations.
- F. The Historic Preservation Commission shall file an affidavit at the York County Registry of Deeds which includes the following information:  
[Added 11-2-1993]
  - (1) A description of the historic building or site;
  - (2) The physical location of the historic building or site;
  - (3) The names of the owners of the property; and
  - (4) The Town of Wells tax map and lot number.

## § 132-10. Improvements not requiring review.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any building or structure where such repair does not involve a change in design, material or appearance.
- B. Nothing in this chapter shall restrict impermanent or easily reversible alterations such as storm windows, storm doors, window air conditioners, shutters, paint or signs.
- C. Only changes proposed by the property owner or lessor are subject to review. Passage of this chapter does not require exterior alterations.
- D. Nothing in this chapter shall prevent the construction, reconstruction, alteration or demolition of any building or structure where construction is in accordance with a valid building permit issued prior to the adoption of this chapter.

## § 132-11. Required certificates.

A certificate of appropriateness or a certificate of demolition issued by the Historic Preservation Commission is required for:

- A. A material change in the exterior, with respect to any historic building, by addition, reconstruction, alteration or demolition, whether or not a building permit is required.
- B. Any change in the boundaries of the district or in the structures or sites within, except those permitted under this chapter, whether or not a building permit is required.

## § 132-12. Standards of review.

- A. General. The standards and requirements contained in this section and in the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation shall be used, when applicable, in review of applications for certificates of

appropriateness for additions, alterations, renovations and demolition and shall be available in the Town Clerk's office.

[Amended 11-7-2000]

B. Reconstruction, renovation and alterations.

- (1) A structure classified as an historic building, site or a building located in a designated historic district or an appurtenance related to such structures, buildings or sites, including but not limited to walls, fences, light fixtures, steps, paving, signs and natural features, shall not be altered, and no certificate of appropriateness shall be issued for such actions unless those actions will preserve or enhance the historical and architectural character of the building.
- (2) All distinguishing qualities of an historic building, site or district shall be maintained to the fullest extent practicable. When removal is unavoidable, replacement with similar features shall be encouraged. Although exact replication is often not possible or economically feasible, a similar feature made of other materials can be appropriate. Imitations made of synthetic materials should be avoided when not in scale or in the same architectural tradition; however, the Commission is empowered to approve the use of such synthetic materials when deemed more appropriate. Distinguishing architectural features shall include cornices, frames around windows and doors, lintels, arches, chimneys and all other matters of architectural significance that are not excluded under this chapter.

C. Additions.

- (1) Exterior additions shall be considered only after it has been determined by the Commission that the new use cannot be successfully met by altering non-character-defining interior spaces.
- (2) The attached exterior addition shall be placed at the rear or on an inconspicuous side of an historic building and shall have its size and scale limited in relationship to the historic building.
- (3) New additions shall be designed in a manner that makes clear what is historic and what is new.
- (4) When additional stories are required for the new use, they shall be constructed so that the historic appearance of the building is not radically changed.
- (5) When applicable, the standards in Subsection B shall be used.

D. New construction shall not obstruct frontal view of an historic building. The same standards as those in Subsections B and C shall apply.

## § 132-13. Certificate of appropriateness required.

- A. The Code Enforcement Officer shall not issue any permits or other authorizations for any additions, alterations or demolitions with regard to any historical building in the Town of Wells in the absence of a certificate of appropriateness.
- B. A certificate of appropriateness issued by the Historic Preservation Commission shall be required for any material change in the exterior appearance of an historic building, whether by additions, demolitions, reconstruction or alteration, regardless of whether or not a building permit or other authorization is concurrently required.



## § 132-14. Application for certificate of appropriateness.

- A. Application for a certificate of appropriateness may be obtained from the Code Enforcement Officer. Completed applications shall be submitted to the Code Enforcement Officer, who shall transmit them to the Historic Preservation Commission for action within at least five days. When the Commission acts on the application, it shall be returned to the Code Enforcement Officer, who shall then issue or deny permits and/or certificates of appropriateness.
- B. The application fee shall be as established by the Board of Selectmen, following notice and a public hearing, payable to the Town of Wells, and shall accompany the application.
- C. The application shall state the location, use and nature of the matter for which a certificate is sought and shall contain at least the following information, unless any items are waived by the Commission:
  - (1) The applicant's name and address and his interest in the property (such as owner or lessor).
  - (2) The owner's name and address, if different from the applicant's.
  - (3) The address or location of the property.
  - (4) The present use and zoning classification of the property.
  - (5) A brief description of the construction, reconstruction, remodeling, alteration, demolition or moving requiring the issuance of a certificate of appropriateness.
  - (6) A drawing or drawings indicating the design, texture and location of any proposed alteration or new construction for which the certificate is required. As used herein, "drawings" shall mean plans and exterior elevations with sufficient detail to show exterior appearance and the architectural design of the buildings. Additionally, the applicant shall provide evidence of materials and textures, including samples or pictures of any brick, shingles or siding proposed to be used. Drawings shall not be required to be prepared by a registered architect but shall be clear, complete and specific.
  - (7) Photographs of the building involved and of immediately adjacent buildings.
  - (8) A site plan indicating any proposed changes involving walls, walks, accessory buildings, signs and outdoor light fixtures. This drawing need not necessitate the use of professional services.

## § 132-15. Administration of certificate of appropriateness.

- A. Notice to owner. Within 15 days after the filing of an application for a certificate of appropriateness to the Code Enforcement Officer, the Commission shall inform the following persons by certified mail of the application and meeting date: the applicant, owners of abutting property, the Historical Society of Wells and Ogunquit, the Code Enforcement Officer and the Commission's consultants and professional advisors (if any). For purposes of this notice, the owners of property shall be considered to be those against whom taxes were assessed on the prior April 1. Failure of any person to receive notices shall not necessitate another hearing or invalidate any action by the Commission.

- B. Time. The time periods relating to a building permit application shall be extended to the time periods referenced herein if a building permit under Chapter 145, Land Use, is also required for the contemplated activity requiring a certificate hereunder.
- C. Hearing. A public hearing on the application shall be conducted by the Commission within 30 days of receipt of the application by the Code Enforcement Officer.
- D. Action. The Commission shall advise the applicant in writing of its decision as to whether the proposed construction, reconstruction, alteration or demolition is appropriate or inappropriate within 30 days of the public hearing. If the Commission determines the proposal is appropriate, it shall approve a certificate of appropriateness and return it to the Code Enforcement Officer for issuing of necessary authorities. If it is deemed inappropriate, no certificate of appropriateness shall be issued. Further, where applicable, the Commission shall advise the applicant of any changes which would secure the approval of the Commission, as well as all reasons for denial.
- E. Appeals. Appeals involving interpretation or any alleged error in the procedure followed by the Code Enforcement Officer or by the Historic Preservation Commission may be made by any aggrieved party to the Wells Zoning Board of Appeals, which shall remand the matter to the Code Enforcement Officer or the Commission, as the case may be, for proper handling should an error be determined by a majority vote of the Zoning Board of Appeals. All other appeals from any final decision of the Commission may be taken by an aggrieved party or by the Commission itself to the York County Superior Court, in accordance with Rule 80-B of the Maine Rules of Civil Procedure.

## § 132-16. Demolition.

- A. Before any authorization may be issued for demolition of a structure which is historically significant pursuant to the provisions hereof, the Commission shall determine that the building is not of sufficient historical significance to warrant preservation efforts and expense or is not capable of a reasonable economic return in its present location. In making such determination the Commission shall study the architectural and historic qualities of the building and such appraisal(s) as may be conducted by a professional appraiser on behalf of the Commission, at the expense of the Town of Wells, and an appraisal undertaken by the applicant if the applicant shall so desire.
- B. The time for a decision by the Commission under this section shall extend for an additional term of 30 days in addition to the 30 days between the receipt of the application by the Code Enforcement Officer and the hearing and the 30 days between the hearing and the notification of the applicant by the Commission of its decision, and such additional term shall be applied and divided between the required time for the hearing and for the decision in such fashion as the Commission, in the exercise of its sole and absolute discretion, shall determine.
- C. In the event that it shall be determined that preservation of the building is warranted pursuant to the provisions of this section, no permit for such demolition shall be issued for a term of three months thereafter, during which time the Commission and the applicant shall, where reasonably possible, explore any preservation opportunities involving the sale and/or relocation of the structure.

## § 132-17. Visual compatibility of new construction and alterations.

New construction and the alteration of existing historic buildings outside the boundaries of an historic district shall be visually compatible with the historic building so altered. New construction and the alteration of existing buildings within the boundaries of the historic district shall be compatible with other buildings and with streets and open spaces within the district. Applications for certificates of appropriateness and demolition shall be reviewed in terms of the following:

- A. Height. The height of proposed additions and alterations shall be compatible with the historic building so altered or with adjacent buildings within an historic district.
- B. Proportion of building front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with the individual historic building and with the buildings of the historic district.
- C. Proportion of openings with the facade. The relationship of the width of the windows to height of windows and doors shall be visually compatible.
- D. Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade shall be visually compatible.
- E. Rhythm of spacing of buildings (only applies to historic districts). The relationship of buildings to the open space between them and adjoining buildings shall be compatible with those of buildings in the historic district.
- F. Rhythm of entrance and/or porch projection. The relationship of entrance and porch to the street shall be compatible.
- G. Relationship of materials and textures. The relationship of materials and textures shall be compatible.
- H. Roof shapes. The roof shape of a building shall be compatible with the individual historic building and with the buildings in the historic district to which it is visually related.
- I. Scale of buildings. The size of the building mass in relation to open spaces, the windows and door openings, porches and balconies shall be compatible.
- J. Orientation. A building shall be compatible with the building to which it is visually related in its directional character, whether this is vertical, horizontal or nondirectional in character.

## § 132-18. Violations and penalties.

- A. Violations. A person violating any provision of this chapter shall be subject to the penalties set forth in 30-A M.R.S.A. § 4452 for violation of land use ordinances, and this chapter shall be deemed a local land use ordinance for purposes of enforcement.  
[Amended 3-10-1990; 11-7-2000]
- B. Additional remedies. In addition to the remedies provided herein, the Commission and/or the Code Enforcement Officer is authorized to institute any and all actions and proceedings, in law or equity, as it or he may deem necessary and appropriate to obtain compliance with the requirements of this chapter or to prevent a threatened violation thereof.

## 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. **116**.  
Historic preservation — See Ch. **132**.  
Subdivision of land — See Ch. **202**.

Reviewing Authority Chart 

## 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,<sup>[1]</sup> 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.

[1] *Editor's Note: See 38 M.R.S.A. § 435 et seq.*

## § 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. Agriculture does not include the growing, production, testing, sale or processing of marijuana. 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; 2-27-2017; 6-13-2017]

### **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]

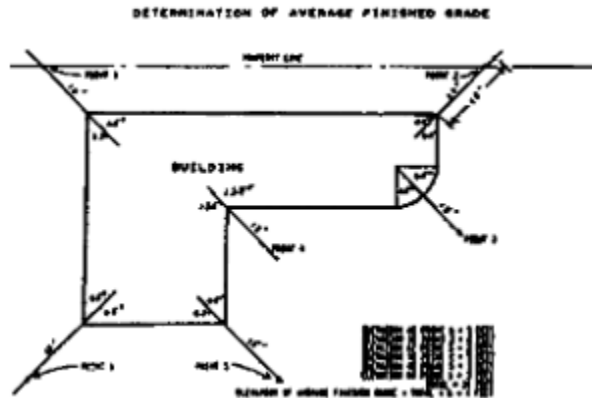
### **AUTOMOBILE GRAVEYARD**

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. A personal service business does not include the growing, production, testing, sale or processing of marijuana.

[Amended 6-13-2017]

**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. A retail business does not include the growing, production, testing, sale or processing of marijuana.

[Amended 4-14-2000; 6-13-2017]

### **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. A wholesale business does not include the growing, production, testing, sale or processing of marijuana.

[Amended 6-13-2017]

### **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.<sup>[1]</sup>  
[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]

## **KEY EMPLOYEE**

An employee with a major ownership or decision-making role in the permitted use/business and who is paid an annual salary.

[Added 6-9-2015]

## **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]

**LIVESTOCK, DOMESTIC (LARGE)**

The keeping of between four and 10 animals, on a lot with a dwelling unit, such as cattle, sheep, pigs, ostriches, horses and other useful animals (excluding domestic poultry), for the property owner's personal use and enjoyment.

[Added 6-9-2015]

**LIVESTOCK, DOMESTIC (SMALL)**

The keeping of less than four animals, on a lot with a dwelling unit, such as cattle, sheep, pigs, ostriches, horses and other useful animals (excluding domestic poultry), for the property owner's personal use and enjoyment.

[Added 6-9-2015]

**LIVE/WORK UNIT**

A residential use of one or more rooms designed and equipped for occupancy by only one family containing living, cooking, sleeping, bathing and sanitary facilities, which is directly associated with a permitted industrial, commercial or business use, which is located on the same lot as such use. Live/work units are only permitted in the Light Industrial District.

[Added 6-9-2015]

**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. Manufacturing does not include the growing, production, testing, sale or processing of marijuana.  
[Amended 6-12-2012; 6-13-2017]

**MARIJUANA**

As defined in State Administrative Rules 10-144 CMR Chapter 122, § 1.17.  
[Added 6-13-2017]

**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 MARIJUANA**

Marijuana specifically permitted pursuant to the Maine Medical Use of Marijuana Act.<sup>[2]</sup>  
[Added 6-13-2017]

**MEDICAL MARIJUANA CAREGIVER**

As defined in State Administrative Rules, 10-144 CMR Chapter 122, § 1.31, "Primary Caregiver."  
[Added 6-13-2017]

**MEDICAL MARIJUANA CULTIVATION AND PROCESSING FACILITY**

A facility used for cultivating, processing, testing, and/or storing of medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence.  
[Added 6-13-2017]

**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]

**POULTRY, DOMESTIC (LARGE)**

The keeping of between 20 and 60 domestic fowl, on a lot with a dwelling unit, such as chickens, turkeys, ducks or geese, for the property owner's or occupant's personal use and enjoyment (between 20 to 60 fowl). Exception: The term "fowl" shall not include those of unusually large size such as ostriches.

[Added 6-9-2015]

**POULTRY, DOMESTIC (SMALL)**

The keeping of less than 20 domestic fowl, on a lot with a dwelling unit, such as chickens, turkeys, ducks or geese, for the property owner's or occupant's personal use and enjoyment. Exception: The term "fowl" shall not include those of unusually large size such as ostriches.

[Added 6-9-2015]

**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. Research and development facility does not include the growing, production, testing, sale or processing of marijuana.

[Amended 6-13-2017]

**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.

**RETAIL MARIJUANA**

Marijuana that is cultivated, manufactured, distributed or sold by a retail marijuana establishment or retail marijuana social club. Retail marijuana is prohibited in the Town of Wells, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

[Added 6-13-2017]

**RETAIL MARIJUANA CULTIVATION FACILITY**

A facility or an entity licensed to cultivate, prepare and package retail marijuana and to sell retail marijuana to retail marijuana establishments and retail marijuana social clubs. Retail marijuana cultivation facilities are prohibited in the Town of Wells, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

[Added 6-13-2017]

**RETAIL MARIJUANA ESTABLISHMENT**

Includes retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities. Retail marijuana establishments are prohibited in the Town of Wells, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

[Added 6-13-2017]

**RETAIL MARIJUANA PRODUCT**

Concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

[Added 6-13-2017]

**RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITY**

A facility or an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs. Retail marijuana products manufacturing facilities are prohibited in the Town of Wells, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.  
[Added 6-13-2017]

**RETAIL MARIJUANA SOCIAL CLUB**

A facility or an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises. Retail marijuana social clubs are prohibited in the Town of Wells, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.  
[Added 6-13-2017]

**RETAIL MARIJUANA STORE**

A facility or an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers. Retail marijuana stores are prohibited in the Town of Wells, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4); as amended.  
[Added 6-13-2017]

**RETAIL MARIJUANA TESTING FACILITY**

A facility or an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products. Retail marijuana testing facilities are prohibited in the Town of Wells, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.  
[Added 6-13-2017]

**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]

[1] *Editor's Note: See Ch. 202, Subdivision of Land.*

[2] *Editor's Note: See 22 M.R.S.A. § 2421 et seq.*

## **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; amended 6-14-2016]
  - (1) Notwithstanding § 145-12E, the Planning Board, acting under Chapter 202 (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.A. § 302, this § **145-12F** applies to any application under this Chapter or under Chapter **202**, whether or not such application has become a pending proceeding as defined in 1 M.R.S.A. § 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;<sup>[1]</sup> or  
[Amended 6-10-2014]  
*[1] Editor's Note: See Ch. 91, Art. II, Adoption of Building Code.*
  - (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, except as specified below in Subsection **G(5)**.  
[Amended 6-10-2014]
- (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.
- (5) Notwithstanding 5 M.R.S.A. § 4353 or this subsection, the Code Enforcement Officer may issue a permit to an owner of a dwelling, or a resident of the dwelling with written owner permission, for the purpose of making a dwelling accessible to a person with a disability who resides in the dwelling. If the permit requires a variance, the permit is deemed to include that variances solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The Code Enforcement Officer shall impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling. The structures or equipment requiring a variance shall be removed within 12 months of the person with a disability vacating the dwelling.  
[Added 6-10-2014]
  - (a) For the purposes of this subsection, the term "structure is necessary for access to or egress from the dwelling" includes ramps and associated railing, walls or roof systems necessary for the safety or effectiveness of the ramps.
  - (b) For the purpose of this subsection, "disability" has the same meaning as physical or mental disability under 5 M.R.S.A. § 4553-A.

## § 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.<sup>[1]</sup>

[1] *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) Livestock, domestic (small), limited to lots with a minimum lot size of 40,000 square feet.

[Added 6-9-2015<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also provided for the renumbering of former Subsection B(6) and (7) as Subsection B(10) and (11), respectively.*

- (7) Livestock, domestic (large), limited to lots with a minimum lot size of five acres.  
[Added 6-9-2015]
  - (8) Poultry, domestic (small), all lots, except lots less than 10,000 square feet in area shall be limited to no more than five fowl.  
[Added 6-9-2015]
  - (9) Poultry, domestic (large), limited to lots with a minimum lot size of five acres.  
[Added 6-9-2015]
  - (10) Recreation, passive.
  - (11) 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 § 145-35I.)
    - (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) Poultry, domestic (small), all lots, except lots less than 10,000 square feet in area shall be limited to no more than five fowl.  
[Added 6-9-2015<sup>[1]</sup>  
<sup>[1]</sup> *Editor's Note: This ordinance also provided for the renumbering of former Subsection B(4) as Subsection B(5).*
  - (5) 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 § 145-35I.)
  - (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) Poultry, domestic (small), all lots.  
[Added 6-9-2015<sup>[1]</sup>]  
*[1] Editor's Note: This ordinance also provided for the renumbering of former Subsection B(3) as Subsection B(4).*
  - (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: 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 § 145-35I.)

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) Livestock, domestic (small), limited to lots with a minimum lot size of 40,000 square feet.

[Added 6-9-2015<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also provided for the renumbering of former Subsection B(6) and (7) as Subsection B(10) and (11), respectively.*

- (7) Livestock, domestic (large), limited to lots with a minimum lot size of five acres.  
[Added 6-9-2015]
- (8) Poultry, domestic (small), all lots, except lots less than 10,000 square feet in area shall be limited to no more than five fowl.  
[Added 6-9-2015]
- (9) Poultry, domestic (large), limited to lots with a minimum lot size of five acres.  
[Added 6-9-2015]
- (10) Recreation, passive.
- (11) 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<sup>[2]</sup>  
<sup>[2]</sup> *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<sup>[3]</sup>  
<sup>[3]</sup> *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) <sup>[4]</sup>Housing, congregate.  
<sup>[4]</sup> *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.*

- (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<sup>[5]</sup>]  
[5] *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) <sup>[6]</sup>Stand-alone registered marijuana dispensary.  
[Added 6-14-2011]  
[6] *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).*
- 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<sup>[7]</sup>]

*[7] 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<sup>[8]</sup>]

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

*[8] 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.*

#### 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) Commercial building design. Proposed buildings or reconstruction of existing buildings or building additions greater than 50% of the existing building footprint shall conform to the following architectural requirements when any portion of the building is located within 500 feet of the Route One right-of-way and north of the intersection of Route One and Route 109 and north of the intersection of Route One and Harbor Road:  
[Amended 6-13-2017]
- (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 and reconstruction shall use external building features which are similar to those buildings in the district constructed in the 18th and 19th centuries. Modern materials which duplicate the original or are similar in appearance to the original used in construction in the 18th and 19th centuries may be used on any buildings.
  - (c) Any new building or reconstructed roof shall have a roof with a minimum slope of 7/12 (30.26°) on 80% of the roof area, and the remaining roof shall be greater than a 3/12 pitch (14.0°).
  - (d) The siding on new buildings or reconstructed buildings shall be wooden clapboard, wooden shingles, brick, stone or materials which duplicate the original or be similar in appearance to the original in shape, texture and appearance.
  - (e) Roofs shall be shingled, slate, or constructed of materials which duplicate the original or be similar in appearance to materials used in construction in the 18th and 19th centuries.
  - (f) No internally illuminated signs or electronic message signs shall be permitted.
  - (g) See § 145-76, Design guidelines, established by the Planning Board.
- (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) Poultry, domestic (small), all lots, except lots less than 10,000 square feet in area shall be limited to no more than five fowl.

[Added 6-9-2015<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also provided for the renumbering of former Subsection B(3) as Subsection B(4).*

(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) 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) [2] Municipal facility.

[2] *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.*

(11) Museum.

(12) Neighborhood convenience store.

(13) Parking lot, commercial.

(14) Public transportation shelter.

[Added 11-6-2007<sup>[3]</sup>]

[3] *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.<sup>[4]</sup>

[4] *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<sup>[5]</sup>]
 

*[5] 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 § 145-35I.)
  - (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<sup>[6]</sup>]
 

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

*[6] 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.*
- 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) Livestock, domestic (small), limited to lots with a minimum lot size of 40,000 square feet.  
[Added 6-9-2015<sup>[1]</sup>]  
*[1] Editor's Note: This ordinance also provided for the renumbering of former Subsection B(6) and (7) as Subsection B(8) and (9), respectively.*
  - (7) Poultry, domestic (small), all lots, except lots less than 10,000 square feet in area shall be limited to no more than five fowl.  
[Added 6-9-2015]
  - (8) Recreation, passive.
  - (9) 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<sup>[2]</sup>]  
*[2] 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<sup>[3]</sup>]  
*[3] 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) <sup>[4]</sup>Housing, congregate.  
*[4] 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.*
- (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<sup>[5]</sup>]  
*[5] 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<sup>[6]</sup>]

[6] *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) <sup>[7]</sup>Stand-alone registered marijuana dispensary.

[Added 6-14-2011]

[7] *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).*

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<sup>[8]</sup>]

[8] *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<sup>[9]</sup>]

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

[9] *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.*

G. Special provisions.  
[Amended 6-14-2016]

- (1) If a person or entity 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 the property owner 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.
- (2) A municipal facility use or a public school use is allowed a maximum building height of 54 feet if constructed with a roof with a minimum slope of 7/12 and if it does not have a floor higher than 35 feet above the average finished grade.
- (3) Commercial building design. Proposed buildings or reconstruction of existing buildings or building additions greater than 50% of the existing building footprint

shall conform to the following architectural requirements when any portion of the building is located within 500 feet of the Route One right-of-way and north of the intersection of Route One and Route 109 and north of the intersection of Route One and Harbor Road:

[Added 6-13-2017]

- (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 and reconstruction shall use external building features which are similar to those buildings in the district constructed in the 18th and 19th centuries. Modern materials which duplicate the original or are similar in appearance to the original used in construction in the 18th and 19th centuries may be used on any buildings.
- (c) Any new building or reconstructed roof shall have a roof with a minimum slope of 7/12 (30.26°) on 80% of the roof area, and the remaining roof shall be greater than a 3/12 pitch (14.0°).
- (d) The siding on new buildings or reconstructed buildings shall be wooden clapboard, wooden shingles, brick, stone or materials which duplicate the original or be similar in appearance to the original in shape, texture and appearance.
- (e) Roofs shall be shingled, slate, or constructed of materials which duplicate the original or be similar in appearance to materials used in construction in the 18th and 19th centuries.
- (f) No internally illuminated signs or electronic message signs shall be permitted.
- (g) See § 145-76, Design guidelines, established 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<sup>[1]</sup>]
- [1] *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) Medical marijuana cultivation and production facility.  
[Added 6-13-2017<sup>[1]</sup>  
*[1] Editor's Note: This ordinance also redesignated former Subsection C(7) through (22) as Subsection C(8) through (23), respectively.*
  - (8) Motor vehicle rental.
  - (9) Municipal facility.
  - (10) Parking lot, commercial.
  - (11) Public transportation shelter.  
[Added 11-6-2007<sup>[2]</sup>  
*[2] Editor's Note: This ordinance also redesignated former Subsection C(10) through (20) as Subsection C(11) through (21), respectively.*
  - (12) Public utility facility.
  - (13) Recreation, medium intensity commercial.  
[Added 6-11-2013<sup>[3]</sup>  
*[3] Editor's Note: This ordinance also redesignated former Subsection C(12) through (21) as Subsection C(13) through (22), respectively.*
  - (14) Research and development facility.
  - (15) Recycling facility.
  - (16) Restaurant, standard.
  - (17) Restaurant, fast-food.
  - (18) School, vocational-technical.
  - (19) Transmission tower, radio.

- (20) Transportation facility.
  - (21) Truck terminal.
  - (22) Warehousing.
  - (23) 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]
  - (3) If a use listed in § **145-28C** is established on a property, one associated live/work unit may also be constructed with a site plan approval. The live/work unit can only be occupied when the associated permitted use is also occupied. The owner or key employee of the permitted use must also be the occupant of the live/work unit. No

subletting is allowed. The live/work unit must have a smaller gross floor area than the gross floor area in which the permitted use is conducted. Only one live/work unit shall be allowed per permitted use. Each live/work unit shall require a minimum of 20,000 square feet of net lot area.  
[Added 6-9-2015]

## § 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 § 145-35l.)
- (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) Livestock, domestic (small), limited to lots with a minimum lot size of 40,000 square feet.  
[Added 6-9-2015<sup>[1]</sup>  
[1] *Editor's Note: This ordinance also provided for the renumbering of former Subsection B(7) and (8) as Subsection B(11) and (12), respectively.*
  - (8) Livestock, domestic (large), limited to lots with a minimum lot size of five acres.  
[Added 6-9-2015]
  - (9) Poultry, domestic (small), all lots, except lots less than 10,000 square feet in area shall be limited to no more than five fowl.  
[Added 6-9-2015]
  - (10) Poultry, domestic (large), limited to lots with a minimum lot size of five acres.  
[Added 6-9-2015]
  - (11) Recreation, passive.
  - (12) 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<sup>[2]</sup>]  
*[2] 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) <sup>[3]</sup>Kennel.  
*[3] 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.*
- (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.<sup>[4]</sup>

<sup>[4]</sup> *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<sup>[5]</sup>]
 

<sup>[5]</sup> *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<sup>[6]</sup>]

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.

[6] *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.*

#### G. Special provisions.

- (1) 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.
- (2) Commercial building design. Proposed buildings or reconstruction of existing buildings or building additions greater than 50% of the existing building footprint shall conform to the following architectural requirements when any portion of the building is located within 500 feet of the Route One right-of-way and north of the intersection of Route One and Route 109 and north of the intersection of Route One and Harbor Road:  
[Added 6-13-2017]
  - (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 and reconstruction shall use external building features which are similar to those buildings in the district constructed in the 18th and 19th centuries. Modern materials which duplicate the original or are similar in appearance to the original used in construction in the 18th and 19th centuries may be used on any buildings.
  - (c) Any new building or reconstructed roof shall have a roof with a minimum slope of 7/12 (30.26°) on 80% of the roof area, and the remaining roof shall be greater than a 3/12 pitch (14.0°).
  - (d) The siding on new buildings or reconstructed buildings shall be wooden clapboard, wooden shingles, brick, stone or materials which duplicate the

original or be similar in appearance to the original in shape, texture and appearance.

- (e) Roofs shall be shingled, slate, or constructed of materials which duplicate the original or be similar in appearance to materials used in construction in the 18th and 19th centuries.
- (f) No internally illuminated signs or electronic message signs shall be permitted.
- (g) See § 145-76, Design guidelines, established by the Planning Board.

## § 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) Livestock, domestic (small), limited to lots with a minimum lot size of 40,000 square feet.  
[Added 6-9-2015<sup>[1]</sup>]  
[1] *Editor's Note: This ordinance also provided for the renumbering of former Subsection B(4) and (5) as Subsection B(6) and (7), respectively.*
  - (5) Poultry, domestic (small), all lots, except lots less than 10,000 square feet in area shall be limited to no more than five fowl.  
[Added 6-9-2015]
  - (6) Recreation, passive.
  - (7) 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.  
[Amended 11-2-1999]

- (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)**

2 to 4

**Points**

1

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

**Points**

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:

<b>Road Grade (percent)</b>	<b>Spacing (feet)</b>
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 **202** (Subdivision of Land) of the Wells Municipal Code, the provisions of this section shall prevail.  
[Amended 6-14-2016]
- 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. A residential lot with a dwelling unit may be used for keeping noncommercial domestic poultry and domestic livestock in conformance with Article V, District Regulations. Structures used exclusively for the housing of such domestic poultry or livestock with a ceiling height below 6.5 feet or footprint area 50 square feet or less shall not require a building permit. Domestic poultry and livestock shall be contained within the lot boundaries.  
[Amended 6-9-2015]
- 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 116, 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; 6-14-2016]
- 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, or designated employee spaces, shall be designed according to the following criteria:  
[Amended 6-10-2014]

<b>Parking Angle (degrees)</b>	<b>Stall Width (feet)</b>	<b>Skew Width (feet)</b>	<b>Stall Depth (feet)</b>	<b>Aisle Width (feet)</b>
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.  
[Amended 4-26-1996; 4-19-1997; 11-2-2010; 11-5-2013; 6-10-2014]

### Use

### Required Parking Spaces

<b>Use</b>	<b>Required Parking Spaces</b>
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	3.5 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 as determined in § **145-39D** shall be located on the same lot as the use it serves unless no reasonable on-site location exists and all of the following off-site requirements are satisfied:  
[Amended 6-10-2014]
- (1) The off-site parking location is less than 1,000 feet from the boundary line of the property where the use it serves is located;
  - (2) The off-site parking location is established by a recorded easement, or a license or lease agreement, to benefit the property where the use it serves is located;
  - (3) The off-site parking location shall be located within a district in which a commercial parking lot is a permitted use; and
  - (4) A site plan approval or a site plan amendment is obtained from the Planning Board for each property.
- 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<sup>[1]</sup>]

[1] *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**

	<b>A. Monu- ment Sign</b>	<b>B. Pro- jecting Sign</b>	<b>C. Wall Sign</b>	<b>D. Pole Sign</b>	<b>E. Roof Sign</b>	<b>F. Awning Sign</b>	<b>G. Port- able Sign (not included in site total)</b>	<b>Total Sign Area of Types A through F</b>
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 1.5 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

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

	<b>A. Monu- ment Sign</b>	<b>B. Pro- jecting Sign</b>	<b>C. Wall Sign</b>	<b>D. Pole Sign</b>	<b>E. Roof Sign</b>	<b>F. Awning Sign</b>	<b>G. Port- able Sign (not included in site total)</b>	<b>Total Sign Area of Types A through F</b>
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

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 a 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<sup>[1]</sup>]

- (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.

[1] *Editor's Note: Former Subsections D and E were redesignated as Subsections E and F as a result of incorporating this ordinance.*

- 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 permit or certificate of occupancy.  
[Amended 6-13-2017]
- 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, except as otherwise specified in § **145-48D** through **H** below.  
[Amended 6-10-2014]
- C. In any multifamily development abutting a residential use in a residential or rural 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.  
[Amended 6-10-2014]
- D. A multifamily development is permitted to satisfy its density, lot coverage and/or open space requirements by utilizing adjacent open space land if the Planning Board finds that both of the following criteria are met:  
[Added 6-10-2014]
- (1) The adjacent open space land is contiguous to the lot on which the multifamily development is located or separated by less than 100 feet by a street right-of-way; and
  - (2) The adjacent open space land meets all of the requirements of § **202-12B** of the Wells Town Code.
- E. Adjacent open space land used to satisfy a multifamily development's density, lot coverage and/or open space requirements may be held in joint ownership, dedicated or conveyed to the municipality, a land trust, or other recognized conservation organization. Such reservation of open space may also be accomplished by incorporation into homeowners' association or condominium association documents or into restrictive deed covenants.  
[Added 6-10-2014]
- F. A multifamily development plan approved on or after June 10, 2014 seeking to utilize adjacent open space land to satisfy its density, lot coverage and/or open space requirements shall:  
[Added 6-10-2014]

- (1) Note an express condition that the adjacent open space land may not be used to meet the open space, density, and/or lot coverage requirements for any other development. Said restriction shall also be included in the deeds, condominium documents, and/or homeowners' association documents related to the multifamily development.
- G. A multifamily development plan approved prior to June 10, 2014, is permitted to utilize adjacent open space land to satisfy density and lot coverage requirements for that multifamily development, provided that:  
[Added 6-10-2014]
- (1) The total area of the multifamily development and the adjacent open space land shall satisfy the open space, density, and/or lot coverage requirements for both the multifamily development and the adjacent property.
  - (2) The total area of the multifamily development and the adjacent open space required to meet the density and lot coverage requirements are noted on the approved subdivision plan(s) or within a certificate of amendment and shall be recorded at the Registry of Deeds in accordance with § 202-9C of the Wells Town Code.
  - (3) For any multifamily development approved prior to June 10, 2014, there is no requirement that an express restriction be included or added to the deeds, condominium documents, and/or homeowners' association documents related to the multifamily development.
- H. Density shall be the same as permitted in the district(s) in which the multifamily development is located, unless density bonuses are granted by the Planning Board in accordance with § 145-49D.  
[Added 6-10-2014]

## § 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. All areas of a cluster subdivision located within the Aquifer Protection District or the Shoreland Overlay District shall be dedicated as undeveloped open space.  
[Amended 6-14-2016]
- 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) <sup>[1]</sup>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.

[1] *Editor's Note: Former Subsection B(1), regarding sketch plans, was repealed 6-14-2016. This ordinance also renumbered former Subsection B(2) and (3) as Subsection B(1) and (2), respectively.*

- (2) 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:

<b>Type of Dwelling</b>	<b>Served by Public Sewer RA, GB and RC Districts (square feet)</b>
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.
- (5) The maximum lot coverage of 20% in the Rural District may be allowed by the Planning Board to be increased to 40% on lots smaller than 40,000 square feet in area.  
[Added 6-14-2016]

- 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 3.5 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:
  - (a) 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 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 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 certificate of occupancy shall be obtained from the Code Enforcement Officer prior to establishment of a home business.  
[Amended 6-13-2017]
- 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 start of the extraction 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)**.  
[Amended 6-13-2017]

## § 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.

[Amended 6-13-2017]

- (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; and
- (5) The accessory dwelling unit shall be located in the same building as the principal dwelling unit.

## § 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 x 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 x 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.

## § 145-58.3. Medical marijuana cultivation and processing facilities.

[Added 6-13-2017]

Medical marijuana cultivation and processing facilities are allowed subject to the following performance standards in addition to the requirements of the districts in which the facilities are located:

- A. Notwithstanding any other provision of the Wells Code, all medical marijuana cultivation and production facilities must be reviewed by the Wells Planning Board, and not by the Staff Review Committee or other reviewing authority.
- B. Medical marijuana caregivers and facilities must meet all of the standards and conditions imposed by the State of Maine issued under the aegis of the Maine Medical Use of Marijuana Program.
- C. Notwithstanding the Maine Rules Governing the Maine Medical Use of Marijuana Program, no medical marijuana cultivation and processing facility located in Wells may be located where any of the lot lines of the lot on which the facility 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.
- D. There shall be opaque windows or walls for any building involved in the facility, so that the interior is completely screened from lot lines and from any person passing along the street boundaries of the lot on which it is located.
- E. All buildings associated with the facility 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. Emergency vehicle access shall be provided on a minimum of three sides of a building.
- F. The facility shall have a Knox-Box® at the security gate and building or shall provide emergency response personnel with the necessary information to allow entry in the event of an emergency at the location.
- G. The facility shall have at least one parking space per 1,000 square feet of gross floor area, and such additional parking as may be required by the Planning Board.
- H. No facility building shall be allowed to be constructed or occupied within 500 feet of an existing dwelling unit.
- I. The operator of the facility 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 regarding 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. A minimum of a chain link fence, six feet in height, is required surrounding the facility. Recordable video surveillance is also required. Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance.
- J. The hours of operation for the facility, 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 at the facility.
- K. Signs for the facility may not contain any visual depiction of marijuana or marijuana paraphernalia.

- L. Vegetative buffers may be required by the Planning Board to create a visual screen or minimize odors.
- M. The growing, cultivating, production, processing, testing, and/or storing of medical marijuana by a medical marijuana caregiver shall be located within a building. Said activities may not be conducted anywhere outside of a building.

## § 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  $\times 2 = 30$  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)<sup>[1]</sup>

[1] *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. Certificate of occupancy.

[Amended 4-26-1996; 6-13-2017]

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 certificate of occupancy is issued by the Code Enforcement Officer. No certificate of occupancy 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 certificate of occupancy 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 certificate of occupancy 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 certificates of occupancy.
- D. Failure to obtain a required certificate of occupancy shall be a violation of this chapter.
- E. Upon completion of construction, the applicant, or his/her authorized agent, must arrange for a final inspection to ensure that all construction is consistent with the approved building permit. Noncompliance with the approved building permit or with other local, state or federal regulations may be reason for not granting a certificate of occupancy.

## § 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 certificate of occupancy pursuant to § 145-62.<sup>[1]</sup>  
[Amended 6-13-2017]

- [1] *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, pursuant to 30-A M.R.S.A. § 4353(4-A)(B), to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than two times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this subsection to the Board. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.  
[Amended 11-7-2000; 6-10-2014]
- (a) For purposes of this subsection, "noncommercial vehicle" means a motor vehicle as defined in 29-A M.R.S.A. § 101(42) with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S.A. § 521 and owned by the person with the permanent disability.
- (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 on a property which has been discontinued for more than five years is proposed (See § 145-12D regarding nonconforming uses.); or  
[Amended 6-10-2014]
- 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**.<sup>[1]</sup>

[Amended 4-18-1998]

<sup>[1]</sup> *Editor's Note: The Reviewing Authority Chart is included at the end of this chapter.*

- 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; 4-18-1998; 4-14-2000; 11-7-2000; 6-12-2012; 11-6-2012; 4-16-2016; 6-14-2016; 6-13-2017]

A site plan meeting the standards of this chapter shall be submitted, reviewed and approved by the appropriate reviewing authority before a building permit or certificate of occupancy 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.
  - (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 and Planner 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 and Planner 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 and Planner shall approve the application and sign the site plan, approve the

application with conditions and sign the site plan or deny the application.

- (3) The Code Enforcement Officer and Planner shall only approve a site plan application if the Code Enforcement Officer and Planner determines that the plan meets the criteria of § 145-75. The Code Enforcement Officer and Planner shall prepare written findings of fact, based on the evidence presented, including his conclusions and basis thereof.
- (4) Failure of the Code Enforcement Officer and Planner 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 certificate of occupancy as long as the plan is in compliance with all local regulations, except this article.
- F. Expiration.
- (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 five 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 Staff Review Committee or Code Enforcement Officer and Planner are 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.
  - (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 unless allowed as an exemption by the **Reviewing Authority Chart**.<sup>[1]</sup>

[1] *Editor's Note: The Reviewing Authority Chart is included as an attachment to this chapter.*
  - (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 or higher reviewing authority per the **Reviewing Authority Chart**.
  - (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.
  - (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, 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 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.

## § 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 personal.

## § 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 and Planner 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 and Planner or the Staff Review Committee.  
[Amended 6-14-2016]

- (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 and Planner 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.

## Chapter 150. Licenses and Permits

[HISTORY: Adopted by the Town of Wells 4-28-1995. Amendments noted where applicable.]

Attachment 1 - Table 1 

## Article I. General Provisions

### § 150-1. Purpose; authority.

The purpose of this chapter is to provide the municipal officers a reasonable medium for regulation of the businesses and purposes listed in Table 1.<sup>[1]</sup> This chapter is enacted pursuant to the constitutional and statutory home rule power of the Town of Wells and Chapter 134 of the Private and Special Laws of Maine, 1965.

[1] *Editor's Note: Table 1 is included at the end of this chapter.*

## § 150-2. Authorization to grant licenses.

[Amended 4-28-2006]

The municipal officers of the Town of Wells are authorized to grant licenses for the businesses and purposes specified herein or to delegate to the Town Clerk the authority to issue such licenses as are specified in the schedule provided in Table 1<sup>[1]</sup> hereof and to make such amendments to the schedule set forth in Table 1 as they deem necessary after notice and hearing. The municipal officers may specify the inspections and background investigations that are required prior to issuance of a license. The municipal officers are authorized to set license fees, including but not limited to application fees, publication fees, background investigation fees and inspection fees, after notice and hearing. All fees shall be paid at the time the application is filed and no license shall be issued until all fees incurred during the licensing process are paid in full. All licensing fees are nonrefundable. A copy of the license fee schedule shall be on file in the Town Clerk's office.

[1] *Editor's Note: Table 1 is included at the end of this chapter.*

## § 150-3. Definitions.

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

### **ADULT CARE CENTER**

An establishment providing day care for five or more adults which charges for the care of the adults, whether in a private home or a separate establishment and whether or not licensed by the State of Maine.

### **ALARM SYSTEM**

A system, including any mechanism, equipment or device, designed to automatically transmit a signal, message or warning from a private or public facility to any alarm answering service and shall include telephonic alarm systems designed to operate automatically through the use of public telephone facilities.

### **AMUSEMENT CASINO**

A business establishment providing indoor recreation in the form of mechanical, electronic or video games without alcohol sales.

### **ANIMAL SHELTER**

A state-licensed facility.

### **AUCTION**

The public sale of property or goods to the highest bidder.

### **AUCTIONEER**

A licensed agent who conducts an auction.

### **AUCTION HALL**

A building where public auctions are held.

### **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, and/or 30-A M.R.S.A. § 3752, or parts of such vehicles, including an area used for automobile dismantling, salvage and recycling operations. Exemption: "Automobile graveyard" does not include an 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 make the vehicle operational.  
[Amended 11-7-2000]

**AUTOMOBILE REPAIR**

An establishment in the business of servicing and repairing motor vehicles.

**AUTOMOBILE SALES**

The sales of motor vehicles.

**BANK**

See "financial institution."

**BARBERSHOP**

A business of cutting and dressing hair and shaving and trimming beards.

**BEAUTY SHOP**

An establishment where haircutting, hairdressing, facials and manicures are done.

**BILLIARD AND/OR POOL PARLOR**

The same as "amusement casino."

**BOWLING ALLEY**

A form of commercial recreation.

**CAMPGROUND/RECREATIONAL PARK**

A business establishment operated as a recreational site for trailers, recreational vehicles or other forms of temporary shelter.

**CHILD CARE CENTER**

An establishment providing day care for five or more children under the age of 16 which charges for the care of the children, whether in a private home or a separate establishment and whether or not licensed by the State of Maine.

**CLOSEOUT SALE**

The offering for sale of a stock of goods, wares or merchandise under the designation of "Closing Out Sale," "Going Out of Business Sale," "Entire Stock Must Go," "Must Sell to the Bare Walls" or any other designation which states, directly or by implication, an intent to dispose of the entire stock of goods to permanently terminate further business as per state statute.

**CLUB**

Any voluntary association of persons organized for fraternal, social, religious, benevolent, recreational, literary, patriotic, scientific or political purposes whose facilities are open to members but not the general public and which is principally engaged in activities which are not customarily carried on for monetary gain.

**COMMERCIAL RECREATION**

A business which provides an indoor or outdoor recreational activity.

**COMMERCIAL SCHOOL**

A place of business, including but not limited to a dance studio, musical instrument instruction and martial arts class, where classes are taught for a profit.



**DOOR-TO-DOOR SALES**

The solicitation or sale of goods, wares, merchandise or services by a seller or the seller's employee's direct contact accomplished by means of a visit or phone call to a residence without the consumer soliciting the initial contact, including home repair services.  
[Amended 11-7-2000]

**ENTERTAINMENT**

Includes any amusement, performance, exhibition or diversion for patrons or customers on licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose duties include activities with an entertainment value.

**FARM STAND**

A roadside stand not exceeding 450 square feet in floor area selling only farm, gardening, greenhouse or nursery products, cut Christmas trees, garland, wreaths, wreath materials and loam on the premises.

**FISH MARKET**

A business where seafood products are sold.

**FINANCIAL INSTITUTION**

A place of business which includes banks, credit unions, savings and loans and financial advisors.

**FLORIST**

See "retail business."

**FOOD TRUCK**

A vehicle or cart primarily providing food and drink for members of the public, in parking lots, outside the traveled way of a public or private street, or on private property pursuant to a properly approved site plan, which is not stationary but is capable of moving from site to site. The term "food truck" does not include ice cream trucks.  
[Added 1-16-2018]

**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.

**GAME MACHINE**

A coin-operated entertainment device.

**GAME OF CHANCE**

A game, contest, scheme or device in which a person stakes or risks something of value for an opportunity to win something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestant or participant may also be a factor therein.

**GAMING**

Games of chance such as bingo.

**GAS STATION**

A business that sells motor fuels and may do automobile repairs.

**HEALTH INSTITUTION**

A hospital, nursing home, clinic, boarding care facility or other place for the treatment or diagnosis of human ailments, excluding professional offices.

**HOME BUSINESS**

An accessory use of a dwelling unit for gainful employment as permitted under Chapter 145, Land Use.

**HOME REPAIR SERVICES**

To fix, replace, alter, convert, modernize, improve or make an addition to real property. "Home repair services" includes, but is not limited to, the construction, installation, replacement, improvement or cleaning of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fallout shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows, siding or awnings or other improvements to structures within the residence or upon the land adjacent to the residence, including tree trimming, when such services are not solicited initially by the consumer thereof.

**ICE CREAM TRUCK**

A vehicle, not to exceed 20 feet in length and eight feet in width, from which the operator vends only pre-packaged frozen dairy or frozen water-based food products, soft serve, or hand-dipped frozen dairy products or frozen water-based food products, and pre-packaged beverages. No trailer or other such wheeled extension may be attached to an ice cream truck.

[Added 1-16-2018]

**INNKEEPER**

A person, persons, company, partnership, association or other entity that keeps a lodging facility to provide temporary lodging to travelers and others for compensation.

**ITINERANT PHOTOGRAPHER**

All persons, whether as principals or agents, who engage in a temporary or transient business in Wells, whether such persons conduct their business by traveling house to house taking pictures in houses or operate from a hotel or motel room, store or other location, and who solicit orders, take pictures, assist in taking pictures, show proofs, deliver pictures and/or make collections for pictures sold.

**JUNK DEALER**

A person who sells junk or secondhand goods as defined in 30-A M.R.S.A. § 3901.

**JUNKYARD**

A yard, field or other area used to store:

- A. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- B. Discarded, scrap and junk lumber;
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other ferrous or nonferrous material; and
- D. Garbage dumps, waste dumps and sanitary fills as defined in 30-A M.R.S.A. § 3752, Subsection 4.

**KENNEL**

A commercial establishment where dogs and/or cats are kept or boarded for a fee or where animal grooming is performed for a fee.

**LIQUOR**

Any spirituous, vinous or malt beverage.

**LIQUOR LICENSE**

A license issued to an establishment to sell spirituous, vinous or malt beverages for consumption on or off the licensed premises.

**LOCATION**

Any single parcel or combination of contiguous parcels that are owned or controlled by a single entity or affiliated entities.

[Added 1-16-2018]

**LODGING FACILITY**

A building or group of buildings in which rooms are rented or available for rent to transient guests. The term includes motels, hotels, cabins, housekeeping cottages and housekeeping cottage complexes, seasonal cottages and seasonal cottage complexes, bed-and-breakfasts and inns.<sup>[1]</sup>

[Amended 11-2-2004]

**MANUFACTURING**

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

**MARINA**

A business establishment having frontage on the navigable waters within the Town which offers for sale or rent to commercial fishermen or pleasure boat owners some or all of the following: mooring, dock space, boats and marine equipment, showers and laundry facilities, water, ice, diesel fuel, gasoline, oil and related products, and where boats may be hauled, stored, repaired and/or constructed.

**MESSAGE**

Any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device.

**MESSAGE ESTABLISHMENT**

Any business, including but not limited to a sole proprietorship, in which the business operations or some portion thereof consist of providing or making available in the Town massage for consideration or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within the Town.

**MESSAGE THERAPIST**

Any person who performs massage for consideration or a gratuity or with the expectation of receiving consideration or any gratuity.

**MASS GATHERING**

A group of 500 or more persons assembled together for a meeting, social gathering or other similar purpose that can be anticipated to exceed two hours in duration.

**MASS GATHERING AREA**

Any place maintained, operated or used for a group gathering or assemblage, except an established permanent stadium, athletic field, arena, auditorium, coliseum, fairground or other similar permanent place of assembly that has sufficiently existing sanitary facilities to handle the expected gathering.

**MUNICIPAL OFFICERS**

The Board of Selectmen of the Town of Wells, Maine.

**MUSEUM**

An institution operated primarily for the purpose of preserving and exhibiting objects of historical, cultural, scientific or artistic interest which may also be engaged in incidental retail sales of items related to the principal purpose.

[Amended 11-7-2000]

**NEIGHBORHOOD CONVENIENCE STORE**

A store with floor area intended to service a residential neighborhood's convenience needs, such as basic foods, newspapers, beverages and paper goods, with or without petroleum products.

**OUTDOOR FESTIVAL**

To exhibit, sponsor, hold, promote or operate any pageant, amusement, show or theatrical performance, including a music festival, or exhibition in which the anticipated attendance will exceed 1,000 people and where a substantial portion of the people attending will be out of doors.

**PALMISTRY (PALM READER)**

A person or persons who engage in the practice of reading a person's character or future from the markings on the palms.

**PAWNBROKER**

One who loans money and takes goods as collateral.

**PROFESSIONAL OFFICE**

A place of business of doctors, lawyers, accountants, architects, engineers, surveyors, real estate and insurance agents, auctioneers, psychiatrists, psychologists, counselors, therapists and the like or a place in which a business conducts its administrative and clerical operations.

**PUBLIC TRANSPORTATION**

Persons, corporations or businesses who or which engage in the business of offering public transportation over a fixed route within the Town of Wells on a regular basis for a fee.

**REDEMPTION CENTER**

A person, firm or corporation who or which receives bottles, cans, rags and the like for the purpose of recycling with only brief storage of the recycled product.

**RESTAURANT**

An establishment where food and drink are prepared and served to the public.

**RETAIL BUSINESS**

A business establishment engaged in the sale of goods and services to the ultimate consumer for direct use or consumption.

**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 11-2-2004]

**SEASONAL COTTAGE COMPLEX**

A business consisting of one or more seasonal cottages. All seasonal cottage units in a seasonal cottage complex 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.

[Added 11-2-2004]

**SOLID WASTE (COMMERCIAL HAULER)**

Any person, firm or corporation who or which accumulates, collects, stores, transports or disposes of more than two tons per month of acceptable or unacceptable waste generated within the Town who must first obtain a license from the municipal officers.

**TENT SALE**

The exterior sale of goods associated with a retail business where the sales occur in or under a tent, tarp or similar temporary structure.

**THEATER**

A fully enclosed building used for display or presentation to the public of films, plays or other kinds of performances.

**TOWN**

The Town of Wells, Maine.

**TRANSPORTATION FACILITY**

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

**VICTUALER**

A person or persons who serve food or drink prepared for consumption on the premises by the public.

**WAREHOUSE**

A structure used primarily for the storage of articles, goods or materials.

**WHOLESALE**

A business establishment engaged in the bulk sale of goods or materials not manufactured or processed on the premises.

**YARD SALE**

An activity held within a structure or open area where personal 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.

[1] *Editor's Note: The former definition of "lunch wagon," which immediately followed this definition, was repealed 1-16-2018.*

## § 150-4. License or permit required.

No person, corporation, partnership, association, unincorporated association or other entity shall operate or conduct any trade, profession, business or privilege listed in Table 1 without first obtaining all required licenses or permits therefor.<sup>[1]</sup>

[1] *Editor's Note: Table 1 is included at the end of this chapter.*

## § 150-5. Expiration of licenses.

All licenses shall expire on the first day of May of each year, unless otherwise provided, and no proration shall be allowed for any part-time license. If an application for renewal of a license is filed prior to the expiration date, the licensed activity may be continued, pending a decision of the licensing authority to grant or deny a new license, provided that the licensee and licensed business are otherwise in compliance with this chapter.

## § 150-6. Licensing for multiple activities.

[Amended 11-7-2000]

A business engaging in more than one of the activities listed in Table 1 shall be required to secure and pay for a license in each of the activities in which it is engaged.

## § 150-7. Authority of Clerk and Selectmen.

As agent of the municipal officers, the Town Clerk is hereby authorized and directed to receive all applications required by this chapter and to act thereon with reasonable promptness consistent with the nature of the matter, either by issuing the license or permit as applied for, subject to limitations on his/her authority as contained herein, or by denying the same and so notifying the applicant personally or in writing, addressed to his address as shown in the application, such notice to state the reason for such denial, or by referring the license application to the Board of Selectmen, if the Board of Selectmen is the issuing authority specified in Table 1. The Selectmen may issue or deny such licenses, following a public hearing, provided that the applicant shall be notified, in writing, of the denial and the reason for the denial. The Selectmen may impose such reasonable restrictions and/or conditions as they deem in the best interest of the community.

## § 150-8. Applications.

[Amended 11-7-2000]

- A. Applications for the various licenses set forth in Table 1 hereof shall be made on forms provided by the Town Clerk and shall contain such information as may be required by the municipal officers, including but not limited to the following:
  - (1) Name and address of the applicant.
  - (2) Description and location of the premises.
  - (3) Name and address of the principal person in charge of the business.
  - (4) Names and addresses of officers and directors of a corporation or members of an association or partnership, if the applicant is a corporation, an association or a partnership.
  - (5) Brief description of the activity or activities proposed.
- B. On applications for a new license (including new activities on a site where licensed activities already occur) the zone district shall be specified. The Code Enforcement Officer shall confirm that the proposed activity and the structures or land used for the activity conform to the requirements of Chapter 145, Land Use, of this Code before a license may be issued.

## § 150-9. Suspension or revocation of licenses.

- A. Any license issued under this chapter may be suspended or revoked by the municipal officers after hearing when it has been made to appear to the municipal officers that:
  - (1) There has been a violation of the terms of this chapter or any other local ordinance or state or federal law or regulation then in force or any conditions of approval attached to the license.
  - (2) The licensee or any of the officers or managing employees of the firm, corporation or association have been convicted of a felony or a misdemeanor involving moral turpitude.

- B. In the event of an appeal from a conviction of a felony or a misdemeanor involving moral turpitude and suspension or revocation of the license by the municipal officers, the suspension or revocation shall continue to be in effect until a final decision has been rendered by the court.

## § 150-10. Violations and penalties.

- A. Any person, corporation, partnership or association who or which operates or conducts any trade, profession, business or privilege for which a license is required under this chapter without first obtaining such license or who or which fails to comply with the requirements of this chapter and/or any conditions imposed by the license shall be punished by a civil penalty of not more than \$100 or such other penalty as may be specified for specific violations elsewhere in this chapter. Such person, firm or corporation shall also be liable for court costs and reasonable attorney fees incurred by the Town. All such penalties shall be recovered on complaint for the use of the Town and shall be placed in the Town treasury. Each day the violation continues after the Town gives notice thereof constitutes a separation violation.
- B. When a violation of any provision of this chapter shall be found, the appropriate municipal official shall send a written notice of the violation to the responsible party or parties and shall also notify the Town Manager of the violation. 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 imposing of civil penalties, that may be appropriate or necessary to enforce the provisions of this chapter in the name of the municipality and in addition may revoke or suspend the license in accordance with § 150-9.

## § 150-11. When effective.

This chapter shall take effect upon enactment by the Town Meeting and shall apply to all licenses issued after January 1 of the following year.

## § 150-12. Repealer.

This chapter repeals and replaces the former Chapter 149, Licenses, of the Wells Municipal Code and repeals Chapter 52, Article II (Mass Gathering), Chapter 55 (Amusements), Chapter 58 (Alarm Systems), Chapter 98 (Massage Establishments), Chapter 128 (Solid Waste), Chapter 132 (Vendors, Itinerant), Chapter 147 (Junkyards) and Chapter 160 (Public Transportation) of the Wells Municipal Code.

## Article II. Junkyards

## § 150-13. Filing of permit application.

Application for a junkyard permit shall be filed with the Town Clerk's office.

## § 150-14. Permit fees.

[Amended 11-7-2000]

The Town Clerk shall collect in advance from the applicant for said permit the fee specified in Table 1 plus the cost of posting and publishing the notice required by 30-A M.R.S.A. § 3754.

## § 150-15. Public hearing.

- A. State law requires that a public hearing be held by the municipal officers, with the hearing date to be set by the Town Clerk in keeping with regularly scheduled meeting dates.
- B. The municipal officers shall, before granting a permit to establish, operate or maintain a graveyard or junkyard, hold a public hearing, notice of which shall be posted at least seven days and not more than 14 days prior to said hearing in not fewer than two public places in Wells and in one newspaper of general circulation in Wells.
- C. The municipal officers shall give written notice to the Department of Transportation by ordinary mail not less than seven nor more than 14 days prior to the hearing.

## § 150-16. Stipulation of conditions.

The municipal officers may stipulate reasonable conditions or limitations which shall be attached to the permit covering the operation, use and other related matters and which shall be considered part of the permit.

## § 150-17. Signing of permit; filing.

- A. The permit is to be signed by a majority of the municipal officers.
- B. The permit shall be displayed on the premises.
- C. An attested copy shall be filed with the Clerk's office, the Department of Transportation and the state police.

## § 150-18. Violations and penalties.

Whoever violates any provision of this article shall be penalized as specified in 30-A M.R.S.A. §§ 3758 and 4452. Any violation of the terms, conditions or limitations imposed on the permit shall constitute a violation of the permit and of this article.

## § 150-19. Enforcement.

It shall be the duty of the state police, as well as local and county officers of the law, and the municipal officers or their designee to enforce this article.

## Article III. Door-to-Door Sales

## § 150-20. License required.



No person may engage in door-to-door sales within the Town of Wells, whether or not the person is present in the Town at the time of contact or the time of sale, who does not have, for the purposes of carrying on such business, any permanent place of business within the Town without obtaining a license prior to engaging in any such sales. A license shall not be required for selling at public fairs, expositions or bazaars or for members selling on behalf of public service organizations or those who sell exclusively by mail contact, except that persons who offer merchandise or money prizes as "free of charge" but who require the recipient to pay something of value, such as but not limited to entrance or processing fees, to participate in the offer shall be required to obtain a license.

## § 150-21. Regulations.

The Board of Selectmen is hereby empowered to prescribe reasonable regulations pertaining to the hours of sale, conduct of vendors and other matters in the interest of the buying public and is empowered to revoke the license of any licensee who fails to comply with said regulations.

## § 150-22. Vending on beaches.

No door-to-door sales of any sort shall be permitted on the ocean beaches.

## § 150-23. Registration required.

[Added 5-29-1991]

No person who does not have a permanent place of business within the Town of Wells may sell business services within the Town on a door-to-door basis, from a vehicle or by telephone, without first registering with the Police Department as an itinerant vendor of services. The registration shall state the name of the vendor, the name and address of the business and the license number(s) of the vehicle(s) to be used for such sales within the Town and briefly describe the nature of the business to be conducted. A copy of a contract or service agreement offered to customers must be supplied at the time of registration. Sales or service personnel invited to a home or place of business by the resident or owner thereof prior to initial contact by the vendor are not required to register under this section. There shall be no fee for the registration required by this section.

## § 150-24. Exceptions to registration requirement.

The registration requirement for door-to-door sales of business services shall not apply to nonprofit civic, educational or religious groups soliciting contributions as part of a fund-raising activity.

## Article IV. Massage Establishments

### § 150-25. Purpose.

The purpose of this article is to regulate the operation of massage establishments in order to promote and protect the public health, safety and general welfare.

### § 150-26. Definitions.

For purposes of this article, the following definitions shall apply unless the context clearly implies otherwise:

**DISQUALIFYING CRIMINAL CONVICTION**

Any conviction for any criminal offense punishable for any period of time, whether or not the sentence was actually imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally or for which a pardon, certificate of rehabilitation or the equivalent has been granted or which is not rationally related to the purpose of this article.

**PATRON**

Any person who receives massage.

**PERSON**

An individual, partnership, corporation or other entity.

**RECOGNIZED SCHOOL**

Any school or institution of learning which has for its purpose the teaching of the theory, method, profession and work of massage therapy and which is recognized or certified by the State of Maine or any other state. Schools offering a correspondence course not requiring actual attendance in class shall not be deemed a recognized school.

## § 150-27. Exemptions.

The following persons shall be exempt from the licensing requirements of this article if duly licensed by and while practicing in accordance with the laws of this state: physicians, physicians' assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists, barbers, cosmetologists, beauticians and other health and hygiene professionals.

## § 150-28. Licensing authority.

The municipal officers are authorized to grant all licenses required by this article, provided that any person applying for such a license complies with all the requirements hereof.

## § 150-29. Massage tables.

All massages shall be administered on a massage table, treatment table or treatment mat.

## § 150-30. Maintenance and cleaning.

Every person who performs massage or operates a massage establishment shall keep the establishment at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

## § 150-31. Prohibited activities.

No massage therapist shall:

- A. Administer a massage to a patron whose genitals are exposed.

- B. Administer or agree to administer a massage to the genitals or anus of a patron.
- C. Administer a massage unless he or she is fully clothed with nontransparent clothing of the type customarily worn by massage therapists while administering a massage.

## § 150-32. Closing hours.

No massage establishment shall be kept open for massage purposes between the hours of 8:00 p.m. and 9:00 a.m.

## § 150-33. Supervision.

At all times when open for business, a massage establishment shall have upon the premises a licensed massage therapist or person who possesses a combination massage establishment/massage therapist license to supervise the operation of the establishment and assure that no violations of this article occur.

## § 150-34. List of employees.

The massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the Chief of Police or his/her authorized deputy and the Town Clerk or his/her representative upon request.

## § 150-35. License required.

- A. Massage establishment license. No person shall operate a massage establishment without a valid massage establishment license. A separate license shall be required for each such establishment.
- B. Massage therapist license. No person shall work as a massage therapist without a valid massage therapist license or a combined massage establishment/massage therapist license.
- C. Combined massage establishment/massage therapist license. A sole practitioner who employs no massage therapist other than himself/herself may apply for a combined massage establishment/massage therapist license in lieu of both a therapeutic massage establishment license and a massage therapist license.
- D. Conditional massage therapist license. For the purpose of allowing an applicant for a license pursuant to Subsection **B** or **C** who is otherwise qualified to obtain such a license, except for compliance with § 150-37, to comply with § 150-37B, a conditional massage therapist license may be issued under the following conditions:
  - (1) All provisions of this article shall apply to a licensee under this Subsection **D**, except § 150-37.
  - (2) Any licensee under this Subsection **D** shall designate one massage therapist or combined massage establishment/massage therapist licensed by the Town of Wells as the supervisor for said licensee. A licensee under this Subsection **D** shall be licensed to perform massage only at the supervisor's establishment.

- (3) Any licensee under this Subsection **D** may designate no more than one licensed supervisor pursuant to Subsection **D(2)**, unless the first-named licensed supervisor surrenders his/her license or has his/her license revoked or suspended.
- (4) The designated licensed supervisor may supervise only one or two conditional massage therapists per license year.
- (5) Licenses issued pursuant to this Subsection **D** may not be renewed.

## § 150-36. Application for license; investigation.

- A. Any person desiring a license pursuant to this article shall file a written, signed application with the Town Clerk on a form to be furnished by the Clerk. An application for a combined massage establishment/massage therapist license, a massage therapist license or a conditional massage therapist license shall be accompanied by two front face photographs of the applicant taken within 30 days of application, of such size as the Clerk may specify.
- B. Background investigation. The Town Clerk shall refer the names of applicants for any license required by this article to the Chief of Police, who shall verify the information in the application relating to convictions. The Chief of Police shall report any relevant information to the municipal officers.

## § 150-37. Qualifications for therapist license.

Each applicant for a massage therapist license or combined massage establishment/massage therapist license shall show proof of basic proficiency in the field of massage therapy which may be satisfied by:

- A. Evidence of completion of a formal training course in massage therapy given by a recognized school;
- B. Evidence of 100 hours of on-the-job training in therapeutic massage performed in the presence of a person holding a valid massage therapist license or a combined massage establishment/massage therapist license issued by the Town of Wells;
- C. Evidence of continuous practice as a massage therapist for at least one year, accompanied by the written recommendation of at least five persons holding a valid massage therapist license or a combined massage establishment/massage therapist license issued by the Town of Wells or another municipality with a similar licensing scheme, provided that the Clerk shall verify that each such reference is from a licensee in good standing with the appropriate licensing authority, which reference shall state that said person has personally received a massage from the applicant that was administered in a skilled and professional manner; or
- D. Evidence of successful completion of a certifying exam given by another municipality or state or by the American Massage Therapy Association.

## § 150-38. Display of license.

A valid massage establishment license or combined massage establishment/massage therapist license shall be displayed at all times in an open and conspicuous place in the massage establishment for which it was issued. A valid conditional massage therapist license or

massage therapist license must be readily available to be produced immediately if demanded of the licensee.

## § 150-39. Grounds for denial of license.

- A. A license under this article shall be denied to any person who does not meet the proficiency requirements of § 150-37 and to the following persons:
- (1) Massage establishment license.
    - (a) To a corporation not registered to do business in this state;
    - (b) To a corporation if any principal officer thereof or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five years;
    - (c) To an applicant other than a corporation if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five years; or
    - (d) To an applicant if the massage establishment does not meet the requirements of the applicable building, electrical and fire codes.
  - (2) Massage therapist, combined massage establishment/massage therapist or conditional massage therapist licenses.
    - (a) To an applicant who has been given a disqualifying criminal conviction at any time during the five years immediately preceding application;
    - (b) To an applicant who is not at least 18 years of age; or
    - (c) To an applicant if the massage establishment does not meet the requirements of the applicable building, electrical and fire codes.
- B. The Clerk shall make and keep a written record of every decision by the municipal officers to deny an application for any license hereunder.

## § 150-40. Grounds for suspension or revocation of license.

- A. All licenses. In addition to the grounds set forth in § 150-9 of this chapter, any license may be suspended or revoked upon a determination by the municipal officers, after notice and a hearing:
- (1) That the licensee failed to notify the Clerk of any change in material fact set forth in the application for such license; or
  - (2) For any reason that would justify denial of a license pursuant to § 150-37 or 150-39.
- B. Massage establishment or combined massage establishment/massage therapist license. In addition to the grounds set forth in § 150-9 of this chapter, either a massage establishment license or combined establishment/therapist license may be suspended or revoked upon a determination by the municipal officers, after notice and a hearing, that the licensee:
- (1) Permitted any person to perform a massage without a valid license to do so;

- (2) Permitted or allowed an employee, massage therapist or conditional massage therapist to violate any provision of this article on the premises of the establishment or in the course of conduct of the business of the establishment; or
- (3) Knowingly permitted any violation of 17-A M.R.S.A. §§ 851 to 855, inclusive. Such knowledge shall be presumed if there have been two or more convictions for any such offense within any one-year period. The licensee may rebut said presumption by showing that:
  - (a) Due diligence was exercised to prevent the recurrence of any such offense; and
  - (b) Despite such diligence, he or she did not know and could not reasonably have known of any subsequent offense.

## § 150-41. Obtaining license by fraud.

- A. No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact or give or use any fictitious name in order to secure or aid in securing a license required by this article. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.
- B. Any license so secured shall be void.

## § 150-42. Unlawful use of license.

No person shall make use of, in any manner, to his own or another's benefit, any license which has not been duly issued to him or her in accordance with this article.

## § 150-43. Existing therapists and massage establishments.

Any person operating as a massage therapist and/or operating a massage establishment as defined herein on the effective date of this article shall comply with the terms of this article by obtaining a license hereunder within 45 days of the effective date of this article.

## § 150-44. Violations and penalties.

The violation of any provision of this article shall be punished by a civil penalty of not less than \$250 nor more than \$500 for each offense. Each day the offense continues after notice thereof constitutes a separate offense.

## Article V. Alarm Systems

### § 150-45. Purpose.

The purpose of this article is to establish appropriate guidelines for the installation of alarm systems for notification of the Town of Wells Public Safety Complex.

### § 150-46. Notification permit.

- A. No person shall operate or maintain an alarm system which automatically transmits a signal, message or warning to the Police or Fire Department without first obtaining a notification permit.
- B. Application forms for notification permits to install, maintain or operate an alarm system shall be obtained from the Town Clerk and filed with the Wells Public Safety Dispatch Center. Installation or monitoring will not be permitted until the application has been filed with the Wells Public Safety Dispatch Center. Said application shall set forth the name, address and telephone number of both the installer of the system and the person or business on whose premises the system will be installed, as well as a description of the system and the location where it is proposed to be installed. The application shall also state the alarm answering service and its phone number. Installers are responsible for submission of said application.  
[Amended 11-7-2000]
- C. The Chiefs of the Police and Fire Departments which the alarm signals shall approve such application if he/they find(s) that the person installing the system maintains an adequate service organization to repair, maintain or otherwise service alarm systems sold or leased by him. Any leased monitoring company shall be UL listed and meet N.F.P.A. Code 72 National Fire Alarm Code (1993 Edition) standards.  
[Amended 11-7-2000]
- D. The Police Chief or Fire Chief may impose other reasonable conditions on the exercise of said permits. The Town Manager shall retain final authority to approve the reasonableness of any other conditions.
- E. The Chief of the concerned department shall have the sole right to inspect or cause to be inspected by the system installer any alarm system on the premises where it is intended to function prior to issuance of any permit for operation of such a system, and he may inspect or cause an inspection by the system installer or by an individual qualified in installation of such an alarm system to be made at any time after the issuance of a permit to determine whether it is being used in conformity with the terms of the permit and the provisions of this article. Information related to any alarm system shall be maintained in a confidential manner, and the release of such information by any member of either department or any Town employee shall be a violation of this article.
- F. No person shall install, operate or maintain a telephonic alarm system which automatically transmits a signal, message or warning to the Town's Police or Fire Department telephone lines, except to such telephone number or numbers as designated by the permit issued under the provisions of this article.
- G. The Chief of the concerned department may revoke any permit issued pursuant to the provisions of this article, after giving written notice to the permit holder and an opportunity for the permit holder to be heard, if he determines that the alarm system installed pursuant to said permit has been installed, maintained or operated in violation of the provisions of this article or of any term or condition of said permit or for failure to pay any fee specified in Table 1.

## § 150-47. Transmittal of non-emergency alarms.

Any permit holder whose system causes transmittal of a non-emergency alarm more than three times per year shall pay a fee of \$50 in the case of the Police Department or, in the case of the Fire Department, \$200 for each instance. Non-emergency alarms shall include, but shall not be limited to, malfunctioning equipment or improperly monitored equipment that causes false alarms.

## § 150-48. Violations and penalties.

Whoever violates any of the provisions of this article or any conditions imposed by the permit shall, upon conviction therefor, be punished by a civil penalty of not more than \$200.

## Article VI. Outdoor Festivals

### § 150-49. License required.

No person shall exhibit, sponsor, hold, promote or operate any pageant, amusement show or theatrical performance, including a music festival or exhibition, which in excess of 1,000 people are expected to attend and where a substantial portion of the entertainers or persons attending will be out of doors without first procuring from the municipal officers a license therefor at least seven days prior to the event.

### § 150-50. Required facilities.

No license shall be granted by the municipal officers unless the applicant satisfies the municipal officers that the following facilities will be available for such event in the area to be used, and no such person shall hold such an event unless such facilities are available:

- A. Water supplies of potable quality shall be reasonably spaced throughout the area to be used, with a minimum amount available of 1 1/2 gallons per day per person expected to attend. Such water may be batch chlorinated in a tank to provide a chlorine residual of at least 0.5 part per million. At each facility there shall be adequate spigots with cups or dispensers.
- B. Latrine facilities. Separate male and female facilities shall be made available. Such facilities shall conform to the Maine State Plumbing Code.  
[Amended 11-4-1986]
- C. At each toilet facility, there shall be handwashing facilities, which may utilize stored water with outlets equipped with spring-operated spigots, with adequate provision for disposal of wastewater to soakage pits and with soap dispensers available.
- D. Adequate metal, wood or plastic containers with a height of at least two feet and diameter of at least two feet shall be spaced in the area to take care of solid waste, with at least one container for each reasonably anticipated 100 persons. Within 24 hours after the close of the event, such waste material shall be removed to the solid waste transfer station.  
[Amended 11-4-1986]
- E. A first-aid facility shall be provided on the grounds with at least one ambulance in attendance and one doctor for each 1,000 persons expected to attend.
- F. Off-street parking facilities shall be furnished, with at least one car space with adequate accessways for each six persons reasonably expected to attend. A uniformed police officer or constable shall be provided to direct traffic to and from public ways, with at least one officer for each reasonably expected 500 persons.

### § 150-51. Bond; proof of authority to use property; plan of facilities.



- A. Prior to the issuance of the license and the holding of the event, the applicant shall furnish a corporate surety bond from a company authorized to do business in Maine, insuring that forthwith after the event the grounds will be cleaned of waste and that damages to public or private property in the area arising out of or in connection with the event will be promptly paid, such bond to be in the amount of \$5,000 for each reasonably expected 1,000 persons in attendance.
- B. The applicant shall file with his application adequate proof that he has authority from any landowner to use his property and shall furnish a plan showing the size and location of the toilet and washing facilities, waste containers, first-aid facilities and off-the-street parking.  
[Amended 11-7-2000]

## § 150-52. Violations and penalties.

Any person directly or indirectly exhibiting, promoting, sponsoring, operating or holding such event as owner, lessor, lessee, landlord, tenant, operator or entertainer and not complying with this article shall be liable to a civil penalty of \$100 per day for each infraction, shall be personally responsible for damages to public or private property arising out of or in connection therewith and shall be subject to any civil or injunctive relief that may be reasonable and proper.

## Article VII. Special Amusement Permits

### § 150-53. Definitions.

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

#### **LICENSEE**

Includes the holder of a license issued under the alcoholic beverages statutes of the State of Maine or any person, individual, partnership, firm, association, corporation or other legal entity or any agent or employee of any such licensee acting on behalf of any such licensee or left in charge of or in control of such licensee's premises.

### § 150-54. Permit required.

No licensee for the sale of liquor to be consumed on his licensed premises shall permit on his licensed premises any music, except radio or other mechanical device, or any dancing or entertainment of any sort unless the licensee shall have first obtained from the Town of Wells a special amusement permit signed by a majority of the Board of Selectmen.

### § 150-55. Contents of application.

Applications for all special amusement permits shall be made in writing to the Town Clerk and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the nature of his business; the location to be used; all places of residence of the applicant during the past five years; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be

needed by the Board of Selectmen in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

## § 150-56. Compliance with other standards.

No permit shall be issued for any entertainment or premises if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws or rules and regulations of the Town of Wells or laws of the State of Maine.

## § 150-57. Public hearing.

The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the Town and the applicant, hold a public hearing at which testimony of the applicant and that of any interested members of the public shall be taken.

## § 150-58. Conditions for issuance.

The Board of Selectmen shall grant a permit unless it finds that issuance of the permit will be detrimental to the public health, safety or welfare or would violate municipal ordinances or rules and regulations, articles or bylaws or laws of the State of Maine. The Board may impose reasonable conditions upon any permit issued.

## § 150-59. Term of permit.

A permit shall be valid only for the license year of the applicant's existing liquor license.

## § 150-60. Prohibited conduct and activities.

- A. Tumultuous conduct. The licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb or aid in disturbing the peace of others of ordinary sensibilities or to be disorderly by violent, tumultuous, offensive or obstreperous conduct or to permit to gather a crowd or audience of patrons to witness entertainment, amusement or a show so as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.
- B. Riots. The licensee shall not allow on any licensed premises any entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.
- C. Unnecessary noise. The licensee shall not allow on any licensed premises the making, creation or maintenance of excessive or unnecessary or unnatural or unusually loud noises which disturb, annoy, injure or prejudice or endanger the comfort, repose, health, peace or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare or the prosperity of the residents of Wells.
- D. Nuisances. The licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances or any sections of any

ordinances, articles, bylaws or rules and regulations of Wells or under any statutes or laws of the State of Maine.

## § 150-61. Inspections.

- A. Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer, official or employee of the Town of Wells who is authorized or directed by the Board of Selectmen to make such inspection at any reasonable time that admission is requested.
- B. In addition to any other penalty which may be provided, the Board of Selectmen may revoke the license and/or the special amusement permit of any licensee in the Town of Wells who refuses to permit any such officer, official or employee who is authorized to make such inspections or who interferes with such officer, official or employee while in the performance of his duty in making such inspection.

## § 150-62. Suspension or revocation of permits.

In addition to suspension or revocation for any reason specified in § 150-9 of this chapter, the Board of Selectmen may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this article on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare or violates any Town of Wells ordinances or sections of any ordinances, articles, bylaws or rules and regulations or the laws of the State of Maine.

## § 150-63. Safety requirements.

- A. Application. The requirements of this section apply to both new and existing places of assembly, except as otherwise stated. An existing building housing entertainment which began prior to June 28, 1979, may continue its use if the establishment conforms to this article or, if the establishment cannot conform, is made to conform to the provisions of this article to the extent that, in the opinion of the Board of Selectmen, reasonable life safety against the hazards of fire, explosions and panic is provided and maintained.
- B. Occupant load.
  - (1) The occupant load permitted in any assembly building, structure or portion thereof shall be determined by dividing the net floor area or space assigned to that use by the square feet per occupant as follows: 15 square feet per person.
  - (2) The occupant load permitted in a building or portion thereof may be increased above that specified in Subsection B(1) if the necessary aisles and exits are provided, subject to the approval of the Board of Selectmen. An approved aisle, exit and/or seating diagram may be required to substantiate an increase in occupant load.

## § 150-64. Means of egress.

- A. Types of exits.

- (1) Exits of the specified number and width shall be of one or more of the following types:
    - (a) Doors of the swinging type leading directly outside or to a lobby or passageway leading to the outside of the building.
    - (b) Horizontal exits.
    - (c) Interior stairs.
    - (d) Outside stairs: same requirements as for interior stairs, including intermediate handrails on monumental stairs serving main entrance doors.
    - (e) Exit passageways.
  - (2) Turnstiles. No turnstiles, revolving doors or other devices to restrict the movement of persons shall be installed in such a manner as to interfere in any way with required exit facilities.
- B. Means of egress.
- (1) Each establishment shall have at least two means of egress, consisting of separate exits or doors leading to a corridor or other spaces giving access to two separate and independent exits in different directions.
  - (2) Exits shall be remote from each other and shall be arranged to minimize the possibility that they may be blocked by any emergency.
  - (3) Panic hardware. All exit doors must be provided with panic hardware.
  - (4) Illumination of means of egress shall be provided in accordance with N.F.P.A. 101.
  - (5) Emergency lighting. All places of assembly and their means of egress shall be provided with emergency lighting in accordance with N.F.P.A. 101.
  - (6) Marking means of egress. Means of egress shall have signs in accordance with N.F.P.A. 101.

## § 150-65. Equipment, furnishings and decorations.

- A. Equipment maintenance.
- (1) All exit lighting, emergency lighting and panic hardware shall be continuously maintained in proper operating condition.
  - (2) Any equipment requiring tests of periodic operation to assure its maintenance shall be tested or operated as directed by the authority having jurisdiction.
  - (3) Systems shall be under the supervision of a responsible person who shall cause proper tests to be made at specified intervals and shall have general charge of all alterations and additions.
- B. Furnishings and decorations. Furnishings or decorations of an explosive or highly flammable character shall not be used.

## § 150-66. Granting or denial of permit; appeals.

- A. Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of its decision no later than 15 days from the date his request was received. In the event that an applicant is denied a permit, the applicant shall be provided with the reasons for the denial in writing. Applicants may not reapply for a permit until at least 30 days after the denial.
- B. Any licensee or applicant who has requested a permit and has been denied or whose permit has been revoked or suspended may, within 30 days of the denial, suspension or revocation, appeal the decision to the York County Superior Court. The York County Superior Court may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare or that the denial, revocation or suspension was arbitrary or capricious or that the denial, revocation or suspension was not based on a violation of or an infraction of any ordinance, article, bylaw or rule or regulation of the Town of Wells or of the laws of the State of Maine.

## § 150-67. Violations and penalties.

Whoever violates any of the provisions of this article or who fails to abide by any conditions imposed on a special amusement permit by the Board of Selectmen shall be punished by a civil penalty of not more than \$100 for the first offense and up to \$500 for subsequent offenses.

## Article VIII. Public Transportation

### § 150-68. Purpose.

The purpose of this article is to license and renew licenses for those persons, corporations or businesses who or which engage in the business of offering public transportation over a fixed route on a regular basis for a fee within the Town of Wells.

### § 150-69. Applications.

Applicants for a public transportation license shall submit a written application to the Town Clerk on forms approved by the Selectmen. In addition to the information required by § 150-8, the application shall include the type and capacity of the vehicle(s) to be used, the established route of travel and additional information as may be required by the Selectmen to issue or renew the license.

### § 150-70. Public hearing.

The Selectmen shall hold a public hearing for the consideration of applications for a public transportation license or a renewal thereof and shall provide notice of any hearing by posting the applicant's name and place of hearing at least six days prior to the date of hearing.

### § 150-71. Term of license.

A public transportation license shall be valid for a one-year period from January 1 until December 31 regardless of the date of issuance unless suspended or revoked by the Selectmen.

## § 150-72. Grounds for denial of license.

A license or renewal thereof may be denied on one or more of the following grounds:

- A. Conditions of record, such as waste disposal violations, vehicle capacity violations, health or safety violations or repeated parking or traffic violations;
- B. Repeated incidents of breaches of the peace, disorderly conduct or other violations of law; or
- C. A violation of state law or regulations pertaining to an operator of a vehicle for hire.

## Article IX. Mass Gathering

### § 150-73. Findings; purpose.

[Amended 11-7-2000]

A mass outdoor gathering attended by 500 or more persons, which is to be continued with such attendance for two or more hours, may create a hazard to public health and safety. Accordingly, it is deemed necessary in the interest of public welfare to regulate the conduct of such gatherings not otherwise regulated by Article VI, Outdoor Festivals, of this chapter to protect the public health and safety.

### § 150-74. Definitions.

The following definitions shall apply to terms used in this article. Terms not defined herein or in § 150-3 shall have their common meaning.

#### **NUISANCE**

The following shall be defined as nuisances:

- A. Any public nuisance known at common law or in equity jurisprudence;
- B. An attractive nuisance known at common law or in equity jurisprudence; and
- C. Any condition which violates federal, state or local health or environmental laws or regulations.

#### **OPERATOR**

The person responsible for the managing of a mass gathering area. In the event that no operator exists, the owner or, in the event of his nonavailability, the lessee of the ground encompassing the mass gathering area shall be deemed to be the operator.

#### **REFUSE**

All combustible or noncombustible putrescible or nonputrescible solid or liquid wastes.

#### **SANITARY FACILITIES**

Toilets, privies, lavatories, urinals, drinking fountains and service buildings or rooms provided for installation and use of these units.

### § 150-75. Permit required.

No person shall sponsor, promote, sell tickets to, permit on his property or otherwise conduct a mass outdoor gathering which may, will or is intended to attract a continued attendance at such gathering of 500 or more persons for two or more hours until a permit therefor has been obtained from the Board of Selectmen of the Town. The Board of Selectmen may, in its discretion, determine that the permit for such gathering shall be issued under regulations set forth in Article VI of this chapter regarding outdoor festivals.

## § 150-76. Issuance or denial of permit.

- A. The Board of Selectmen shall issue a permit for a mass outdoor gathering unless it finds the standards in this article are not met. When considering the issuance of a permit, the Selectmen may seek advice from the Police Chief, Fire Chief, Code Enforcement Officer, Health Officer and such other officials or persons as it deems necessary.
- B. The Selectmen, in denying a permit, shall find that one or more of the standards set forth in this article have not been met.

## § 150-77. Permit procedure.

- A. Application submitted to Town Clerk. A permit application to hold one or more mass outdoor gatherings shall be submitted to the Town Clerk as least 20 days prior to the first outdoor gathering contemplated. The permit application shall contain the information described in § 150-78.
- B. Board of Selectmen action. Within seven days after consideration of the permit application the Board of Selectmen shall either:
  - (1) Issue a permit to the operator;
  - (2) Deny a permit to the operator, which denial shall be in writing and shall set forth with specificity the reasons for such denial, together with a list of steps which, if followed by the operator, would result in a permit being issued; or
  - (3) If the Board of Selectmen fails to either issue the permit or send such notice of denial, a permit shall be deemed to have been denied.
- C. Appeal. A party aggrieved by the decision of the Board of Selectmen may appeal under Rule 80B of the Maine Rules of Civil Procedure to Superior Court.
- D. Bond required. Concurrently with the issuance of a permit, the operator shall furnish the Town a bond of a surety company qualified to do business in this state in such amount as the Board of Selectmen shall reasonably determine, but in no event less than \$5,000. Cash or negotiable securities of equivalent value may be furnished in lieu of a bond. The bond or security shall guarantee compliance by the operator with the provisions of this article. In addition, the operator shall deposit with the Town an amount of money equal to 120% of the estimated public costs of the contemplated mass outdoor gatherings. Public costs shall be those costs incurred by the Town in connection with the contemplated mass outdoor gatherings which relate to the mass outdoor gathering and which would not be incurred by the Town if such mass outdoor gatherings were not held. Promptly after the mass outdoor gathering, the public costs shall be calculated, and the deposit shall be refunded to the operator to the extent it exceeds the actual public costs. If the actual public costs exceed the amount deposited, the operator shall pay the excess to the Town within 10 days after being so notified.

## § 150-78. Permit application.

The permit application submitted pursuant to § 150-77 shall be in the form prescribed by the Board of Selectmen and shall show the following in reasonable detail:

- A. Access. That convenient and safe access for the ingress and egress of pedestrians and vehicular traffic exists and that all public roadways in the proximity of the mass outdoor gathering will be adequately staffed with traffic control personnel to ensure safety to all the public.
- B. Grounds.
  - (1) That each mass gathering area will be well drained and so arranged to provide sufficient space for persons assembled, vehicles, sanitary facilities and appurtenant equipment.
  - (2) That trees, underbrush, large rocks and other natural features will be left intact and undisturbed whenever possible and that natural vegetative cover will be retained, protected and maintained so as to facilitate drainage, prevent erosion and preserve the scientific attributes.
  - (3) That grounds will be maintained free from accumulations of refuse and any health and safety hazards constituting a nuisance.
  - (4) That illumination will be provided at night to protect the safety of the persons at the assembly. The assembly area shall be adequately lighted but shall not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.
  - (5) That on-site parking space will be provided for persons arriving by vehicular means; that service roads and parking spaces will be located to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles; that the width of the service road should be at least the following: one traffic lane 12 feet, two traffic lanes 24 feet and parallel parking lanes 7 feet; and that adequate parking space shall be provided. Adequate parking is construed to mean at the rate of at least one parking space to every four persons, and the density shall not exceed 100 passenger cars or 30 buses per usable acre.
  - (6) That at least 10 square feet per person shall be provided on the site for daytime assemblage, and that no overnight assemblage will be permitted.
- C. Water supply.
  - (1) That an adequate, safe supply of potable water, meeting requirements of the State Department of Human Services, Division of Health Engineering, will be provided and that common cups will not be used.
  - (2) That transported water will be obtained from an approved source, stored and dispensed in compliance with standards adopted by the State Department of Human Services, Division of Health Engineering.  
[Amended 11-7-2000]
- D. Sanitation.
  - (1) That where water is distributed under pressure and flush toilets are used, the water system will deliver water at normal operating pressure (20 pounds per square inch minimum to all fixtures at the rate of at least 30 gallons per person per day).
  - (2) That when water is not available under pressure and no water carriage toilets are used, at least three gallons of water per person per day will be provided for drinking and lavatory purposes.



- (3) That where water under pressure is not available, equivalent facilities shall be provided and installed in accordance with the requirements of the Department of Human Services, Division of Health Engineering.
- (4) That sanitary facilities shall be separate for males and females, set at a rate of one for each 350 persons.
- (5) That urinals (men's) and Sanistands (women's) or Porta Johns may be substituted for the required number of toilets. Twenty-four inches of trough urinals in a men's room will be considered the equivalent of one urinal or toilet.
- (6) That required sanitary facilities will be conveniently accessible and well defined.
- (7) That each toilet will have a continuous supply of toilet paper.
- (8) That service buildings or rooms housing required plumbing fixtures will be constructed of easily cleanable, nonabsorbent materials. The buildings, service rooms and required plumbing fixtures located therein will be maintained in good repair and in a clean and sanitary condition.
- (9) That separate service buildings or rooms containing sanitary facilities, clearly marked, will be provided for each sex, and each toilet room will be provided with a door to ensure privacy or the entrance will be screened so that the interior is not visible from the outside.
- (10) That wastewater will be discharged in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering.
- (11) That disposal and/or treatment of any excretion or liquid waste will be in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering.

E. Refuse disposal.

- (1) That refuse will be collected, stored and transported in such a manner as to protect against odor, infestation of insects and/or rodents and any other nuisance condition or conditions which are inconsistent with the health, safety and welfare of the patrons of the mass outdoor gathering or the public.
- (2) That refuse containers shall be readily accessible and that one fifty-gallon refuse container or its equivalent should be provided for each 100 persons anticipated or that one sixteen-cubic-yard trash container should be provided for every 5,000 persons anticipated.
- (3) That the area where motor vehicles are parked should have one fifty-gallon refuse container or its equivalent for every 25 such motor vehicles or one sixteen-cubic-yard trash container for every 2,000 motor vehicles.
- (4) That all refuse will be collected from the assembly area at least twice each twelve-hour period of assembly, with a minimum of two such collections per gatherings exceeding six hours, or more often if necessary, and disposed of at a lawful disposal site.
- (5) That the grounds and immediate surrounding property will be cleared of refuse within 24 hours following an assembly.

F. Vermin control. That insects, rodents and other vermin shall be controlled by proper sanitary practices, extermination or other safe and effective control methods, and, where

necessary, animal parasites and other disease-transmitting nuisances shall be controlled.

G. Safety.

- (1) That where an electrical system is installed, it will be installed and maintained in accordance with the provisions of the applicable state standards and regulations.
- (2) That grounds, buildings and related facilities will be maintained and used in a manner as to prevent fire and in accordance with the applicable local fire prevention regulations.
- (3) That internal and external traffic and security control will meet requirements of the applicable state and local law enforcement agencies.
- (4) That the Wells Fire Department has been informed of the outdoor mass gathering and that adequate fire prevention equipment is available.
- (5) That at least 15 law enforcement officers will be on site to assist in crowd and traffic control.

H. Medical.

- (1) That emergency medical services will be provided under the supervision of a licensed physician. All other personnel must be licensed by the State of Maine as either physician assistant, registered nurse or emergency medical technician.
- (2) That a first aid building or tent with adequate medical supplies will be available.
- (3) That adequate vehicles duly licensed by the State of Maine as ambulances will be available on the site during the complete time of the mass gathering.
- (4) That telephone and radio communications will be provided and kept available for emergency purposes.
- (5) That the operator of the mass gathering will contact area hospitals and advise them that a mass gathering will be held and the approximate number of people attending.
- (6) That the Chief of the Wells Fire Department will determine the number of EMT personnel and ambulances needed and times they shall be available.

- I. Sound. That reasonable precautions will be taken to ensure that the sound of the assembly will not carry unreasonably beyond the boundaries of the area. Noise levels shall not exceed the standards set forth in Chapter 145, Land Use, § 145-45 of the Wells Municipal Code.  
[Amended 6-14-2011]

## § 150-79. Insurance.

The operator shall carry public liability insurance in at least the following amounts: \$300,000 bodily injury (per person), \$500,000 bodily injury (per occurrence) and \$100,000 property damages.

## § 150-80. Violations and penalties.

Any person or party violating the provisions of this article shall be subject to a civil penalty of \$1,000, recoverable for the use and benefit of the Town of Wells.

## Article X. Lodging Facilities

### § 150-81. Findings, purpose and authority.

- A. The Town of Wells is in part a seasonal resort community and as such has a large number of lodging facilities. These lodging facilities have historically provided tourists and other visitors both short-term and seasonal accommodations within the Town, to the benefit of both tourists and local residents and businesses, by supporting the local economy and adding to the tax base. Lodging facilities are subject to different zoning and other land use regulations than residential uses such as single- or two-family homes or multi-unit developments.
- B. Pursuant to statute, the Town licenses motels, hotels, cabins, housekeeping cottages, seasonal cottages and seasonal cottage complexes, bed-and-breakfasts, inns and other places of temporary lodging. The Town must ensure that such units are used for their intended and historical purpose of temporary accommodations for tourists and other visitors to the community, since the transformation of lodging facilities into year-round or seasonal residences would place an undue burden on municipal infrastructure and services, including but not limited to schools, social services, transportation and road services, police and fire protection, emergency rescue services and solid waste disposal. This article, enacted pursuant to 30-A M.R.S.A. § 3811 and the Town's constitutional and statutory home rule powers, is intended to accomplish these results.  
[Amended 11-2-2004]

### § 150-82. Licensing board.

The municipal officers shall be the licensing board for the issuance of lodging facility licenses. Applications for a license to operate a lodging facility shall be made to the Town Clerk on the forms provided for that purpose.

- A. Meetings. The licensing board shall meet annually during the month of May on a date and at a time and place in Wells that the board determines convenient. A notice stating the date, time and place of the meeting and its purpose shall be posted in two public places in Wells at least seven days prior to the meeting.
- B. Licenses. The licensing board shall consider all applications for the license required by this article and determine whether to issue a license in accordance with the procedures set forth in this chapter and in 30-A M.R.S.A. §§ 3811 to 3814. If the application complies with the requirements of state law, this chapter and other applicable Town ordinances and regulations, either with or without conditions, the licensing board shall issue the license in accordance with § 150-83 hereof. A license shall not be granted to any applicant whose application does not demonstrate compliance with all applicable requirements. If the licensing board denies a license or imposes conditions other than the standard conditions of approval specified in § 150-83 hereof, the decision shall be in writing and shall include a statement of the reasons for the action taken and the facts upon which the action was based.

### § 150-83. Standard conditions of approval.

The following shall be standard conditions of approval applicable to each license issued pursuant to this article, unless the licensing board for good cause shown waives one or more of these standard conditions in writing:

- A. Occupancy and departure registries. The licensed lodging facility shall be operated in conformity with the requirements of 30-A M.R.S.A. § 3801 et seq. governing innkeepers and lodging facilities, including keeping a register and a record of departure, as required by § 3821, which shall reference every person renting or occupying any room or unit, including arrival and departure dates.  
[Amended 11-2-2004]
- B. Office.  
[Amended 11-2-2004]
- (1) 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 Subsection 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 Subsection (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. The office shall be open for business at any time when any unit is available for initial rental or initial occupancy by any person, including a unit owner. Office hours and a procedure for reaching the innkeeper or a rental/management agent after hours shall be posted in a conspicuous place in or near the entrance to the office and in each unit. If requested by the Fire Chief, a master key or keys to all units shall be placed in a Knox Box or its functional equivalent, located on site and accessible to the Fire Department.  
[Amended 4-27-2007]
- (2) A licensed lodging facility operating under an approved site plan that does not designate an office or designates an office located more than 150 feet from the lodging facility site boundaries or operating without site plan approval since before March 8, 1985, is exempt from the office requirement, provided:
- (a) The innkeeper provides documentation, satisfactory to the Municipal Officers, indicating that the facility has been operating without an office since at least March 1, 1985, or that the approved site plan for the facility does not indicate an office. The innkeeper must provide this information to the Municipal Officers only during the year in which the applicant first seeks to demonstrate that this exception is applicable. If the lodging facility has an off-site office not located within 150 feet of the lodging facility's site boundaries, the facility may not discontinue use of that office unless an amended site plan is approved pursuant to Chapter 145 of this Code and an office that meets the standards in the first paragraph of this Subsection B is provided.
- (b) The innkeeper annually provides a written description of how the innkeeper registers guests or occupants, how the registry and departure records are kept current, and how keys are distributed. The procedure used must comply with the requirements of this chapter.
- (c) The innkeeper annually provides evidence that it employs a manager, or contracts with an agent, who is responsible for updating the records on a daily basis and for providing an emergency contact who is available on site or is on call 24 hours a day in case of emergency.

- (d) The innkeeper posts a sign at the lodging facility indicting the name and phone number of the innkeeper, the rental agent or the manager, including an after hours emergency phone number. This sign shall be posted in a location that is visible 24 hours per day, and a copy of the sign or a sheet including the same information shall be provided to each registered guest and unit owner or placed in a prominent location in each unit.
- C. Occupancy restrictions. Units in lodging facilities shall not be occupied as a residence. Any of the following activities by a unit owner or occupant shall be evidence that the unit is being occupied as a residence:  
[Amended 11-7-2000]
  - (1) Registering a boat or motor vehicle in Maine using an address in Wells, including use of a post office box as an address;
  - (2) Registering to vote in Wells;
  - (3) Listing Wells as an address on any state or federal tax form;
  - (4) Enrolling a child or children in any public or private day school in Wells; or
  - (5) Obtaining a Maine driver's license using Wells, Maine as the town of residence.
- D. The Code Enforcement Officer shall have the right to inspect the register and the record of departures as well as state lodging tax records for any licensed lodging facility or for any unit contained therein during normal business hours and to copy the same at the Town's expense.
- E. A copy of the license issued and the conditions imposed thereon by this article and any particular conditions of approval imposed pursuant to § 150-82 hereof shall be posted in a conspicuous place near the register and delivered, by mail or personally, to each owner other than the innkeeper by June 15 of each year. The innkeeper shall keep a record of the owner or owner(s) notified and the date thereof.
- F. Such other conditions of approval as the licensing board finds reasonably necessary to ensure that lodging facility operations will conform to the requirements hereof.

## § 150-84. Violations and penalties.

[Amended 11-7-2000]

Any violation of this article or 30-A M.R.S.A. §§ 3801 to 3872 or the failure to abide by any license condition shall constitute a violation of this article. The innkeeper and the owner and any occupant of a room or unit in a lodging facility involved in the violation are each liable for any violation of this article, including a civil penalty of not more than \$500 per day. Each day the violation is allowed to continue, after notice thereof, constitutes a separate violation.

## § 150-85. Enforcement; revocation or suspension of license.

The licensing board shall enforce this article and shall prosecute any violations in the manner and following the procedure specified in 30-A M.R.S.A. §§ 3812, 3814, 3821 and 3871, including but not limited to revocation or suspension of a license. A violation of the standard conditions of approval or special conditions of approval may constitute sufficient cause to suspend or revoke a license, if the licensing board determines that the violation is intentional or if the violation continues after written notice that a violation is occurring and must be corrected. The preceding sentence is not a limitation on the discretion conferred upon the licensing

board by 30-A M.R.S.A. § 3814 or by this chapter to suspend or revoke a license for other reasons.

## Article XI. Collection, Storage, Transport and Disposal of Solid Waste

[Amended 6-8-2004]

### § 150-86. Authority.

This article is enacted pursuant to the Town's home rule authority and the authority granted to towns 30-A M.R.S.A. §§ 3001, 3002, 3007 and 3351 to 3352 and 38 M.R.S.A. §§ 1304-B and 1305.

### § 150-87. Findings; purpose.

- A. The municipality has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the municipality and is authorized to provide such a facility for industrial waste and sewage treatment plant sludge pursuant to 38 M.R.S.A. § 1305, Subsection 1. Municipal solid waste contains valuable recoverable resources, including energy, which if recovered may reduce the cost of solid waste disposal. Because energy recovery technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their entire useful life. Consequently, a municipality that wants to utilize an energy recovery facility for processing municipal solid wastes generally must agree to provide the facility with a steady supply of solid waste for a relatively long period. The Town finds that use of an energy recovery facility to process acceptable solid waste is an environmentally sound and economically viable solution to the solid waste disposal problem and thereby protects the public health, welfare and safety of the citizens of the Town. The Town has entered into or expects to enter into long-term agreements for the disposal of solid waste with the energy recovery facility designated herein.
- B. The Town will exercise its legal authority to regulate the collection, transportation and disposal of solid waste generated within its borders to promote the handling of solid waste in an environmentally responsible way that protects public health and safety. In addition, the Town will exercise its legal authority to control the storage and disposal of such solid waste delivered to the municipal Transfer Station to deliver a steady supply of waste to the Energy Recovery Facility designated herein. The Transfer Station is a licensed facility, operated by the Town to facilitate the environmentally responsible and cost-effective handling of acceptable waste and demolition debris and interim storage before delivery to designated disposal facilities.

### § 150-88. Definitions.

All terms not specifically defined herein or in § 150-3 of this chapter shall have their ordinary meaning. Words used in the present tense include the future, and the singular includes the plural.

#### **ACCEPTABLE WASTE**

All solid waste of the type presently accepted at the landfill used by the municipality, including all ordinary household, municipal, institutional, commercial and industrial wastes, with the following exceptions:

- A. Demolition or construction debris from building and roadway projects or locations;
- B. Liquid wastes or sludges;
- C. Abandoned or junk vehicles;
- D. Hazardous waste, that is, waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes and other wastes defined as hazardous by the State of Maine, the Resource Conservation and Recovery Act of 1976, as amended, or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto;
- E. Dead animals or portions thereof or other pathological wastes;
- F. Water treatment residues;
- G. Tree stumps;
- H. Tannery sludge;
- I. Waste oil; and
- J. Discarded white goods, including but not limited to freezers, stoves, refrigerators and washing machines.

#### **COLLECTION FACILITY**

A building or container or designated area in which acceptable waste is deposited and temporarily stored for transshipment to the Energy Recovery Facility, sometimes referred to herein as the "Transfer Station."

#### **DISPOSAL FACILITY**

The facility designated by the municipal officers as the storage and/or disposal site for:

- A. The following types of unacceptable waste:
  - (1) Waste oil; and
  - (2) "White goods," including but not limited to stoves, refrigerators and other household appliances.
- B. Acceptable wastes which cannot be transferred to the Energy Recovery Facility or an alternate facility designated in accordance with the Town's waste-handling agreement.

#### **ENERGY RECOVERY FACILITY**

The facility designated herein which processes and recovers energy and/or useful material from acceptable waste generated in the Town.

#### **UNACCEPTABLE WASTE**

The exceptions referenced in Subsections A through J of the definition of "acceptable waste" in this section and all industrial waste and sewage treatment plant sludge.

## **§ 150-89. Designation of energy recovery facility.**

The Town hereby designates the Maine Energy Recovery Company facility located in Biddeford, Maine, as its Energy Recovery Facility for the purposes cited in this article.

## § 150-90. Regulated activity.

The accumulation, collection, transportation and disposal of acceptable waste and unacceptable waste generated within the Town shall be regulated in the following manner:

- A. No person, firm, corporation or any other legal entity shall revoke, take away or otherwise transport, for any reason, any waste or any portion thereof deposited at the Wells Transfer Station or at a disposal facility, except as specifically authorized by the municipal officers.
- B. The municipal officers shall, from time to time, enact regulations and establish fees with respect to depositing and sorting waste at the Transfer Station or Disposal Facility.
- C. Due to the restrictive nature of the contract between the Town and the Energy Recovery Facility, which places limits on the amount of acceptable waste which may be transported from the Collection Facility to the Energy Recovery Facility at the favorable tipping fee, and because the Town subsidizes the tipping fee paid at the Energy Recovery Facility, the Town accepts only waste generated within the Town of Wells at the Transfer Station. Due to space limitations, the foregoing restriction shall also apply to the Disposal Facility.
- D. Notwithstanding any other provision of this article, demolition or construction debris from residential building and roadway projects may be deposited at the Disposal Facility by residents of the Town of Wells or their contractors in volumes and in vehicles as permitted by regulation of the municipal officers. A fee for such deposits shall be established by the municipal officers following notice and a public hearing.

## § 150-91. (Reserved)

[1] *Editor's Note: Former § 150-91, Exempted waste, was repealed 6-8-2004.*

## § 150-92. Administration.

This article shall be administered by the municipal officers. Their powers and duties are as follows:

- A. To adopt reasonable rules and regulations as needed to implement and enforce this article, including but not limited to regulations governing the types and characteristics of vehicles used to transport waste; governing use of the Collection Facility and methods for handling acceptable waste and demolition debris and rejecting unacceptable waste; establishing a procedure for identifying the contractor(s) eligible to haul waste from the Collection Facility to the Energy Recovery Facility and excluding others from hauling to the Energy Recovery Facility on behalf of or under the authorization of the municipality; and for monitoring compliance with this article and regulations adopted to implement it.
- B. To consider all license applications and to grant or deny each application within 45 days after receipt of a completed application by the Town Clerk at the municipal offices or within such other time as the municipal officers and the applicant shall agree is reasonable.
- C. To review any alleged violation of this article and to impose appropriate penalties therefor after notice and hearing as required by this article.



- D. To institute necessary proceedings, either legal or equitable, to enforce this article.

## § 150-93. Licensing procedure.

- A. No person, firm or corporation shall accumulate, collect, store, transport or dispose of acceptable waste or unacceptable waste generated within the Town without obtaining a license from the municipal officers, except that a person, firm or corporation that accumulates, stores, transports or disposes of less than two tons per month of its own waste shall not be required by this article to obtain such a license.
- B. Any person, firm or corporation required by this article to obtain a license shall make application to the Town Clerk, using the form provided and providing the information required. Each application shall be accompanied by a nonrefundable application fee as established by the Board of Selectmen following notice and a public hearing.
- C. The application shall contain all information required by the municipal officers, including but not limited to the following:
- (1) A description of the activity engaged in, e.g., collection, transport or disposal of acceptable and/or unacceptable waste; type and amount of waste handled in each service area; a description of the facility operated and used;
  - (2) An inventory of equipment used in the licensed activity, including for vehicles a description of the make, model and year of each vehicle used for the collection or transportation of solid waste; and
  - (3) If engaged in the collection and/or transportation of solid waste, whether the licensee will deliver waste to the Collection Facility or to another facility. If to another facility, the applicant shall specify where the waste will be disposed of and indicate that the facility has the necessary licenses and permits to operate from the jurisdiction(s) in which the facility is located.

All information provided shall be revised annually upon application for license renewal. If the municipal officers determine the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The municipal officers shall be informed immediately in writing of any changes in or additions to operating equipment, including vehicles.

- D. Licenses shall not be transferable. In the event of any emergency or vehicle breakdown, a licensee shall be issued a special license for a satisfactory replacement vehicle upon furnishing of all information required for a licensed vehicle.
- E. All licenses shall expire one year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this article.
- F. Annual license fees shall be established by the municipal officers following notice and a public hearing. There shall be a separate category of license for the collection, transport or disposal of waste at the Collection Facility. The license shall list each vehicle operated within the Town during the license period. License fees shall not be refunded in the event that a license is suspended or revoked for any other reason.
- G. In the event the municipal officers deny a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in § 150-95.

## § 150-94. Suspension or revocation of license.

Any license issued may be suspended or revoked by order of the municipal officers after benefit of a hearing in accordance with the procedures in § 150-95 for the following causes:

- A. Violation of this article.
- B. Violation of any provision of any state or local law, ordinance, code or regulation which relates to the provisions of this article.
- C. Violation of any license condition.
- D. Falsehoods, misrepresentations or omissions in the license application.

## § 150-95. Hearings.

- A. Anyone denied a license or whose license is suspended or revoked pursuant to § 150-94 shall be entitled to a hearing before the municipal officers, if such request is made in writing within 10 days of the denial, suspension or revocation.
- B. Such hearings shall be held within 30 days after receipt of the written request for a hearing.
- C. The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least 10 days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
- D. A determination shall be made by the municipal officers within 10 days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by certified mail, return receipt requested.
- E. The municipal officers' final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than 10 days after the date notice of such final determination has been mailed by certified mail, return receipt requested, to the applicant and shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof, together with a statement that such decision may be appealed as provided in this section.
- F. Any controversy or claim arising out of or relating to the municipal officers' determination shall be directly reviewable by the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

## § 150-96. Enforcement.

- A. All provisions of this article are enforceable by duly authorized police officers and the municipal officers.
- B. Any person who violates any provision of this article is subject to arrest and, if convicted, to punishment as provided in § 150-97.
- C. Whenever the municipal officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by certified mail, return receipt requested.
  - (1) The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.

- (2) The citation may contain an outline of remedial action which, if taken, will effect compliance.
- (3) The citation shall state that, unless corrections are made within the allotted time, the violator is subject to prosecution and/or to license revocation or suspension pursuant to the provisions of this article.

## § 150-97. Violations and penalties.

- A. Civil penalties. Any person, firm or corporation who or which violates this article or regulations adopted shall be subject to a civil penalty, payable to the municipality, of not more than \$200 for each violation. Every day a violation continues after notice thereof shall constitute a separation violation.
- B. Repeated violations. Any person, firm or corporation who or which violates this article more than once within a thirty-day period or more than three times during the annual license term may be subject to additional penalties, for the second and succeeding violations, in an amount not to exceed \$600 for each violation. In addition, the municipal officers shall commence proceedings to consider suspending or revoking the license of a licensee engaging in repeat violations.

## § 150-98. Variances.

The municipal officers may, on written application, grant a waiver from a specific provision of this article in a specific case subject to appropriate conditions where such waiver is in harmony with the general purpose and intent of this article and the agreement between the Town and the Energy Recovery Facility.

## § 150-99. Conflicts with other laws.

The provisions of this article shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto or in conflict therewith.

## § 150-100. Amendments.

This article may be amended in the same manner as any other ordinance of the municipality, subject to the contractual obligations outlined in the contract between the municipality and the Energy Recovery Facility.

## § 150-101. When effective.

This article shall become effective upon adoption or amendment. Any person, firm or corporation required to obtain a license hereunder shall have 60 days from the date of adoption or amendment to secure such license or amended license as may be required, which shall become effective on the date specified therein.

## § 150-102. (Reserved)

§ 150-103. (Reserved)

§ 150-104. (Reserved)

§ 150-105. (Reserved)

§ 150-106. (Reserved)

§ 150-107. (Reserved)

§ 150-108. (Reserved)

§ 150-109. (Reserved)

§ 150-110. (Reserved)

§ 150-111. (Reserved)

§ 150-112. (Reserved)

§ 150-113. (Reserved)

§ 150-114. (Reserved)

§ 150-115. (Reserved)

§ 150-116. (Reserved)

§ 150-117. (Reserved)

§ 150-118. (Reserved)

§ 150-119. (Reserved)

# Article XII. Taxicab Operators and Taxicab Companies

[Added 8-20-2002]

## § 150-120. Authority and scope.

This article is enacted by the Board of Selectmen acting as the municipal officers, in accordance with 30-A M.R.S.A. § 3009. The article establishes a procedure for licensing of taxicab operators and taxicab companies operating taxicabs within the Town of Wells and establishes regulations governing licensed activities.

## § 150-121. Purpose.

The purpose of this article is to promote the general welfare and enhance public safety by regulating the operation of taxicabs, taxicab operators, and taxicab companies within the Town of Wells through a licensing procedure.

## § 150-122. Definitions.

For purposes of this article, the following definitions shall apply unless the context clearly implies otherwise. Terms not defined in this section or in § 150-3 of this chapter shall have their ordinary meanings.

### **CHIEF**

The Police Chief of the Town of Wells or an authorized designee.

### **OPERATE WITHIN THE TOWN**

The act or business of picking up a person(s) in a taxicab within the Town of Wells for transportation to locations within or outside the Town. Operation within the Town does not include the discharge of a person(s) from a taxicab within the Town, provided the trip originated outside the Town.

### **OPERATOR**

A person who operates a taxicab.

### **OWNER**

A person owning any taxicab used in the taxi business.

### **PERSON**

Includes an individual, partnership, corporation or other legal entity.

### **TAXICAB**

A motor vehicle used for the transportation of one or more individuals for compensation, but excluding buses, trolleys, carpools, and vehicles commonly referred to as "limousines."

### **TAXICAB BUSINESS LICENSE**

The permission or license granted to a person allowing that person to operate a taxicab company within the Town when such a license is required under the terms of this article.

### **TAXICAB COMPANY**

A person engaged in the business of operating one or more taxicabs within the Town or of employing or otherwise authorizing one or more persons to operate a taxicab within

the Town.  
[Amended 6-5-2012]

### **TAXICAB OPERATOR LICENSE**

The permission or license granted to an individual allowing that individual to operate a taxicab within the Town when such license is required under the terms of this article.

### **TOWN CLERK**

The Wells Town Clerk or a duly authorized designee.

## **§ 150-123. License required; reciprocity.**

[Amended 6-5-2012]

- A. No person shall operate, cause to be operated, lease, rent or otherwise provide for use a taxicab or a taxicab company within the Town without first obtaining a taxicab operator license and/or a taxicab business license, unless exempted from the license requirement by Subsection **B** of this section. No such licenses shall be issued to an applicant who is not at least 18 years old.
- B. Any taxicab operator who is licensed by a municipality that allows taxicab operators licensed by the Town of Wells to pick up passengers within that municipality for delivery to destinations outside that municipality may pick up passengers within Wells for delivery to destinations outside of Wells without obtaining a license from the Town, provided that such taxicab operator shall not cruise, park, or stand at any point within the Town of Wells for the purpose of soliciting passengers within the Town. Any other requirements of this article, including but not limited to the provisions of §§ **150-126** and **150-127**, shall apply to such taxicabs and taxicab operators. A copy of the taxicab license and of the ordinance providing for reciprocity shall be filed with the Town Clerk before the taxicab operator begins operations within the Town.

## **§ 150-124. Application for taxicab licenses.**

- A. Taxicab operator license. An application for a taxicab operator license shall be filed with the Town Clerk on forms provided by the Town Clerk. The application shall be verified under oath and shall provide at least the following information:
  - (1) The name, age, and address of the applicant.  
[Amended 6-5-2012]
  - (2) Any prior experience in the transportation of passengers by the applicant.
  - (3) Proof of a valid motor vehicle operator's license.
  - (4) The applicant's prior traffic and police record, if any.
  - (5) The vehicle identification number and license plate number of each vehicle to be used as a taxicab in the Town.
  - (6) A release form authorizing the Wells Police Department to investigate and verify the information submitted in the application, including such follow-up as the Police Chief deems necessary.
  - (7) Proof of the insurance coverage required by this article.

- B. Application for a taxicab business license. An application for a taxicab business license shall be filed with the Town Clerk on forms provided by the Town Clerk. The application shall be verified under oath and shall provide at least the following information:
- (1) The name, age, and address of all the owner(s) of the taxicab company together with the name and address of the business, any dispatch center or garage, the business office or principal place of business to be maintained by the owner(s) within the Town.  
[Amended 6-5-2012]
  - (2) Any prior experience in the transportation of passengers.
  - (3) The number of vehicles to be used as taxicabs in the Town and their vehicle identification numbers and license plate numbers.
  - (4) A list identifying each taxicab driver employed or otherwise authorized to operate a taxicab for the taxicab company.
  - (5) Proof of insurance for the taxicab company as well as each taxicab and taxicab operator driving for the company as required by this article.
  - (6) A detailed description of the company logo, design, insignia, wording and coloring that will appear on any vehicles licensed under the applicant's name.  
[Added 6-5-2012]
  - (7) Evidence that the applicant (if a corporation, business, partnership or other legal entity) is in good standing to operate within the State of Maine.  
[Added 6-5-2012]
  - (8) A listing of all rates to be charged, including a maximum rate, and the method of computation of such rates.  
[Added 6-5-2012]

## § 150-125. Issuance of license, duration, annual fee.

- A. Taxicab operator license. Upon receipt of a completed application for a taxicab operator license, the Town Clerk shall forthwith refer the same to the Chief to verify the information set forth therein and to report on the same, together with the Chief's recommendation, to the Town Clerk concerning the fitness of the applicant to hold a taxicab operator license. The report shall issue to the Town Clerk by the Chief within seven days, unless the period is extended because of difficulty verifying the information submitted on the application. Unless the Chief determines from his/her investigation that the applicant would not be qualified to hold a taxicab operator license or cannot verify the application information, the Chief shall recommend approval. Upon receipt of a completed application and pending receipt of the Chief's report and recommendation, the Town Clerk shall issue a temporary taxicab operator license as provided by Subsection D of this section, which shall allow the applicant to operate a taxicab until the Town Clerk takes final action to approve or disprove the application. Upon receipt of the report and recommendation from the Chief, the Town Clerk shall approve or deny the application. If approved, the Town Clerk shall issue a taxicab operator license for the current year. The initial application fee for each license shall constitute the first year's license fee and said license shall be in effect for the remainder of the calendar year in which the license is issued. If the application is denied, the applicant shall have a right to appeal to the Board of Selectmen, provided a notice of appeal is filed with the Town Clerk within five business days of the date of denial. A timely filed appeal shall be heard by the Board of Selectmen within 30 days of the date the appeal is filed with the Town Clerk.

The applicant shall be given at least seven days' notice of the hearing date, and shall be allowed to present relevant evidence or testimony and to question any evidence or witnesses presented in support of the Town Clerk's denial of the application. Within 10 days after the hearing, the Board of Selectmen shall grant or dismiss the appeal and shall make written findings of fact and state the reason for the decision. If the appeal is granted, the Town Clerk shall be directed to issue the appropriate license.

- B. Taxicab business license. Upon receipt of a completed application for a taxicab business license, the Town Clerk shall refer the same to the Board of Selectmen who shall hold a hearing to consider the application within 20 days after its receipt by the Town Clerk. The Board of Selectmen shall give at least seven days' prior notice of the hearing to the applicant and shall post notice of the hearing at least six days before the hearing. The applicant shall be permitted to present any relevant evidence or testimony, and any other interested persons, including but not limited to the Town Clerk, the Police Chief and members of the public may present relevant evidence as well. In deciding to grant or deny the pending application, the Board of Selectmen shall consider the number of taxicabs already in operation, whether existing taxicab transportation is adequate to meet the public need, the probable effect of increased service on local road conditions, and the character, experience and responsibility of the applicant, its owners, principals, and of the drivers who will operate the taxicabs. If the Board of Selectmen finds that further taxicab service in the Town is required by the public convenience and necessity and that the applicant is fit, willing and able to perform such transportation and conform to all other provisions of this article and any regulations promulgated by the Board of Selectmen hereunder, then the Board shall direct the Town Clerk to issue the taxicab business license under consideration, together with any conditions it deems to be reasonable and necessary to promote the general welfare and enhance public safety. If the Board denies the application, then the Board shall make written findings of fact and state the reasons for the denial with 10 days of the date of denial. The applicant shall have all rights of appeal to the Superior Court as may be provided by law.  
[Amended 6-5-2012]
- C. Temporary license pending application. The Town Clerk shall issue up to three temporary taxicab operator licenses to any taxicab business duly licensed under the terms of this article. This license shall allow the holder thereof to operate a taxicab under the terms of this article for a period not to exceed 14 consecutive days. In the interim, the taxicab operator holding the temporary license shall apply for an operator's license. The purpose of this temporary license is to allow the operation of a taxicab on a temporary basis until the operator can apply for a permanent taxicab operator's license pursuant to this article.
- D. Initial application.
- (1) A nonrefundable application fee shall accompany each application for a taxicab business license. A nonrefundable application fee shall accompany each application for a taxicab operator license.
  - (2) The initial application fee for each license shall constitute the first year's license fee, and said license shall be in effect for the remainder of the calendar year in which the license is issued.
- E. License renewal.
- (1) Once a taxicab operator license has been issued by the Town Clerk, a new license for each calendar year thereafter shall be issued by the Town Clerk upon submittal of an updated application and payment of the fees established by Subsection F of this section, unless the license for the preceding year has been revoked or suspended or the background investigation provides a reason for the Police Chief to recommend denial of the license. If the licensee engaged in conduct identified in § 150-128 as justifying the suspension or revocation of a licensee, such conduct may also be



considered as a reason for denying the renewal of a license. The Town Clerk shall submit the updated application to the Police Chief for investigation and approval in accordance with the provisions of Subsection A hereof. Said renewal application and renewal fee must be received by the Town Clerk no later than the 15th day of December of each year immediately preceding the effective year of the renewed license.

- (2) The Board of Selectmen following the same procedure required for and applying the same standards as an original taxicab business license shall consider the renewal of a taxicab business license on a yearly basis. The Board of Selectmen may consider the conduct of the taxicab company owners and that of its employees or drivers in considering whether the standards will be met. A nonrefundable application fee shall accompany the application, which shall be filed no later than December 1 of each year for the next calendar year.

- F. Fees. The Board of Selectmen shall set fees for initial license applications and renewal applications after notice and a public hearing.

## § 150-126. Insurance.

No taxicab operator's license or taxicab business license shall be issued until proof of liability insurance coverage in an amount at least equal to the minimum insurance requirements required by the State of Maine for the operation of a taxicab vehicle has been submitted to the Town Clerk. Said insurance shall apply to every vehicle identified as a taxicab in the operator's license or in the business license and shall name the Town of Wells as an additional insured. A taxicab company shall have such additional insurance as the Town Manager or Board of Selectmen shall require. The insurance certificate shall contain an endorsement specifying that the insurance may not be revoked or the coverage revised without prior notice to the Town of Wells.

## § 150-127. Taxicabs.

- A. Inspection. Each taxicab operated in the Town shall have a current State of Maine inspection sticker at all times when operating in the Town.
- B. Vehicle information on file with Town Clerk. Each licensed taxicab operator who operates his or her own taxicab and each licensed taxicab company shall file with the Town Clerk annually the following information pertaining to each vehicle operated as a taxicab in the Town:
  - (1) Evidence that the vehicle is currently registered as a taxicab by the State of Maine.
  - (2) The license plate number of the vehicle and the vehicle identification number.
  - (3) A description of the vehicle, including the year, make and model of the vehicle and the number of passengers the vehicle can legally carry.
- C. Identification of vehicle and posting of fares. Each vehicle operated as a taxicab within the Town shall be identified on the exterior of the vehicle as a taxicab and shall post a copy of the fares charged in the vehicle so that the fares are visible from the passenger section of the vehicle. Each vehicle shall also contain a card stating the phone number of the Town Clerk's Office and a statement that the Clerk should be contacted in writing with any complaints.

- D. All taxicabs operated in the Town shall comply with all signs and regulations regarding designated taxi-stands.  
[Added 6-5-2012]

## § 150-128. Suspension and revocation of licenses.

- A. A license issued under the provisions of this article may be revoked or suspended by the Board of Selectmen if the holder thereof has violated any of the provisions of this chapter; violated any ordinances of the Town, or laws of the United States or of the State of Maine, the violations of which reflect unfavorably on the fitness of the operator to offer public transportation; made any material misstatements, false statements or omissions of information in the application documents, during a hearing before the Board of Selectmen or in any document filed with the Town; used abusive or profane language to or in the presence of a member of the public, the driver of another taxicab, a passenger or Town official, including a police officer; kept a taxicab in an unsafe, unclean or unsanitary condition; harassed or interfered with the operation of any other licensed taxicab operator or taxicab operator authorized to operate in Wells pursuant to § 150-123B hereof; deceived or attempted to deceive any person with respect to the amount of a fare; knowingly took a longer route to his or her destination than was necessary, unless so requested by the passenger; failed to provide a certified child safety seat for use when transporting children required to be placed in such a seat; or engaged in conduct detrimental to the public health or safety. The Board of Selectmen may attribute the conduct of taxicab operators driving for a taxicab company or under the auspices of a taxicab company to the taxicab company if the Board finds that the taxicab company fails to take action to correct or otherwise stop drivers engaging in conduct that constitutes grounds for suspension or revocation of a license, if the taxicab company knows or should have known of the conduct.  
[Amended 6-5-2012]
- B. Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard before the Board of Selectmen at a hearing to consider suspension and/or revocation.

## § 150-129. Notices.

When notice is required to be given to an applicant or holder of a license issued pursuant to this chapter and notice is given by mail, the Town Clerk shall use the address set forth in the application on file.

## § 150-130. Violations and Penalties.

The Board of Selectmen and the Police Department shall have the primary duty to enforce this article. Any person violating any provisions of this article shall pay a civil penalty not to exceed \$50 for the first such offense in any calendar year and \$100 for each subsequent offense in the same calendar year; and any person who violates any of the provisions of this article shall, in addition to said penalty, become subject to suspension or revocation of any license issued under this chapter or the right to operate a taxicab within the Town pursuant to § 150-3 of this article.

## Article XIII. Tattoo and Body Piercing Establishments

[Added 9-15-2009]

## § 150-131. Purpose.

The purpose of this article is to regulate the operation of tattoo and body piercing establishments in order to promote and protect the public health, safety and general welfare.

## § 150-132. Definitions.

For purposes of this article, the following definitions shall apply unless the context clearly implies otherwise:

### **BODY PIERCING**

The creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, belly button, tongue, nose or eyebrow. "Body piercing" does not, for the purpose of this chapter, include piercing an earlobe with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the earlobe.

### **BODY PIERCING ESTABLISHMENT**

Premises where a body piercing practitioner performs body piercing.

### **DEPARTMENT**

The Department of Health and Human Services.

### **DISQUALIFYING CRIMINAL CONVICTION**

Any conviction for any criminal offense punishable for any period of time, whether or not the sentence was actually imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally or for which a pardon, certificate of rehabilitation or the equivalent has been granted or which is not rationally related to the purpose of this article.

### **MINOR**

A "minor" means an individual under 18 years of age who is not emancipated as defined by 15 M.R.S.A. § 3003, Subsection 6.

### **PERSON**

A person means an individual, partnership, corporation, or other entity.

### **TATTOO**

To insert pigment under the skin of a human being by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin.

### **TATTOO AND/OR BODY PIERCING PRACTITIONER**

A person who places a tattoo or performs body piercing upon another human being.

### **TATTOO ESTABLISHMENT**

Premises where a tattoo practitioner places tattoos on a human being.

## § 150-133. Exemptions.

The provisions of this article shall not apply to duly licensed physicians and surgeons.

## § 150-134. Licensing authority.

The municipal officers are authorized to grant all municipal licenses required by this article, provided that applicants comply with all requirements hereof.

## § 150-135. License required.

- A. No person shall operate a tattoo and/or body piercing establishment without first obtaining and maintaining a valid tattoo and/or body piercing establishment license from the Town of Wells. A separate license shall be required for each such establishment.
- B. No person shall work as a tattoo and/or body piercing practitioner, including one who holds a tattoo and/or body piercing establishment license, without first obtaining and maintaining a valid tattoo and/or body piercing practitioner license from the Town of Wells.
- C. A sole tattoo and/or body piercing practitioner who employs no other tattoo and/or body piercing practitioner(s) may apply for a combined tattoo and/or body piercing practitioner/establishment license from the Town of Wells.

## § 150-136. Display of license.

A valid license shall be displayed at all times in an open and conspicuous place in the tattoo and/or body piercing establishment for which it was issued, and for all tattoo and/or body piercing practitioners who work in the tattoo and/or body piercing establishment.

## § 150-137. Application for license; background investigation.

- A. Any person desiring a license pursuant to this article shall file a written, signed application with the Town Clerk on a form to be furnished by the Clerk. An application shall be accompanied by two front face photographs of the applicant taken within 30 days of application, of such size as the Clerk may specify.
- B. Background investigation. The Town Clerk shall refer the names of applicants for any license required by this article to the Chief of Police, who shall verify the information provided in the application. The Chief of Police shall conduct a background investigation and report any relevant information to the municipal officers.

## § 150-138. Proof of valid state license and compliance with state law.

- A. Before any tattoo establishment license, tattoo practitioner license, or combined license may be granted under this article, the applicant must show proof of a valid Tattoo License from the Department of Health and Human Services, pursuant to 32 M.R.S.A. § 4301 and Maine Code of Regulations, 10-144, Chapter 210, Rules Relating to Tattooing (the "State Tattooing Rules.")
- B. Before any body piercing establishment license, body piercing practitioner license, or combined license may be granted under this article, the applicant must show proof of a valid Body Piercing License from the Department of Health and Human Services, pursuant to Title 32 M.R.S.A. § 4324 and Maine Code of Regulations, 10-144, Chapter 209, Rules Relating to Body Piercing (the "State Body Piercing Rules.")

- C. Any applicant who is granted any license under this article must comply, at all times, with the terms of his or her state license and with all applicable state law. Any violation of applicable state law will constitute a violation of this section.
- D. Without limiting the generality of the foregoing, licensees must comply with all State Body Piercing Rules and the State Tattooing Rules with respect to: (1) sanitary facilities; (2) sanitary practices; (3) care and sterilization of instruments; (4) record keeping; and (5) tattooing and piercing procedures, including, but not limited to requirements that: (a) no tattooing or body piercing shall be practiced on any individual who is obviously under the influence of intoxicating liquor or chemical substances; (b) no tobacco products, intoxicating beverages, or chemical substances may be consumed on the premises; and (c) disposal of needles as prescribed in Maine Code of Regulations, 06-096, Chapter 900, Biomedical Waste Management Rules (the "Biomedical Waste Management Rules").
- E. Before any tattoo establishment license, tattoo practitioner license, or combined license may be granted under this article, the applicant must show proof that the applicant has registered with the Department of Environmental Protection as a biomedical waste generator, pursuant to § 11(A) of the Biomedical Waste Management Rules. The applicant must also provide proof that it has contracted with a duly licensed biomedical waste transporter to transport and dispose of the applicant's biomedical waste, except as otherwise provided in § 4(B) of the Biomedical Waste Management Rules, which permits the transport of needles to a licensed biomedical treatment facility via the United States Postal Service if specified conditions are met.

## § 150-139. Hours of operation.

No tattoo and/or body piercing establishment may be open to the public between the hours of 8:00 p.m. and 9:00 a.m.

## § 150-140. Grounds for denial, suspension, or revocation of license.

A license under this article may be denied, suspended or revoked if:

- A. A corporate applicant is not registered to do business in this state;
- B. Any principal of any corporate applicant or any person having an actual ownership interest or management authority in the corporation has a disqualifying criminal conviction within the immediately preceding five years;
- C. Any applicant (other than a corporation) or any person having an actual ownership interest or management authority has a disqualifying criminal conviction within the immediately preceding five years;
- D. The tattoo and/or body piercing establishment does not meet the requirements of the applicable building, electrical and fire codes;
- E. The applicant is not least 18 years of age;
- F. The applicant's tattooing and/or body piercing establishment or professional conduct has been the source of one or more complaints of record that have been found to be valid and the conduct relates directly to the public health, safety or welfare;
- G. The licensee failed to notify the Clerk of any change in material fact set forth in the application for such license;

- H. The licensee permitted any person to place a tattoo or perform body piercing upon a human being without a valid state and municipal license to do so;
- I. The licensee permitted or allowed an employee or other person to violate any provision of this article in the course of conduct of the business of the establishment;
- J. The licensee has violated any provision of the Town of Wells' Code or Maine law in the course of operating a tattoo and/or body piercing establishment or performing a tattoo or body piercing, which event would have been the basis for denying the license originally;
- K. The licensee has knowingly participated in or permitted a violation of Maine laws regulating tattooing and/or body piercing; or
- L. The applicant or licensee has failed to show proof of a valid state tattoo and/or body piercing license from the Department of Health and Human Services.

The Clerk shall make and keep a written record of every decision by the municipal officers to deny an application for any license hereunder.

## § 150-141. Obtaining license by fraud.

- A. No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact or give or use any fictitious name in order to secure or aid in securing a license required by this article. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.
- B. Any license so secured shall be void.

## § 150-142. Use of license.

No person shall make use of, in any manner, to his own or another's benefit, any license which has not been duly issued to him or her in accordance with this article.

## § 150-143. Existing tattoo and/or body piercing establishments.

Any person operating a tattoo and/or body piercing establishment or performing tattoo and/or body piercing as defined herein on the effective date of this article shall comply with the terms of this article by obtaining a license hereunder within 45 days of the effective date of this article.

## § 150-144. Minimum age requirements.

- A. Body piercing. A body piercing practitioner may not perform body piercing on a minor unless the individual obtains the prior written consent of the minor's parent or legal guardian. This prohibition does not apply if the body piercing practitioner has been furnished with proper identification showing that the individual is 18 years of age or older and the body piercing practitioner reasonably believes such a minor to be 18 years of age or older.

- B. Tattooing. No person shall place a tattoo mark or figure upon a person under the age of 18 years.

## § 150-145. Inspections.

The Town's health officer may conduct periodic inspections of any tattoo and/or body piercing establishment for the purpose of determining whether such establishment(s) and the tattoo and/or body piercing practitioners working therein are in compliance with this article. It shall be a violation of this article for any person to willfully prevent or restrain the health officer from entering a tattoo and/or body piercing establishment for the purposes of inspecting such establishment, after proper identification has been provided.

## § 150-146. Violations and penalties.

The violation of any provision of this article shall be punished by a civil penalty of not less than \$250 nor more than \$500 for each offense. Each day the offense continues after notice thereof constitutes a separate offense.

## Article XIV. Food Truck Operation

[Added 1-16-2018]

## § 150-147. Purpose.

These licensing criteria recognize the desire of the Town of Wells to promote economic development through the encouragement of food trucks, while also regulating the impact of such trucks on the traffic and public safety of the Town.

## § 150-148. Definitions.

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

### **OPERATE**

To sell food, beverage, and other permitted items from a food truck.

### **OPERATOR**

Any person operating or permitted to operate a food truck.

## § 150-149. Authority.

This article is enacted by the Board of Selectmen in accordance with its general ordinance enactment authority, pursuant to 30-A M.R.S.A. § 3009, § 2.06(4) of the Charter of the Town of Wells, as well as its general home rule authority.

## § 150-150. License required; license not required for one-time private events.

- A. Regardless of its location or hours of operation, no food truck may operate within the Town of Wells without first obtaining a food truck license, which shall be issued conditional upon the licensee's adherence to the criteria set forth by this article. Additionally, all such food trucks must comply with all applicable local, state, and federal rules and statutes, including but not limited to those rules and statutes pertaining to the preparation and sale of food.
- B. No license is required for a food truck that is rented, leased, or otherwise retained for the purpose of operating at a one-time event, no more than 15 hours in duration, that is to be held entirely on a private lot used exclusively for residential purposes.

## § 150-151. Application for general food truck licenses.

An application for a food truck license shall be filed with the Town Clerk on forms provided by the Town Clerk and shall be accompanied by the appropriate nonrefundable license fee as indicated by Section 150 Attachment 1. The application shall be verified under oath and shall provide at least the following information:

- A. The name and address of the applicant.
- B. The operating name of the food truck.
- C. Any prior experience in operating a food truck possessed by the applicant.
- D. The names of all employees of the food truck.
- E. The vehicle information number and license plate number for each food truck.
- F. Photographic representations of the exterior of the food truck, as well as of the interior areas in which food will be prepared.
- G. The address of the location, if different from the food truck itself, where any and all edible foodstuffs held out for sale by said food truck are prepared.
- H. A copy of any and all licenses, permits, and authorizations issued to the operator by the State of Maine, including but not limited to a driver's license, and food safety permits and inspections conducted by the Maine Departments of Agriculture and Health and Human Services.

## § 150-152. Issuance or denial of permit.

Once an application for a food truck license is deemed complete by the Town Clerk, the Board of Selectmen shall schedule a public hearing, after which the application shall be approved, approved with conditions, or denied. The Board of Selectmen shall issue a food truck license unless it finds that the standards of this article are not met. Food truck licenses must be renewed annually.

## § 150-153. Insurance required.

Food trucks shall obtain and provide proof of, at a minimum, motor vehicle insurance, as required by state law, and business insurance with a minimum coverage limit of \$1,000,000.



## § 150-154. Location of licensed food truck; additional permits required.

Notwithstanding the issuance of a general food truck license, pursuant to § 150-149, a food truck is required to seek additional approval and/or permits due to their intended location of operation, as follows:

- A. Rights-of-way and public property. Food trucks may not operate on public property, including but not limited to in public streets, rights-of-way, parking lots, and recreational areas, unless such food trucks operate pursuant to a properly licensed outdoor festival or special amusement permit, pursuant to Article VI or Article VII of this chapter.
- B. Private property. Food trucks may only operate on private property after:
  - (1) Receiving site plan approval from the Planning Board, pursuant to Chapter 145, Article X, of this Code of Ordinances, and all food trucks shall be reviewed as a "fast food restaurant" use as defined in § 145-10 of this Code:
  - (2) Pursuant to a validly issued outdoor festival, special amusement, or mass gathering permit; or
  - (3) In situations where additional municipal approvals are necessary, as detailed in § 150-150B above.

## § 150-155. Hours of operation.

Food trucks may only operate beginning at 7:00 a.m. and ending at 9:00 p.m., unless otherwise allowed or limited by the municipal review authority, including but not limited to on a duly approved site plan.

## § 150-156. Operating requirements.

- A. No food truck shall impede the flow of traffic, interfere with the general ingress and egress to and from any property, public or otherwise, or present an unsafe condition for patrons, pedestrians, or other vehicles.
- B. All food trucks operating within a public right-of-way, pursuant to a permit issued under § 150-154 above, shall park facing the same direction as traffic, at a distance of no more than 12 inches between the curb face or edge of pavement and with the service window of the vehicle facing the curb or edge of pavement.
- C. No seating area shall be provided for food trucks operating on public property, except as permitted in conjunction with a street closure outlined in the applicable special amusement permit.
- D. No food truck may operate in a location that: impedes the ingress and egress from another business or otherwise causes undue interference with access to another business; blocks the lawfully placed signage of another business; or prevents access to another business by emergency vehicles.
- E. No food truck or its appurtenances, including but not limited to signage and patron queue, may reduce the clear pedestrian path of travel on the sidewalk to less than six feet.

- F. No food truck may operate within three feet of any other food truck.
- G. All cooking, heating and electrical equipment and all cooking practices must comply with applicable safety regulations, including but not limited to applicable fire and electrical codes and any other safety requirements imposed by the Town and the State of Maine.
- H. Food trucks operating on public property pursuant to a permit issued under § 150-154 above shall serve pedestrians only. Drive-through or drive-in service is prohibited.
- I. Open-flame cooking, either within or outside a food truck, is prohibited, except where such activity is specifically permitted by the Fire Department or other applicable licensing authority.
- J. Amplified music or sounds from any food truck may not at any time unreasonably disturb nearby businesses, pedestrians, or vehicles.
- K. All refuse associated with the operation of the food truck shall be collected, stored, and transported by the licensee in such a manner as to protect against odor, infestation of insects and/or rodents and any other nuisance condition or conditions which are inconsistent with the health, safety, and welfare of the patrons and the general public.

## § 150-157. Violations and penalties; enforcement.

Any person, including but not limited to the owner, lessee, licensee, or operator of a food truck, found to be in violation of any of the provisions of this article shall pay a civil penalty not to exceed \$100 for the first such offense in a calendar year and \$200 for each subsequent offense in the same calendar year. Each violation constitutes a separate offense. Any person who violates any of the provisions of this article shall, in addition to said penalty, become subject to suspension or revocation of any license issued under this article to operate a food truck within the Town of Wells. Violations of any provision of this article may be enforced by the Wells Police and the Code Enforcement Officer.

## Chapter 154. Loitering and Disturbing the Peace

[HISTORY: Adopted by the Town of Wells 3-11-1989. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Obscenity — See Ch. 165.

## § 154-1. Definitions.

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

### **LOITERING**

Remaining in essentially one location either alone or in concert with others.

### **PUBLIC PLACE**

Any place to which the general public has access and the right to enter in or upon for business, entertainment or other lawful purposes, and shall include the front or immediate area around any store, shop, restaurant, tavern or other place of business and also all public grounds, areas, beaches or parks.

## § 154-2. Loitering.

- A. It shall be unlawful for any person to loiter in any public place, or in or about any building or dwelling or adjacent thereto, in such a manner so as to:
- (1) Obstruct any public street or public place by hindering or impeding or tending to hinder or impede an uninterrupted passage of pedestrians or vehicles.
  - (2) Commit in or upon any public street or public place any act which is an obstruction or interference to the free and uninterrupted use of any property or with any business being lawfully conducted by anyone in any public place or which prevents the free and uninterrupted ingress and egress therein, thereon and thereto.
  - (3) Create or cause to be created any disturbance or annoyance to the discomfort or alarm of any person lawfully going in or going to or from any building, dwelling or public place.
- B. When any person or persons cause or commit any of the conditions enumerated in Subsection A herein a police officer, or any law enforcement officer, shall order the person or persons to stop causing or committing such conditions and may, if he deems necessary for the preservation of public peace and safety, order that person or persons to move on and disperse. Any person who fails or refuses to obey any such order shall be guilty of a violation of this section.
- C. This section shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other Town ordinances or state and federal laws.

## § 154-3. Obstructing traffic.

Two or more persons shall not stand together, or near each other, in any street or on any sidewalk in such a manner as to obstruct the free passage thereon or thereover. It shall be the duty of any police officer, constable or other authorized agent of the Town to order any person violating the foregoing provision of this section to move on and, if the person does not obey, to arrest and by lawful process cause him to be brought before the District Court.

## § 154-4. Disturbing the peace.

No person shall, in any street or public place, make any loud or unusual noise, either by voice or otherwise, or sing improper or boisterous songs or utter obscene and indecent and profane songs or words or in any unruly or boisterous manner disturb the quiet and good order of the Town.

## § 154-5. Violations and penalties.

[Amended 11-7-2000]

Any person or party who violates any of the provisions of this chapter shall be subject to a civil penalty in the amount of \$100 plus costs recoverable for the use and benefit of the Town of Wells.

## Chapter 165. Obscenity

[HISTORY: Adopted by the Town of Wells 3-7-1981. Amendments noted where applicable.]

### GENERAL REFERENCES

Loitering and disturbing the peace — See Ch. 154.

## § 165-1. Purpose.

The purpose of this chapter is to prohibit any commercial enterprise from presenting or engaging in any obscene exhibitions for profit. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression. The Town of Wells has enacted this chapter for the purpose of promoting and protecting the general welfare, public safety, public order and morals.

## § 165-2. Definitions.

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

### **COMMERCIAL ENTERPRISE**

Any business corporation, association or natural person established for pecuniary gain, other than a theater.

### **ENGAGE IN**

To solicit, produce, direct, finance, physically participate in, compensate others for, further the interest of or be otherwise involved with the proscribed conduct.

### **EXHIBITION**

Any aural, visual or tactile performance, dramatization, show or display, which includes any amount of human, animal or animated conduct, whether presented live or by way of mechanical reproduction, sound recording, audiovisual cassette or tape, silhouette depiction or by any other means.

### **OBSCENE**

Any conduct of a sexual nature which:

- A. To the average individual applying contemporary community standards, considered as a whole, appeals to the prurient interests;
- B. Presents in a patently offensive manner actual or simulated ultimate sexual acts, sodomy, bestiality, excretory functions, masturbation, direct physical stimulation of the unclothed genitals, flagellation or torture in the context of ultimate sexual acts, lewd exhibition of the human male or female genitals, pubic area, buttocks or the female breast below the top of the nipple; and
- C. Considered as a whole, lacks serious literary, artistic, political or scientific value.

### **PRESENT**

To show, reveal, display or expose to any person.

### **THEATER**

- A. Any building or hall designed primarily for showing motion pictures, having a permanent movie screen and permanently fixed seats arranged in such fashion as to allow spectators an unobstructed view of the screen.
- B. Any open-air theater designed primarily for showing motion pictures, having a permanent movie screen and permanent devices for broadcasting movie sound tracks in motor vehicles.

- C. Any playhouse, hall or similar structure designed primarily for legitimate artistic expression.

## § 165-3. Unlawful activities.

- A. It shall be unlawful for any commercial enterprise to present for profit any obscene exhibition within the Town of Wells.
- B. It shall be unlawful for any commercial enterprise to engage in any obscene exhibition for profit within the Town of Wells.
- C. It shall be unlawful for any commercial enterprise to solicit, permit, promote or assist any commercial enterprise or person to present or engage in any obscene exhibition within the Town of Wells.

## § 165-4. Intent.

This chapter is not intended to regulate any conduct expressly regulated by existing state statute.

## § 165-5. Violations and penalties.

- A. Any conduct made unlawful by this chapter and any violation of this chapter shall be punishable by a civil penalty of \$500 for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.
- B. In addition to any other penalty provided by law, the commission of acts prohibited by this chapter shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violations.

# Chapter 171. Property Assessed Clean Energy

[HISTORY: Adopted by the Town of Wells 11-15-2011. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Building construction — See Ch. 91.

## Article I. Purpose and Enabling Legislation

### § 171-1. Purpose.

By and through this chapter, the Town of Wells declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of Wells. The Town of Wells declares its purpose and the provisions of this chapter to be in conformity with federal and state laws.

### § 171-2. Enabling legislation.

The Town of Wells enacts this chapter pursuant to Public Law 2009, Chapter 591 of the 124<sup>th</sup> Maine State Legislature, "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151 et seq.).

## Article II. Title and Definitions

### § 171-3. Title.

This chapter shall be known and may be cited as "the Town of Wells Property Assessed Clean Energy (PACE) Chapter 171" (the "Chapter").

### § 171-4. Definitions.

Except as specifically defined below, words and phrases used in this chapter shall have their customary meanings; as used in this chapter, the following words and phrases shall have the meanings indicated:

#### **ENERGY SAVING IMPROVEMENT**

An improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- A. Will result in increased energy efficiency and substantially reduced energy use and:
  - (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Star program or similar energy efficiency standards established or approved by the Trust; or
  - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
- B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

#### **MUNICIPALITY**

The Town of Wells.

#### **PACE AGREEMENT**

An agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved, in writing, by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

#### **PACE ASSESSMENT**

An assessment made against qualifying property to repay a PACE loan.

#### **PACE DISTRICT**

The area within which the municipality establishes a PACE program hereunder, which is all that area within the municipality's boundaries.

#### **PACE LOAN**

A loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

**PACE MORTGAGE**

A mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

**PACE PROGRAM**

A program established under state statute by the Trust or a municipality under which property owners can finance energy saving improvements on qualifying property.

**QUALIFYING PROPERTY**

Real property located in the PACE district of the municipality.

**RENEWABLE ENERGY INSTALLATION**

A fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

**TRUST**

The Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

## Article III. PACE Program

### § 171-5. Establishment; funding.

The municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE chapter, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

### § 171-6. Amendment to PACE program.

In addition, the municipality may from time to time amend this chapter to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the municipality shall be responsible for administration of loans made from those other funding sources.

## Article IV. Conformity with Requirements of Trust

### § 171-7. Standards adopted; rules promulgated; model documents.

If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the municipality's adoption of this chapter and those standards, rules or model documents

substantially conflict with this chapter, the municipality shall take necessary steps to conform this chapter and its PACE program to those standards, rules, or model documents.

## Article V. Program Administration; Municipal Liability

### § 171-8. Program administration.

- A. PACE administration contract. Pursuant to 35-A M.R.S.A. § 10154(2)(A)(2) and (B), the municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the municipality. The PACE administration contract with the Trust will establish the administration of the PACE program, including, without limitation, that:
- (1) The Trust will enter into PACE agreements with owners of qualifying property in the municipality's PACE district;
  - (2) The Trust, or its agent, will create and record a notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
  - (3) The Trust, or its agent, will disburse the PACE loan to the property owner;
  - (4) The Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
  - (5) The Trust, or its agent, will be responsible for collection of the PACE assessments;
  - (6) The Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
  - (7) The Trust, or its agent, on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.
- B. Adoption of education and outreach program. In conjunction with adopting this chapter, the municipality shall adopt and implement an education and outreach program so that citizens of the municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.
- C. Assistance and cooperation. The municipality will assist and cooperate with the Trust in its administration of the municipality's PACE program.
- D. Assessments not a tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

### § 171-9. Liability of municipal officials; liability of municipality.

- A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.



- B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article V, § 171-8A above, a municipality has no liability to a property owner for or related to energy saving improvements financed under a PACE program.

## Chapter 174. Impact Fees

[HISTORY: Adopted by the Annual Town Meeting of the Town of Wells 4-27-2007. Amendments noted where applicable.<sup>[1]</sup>]

### GENERAL REFERENCES

Land use — See Ch. 145.

Subdivision of land — See Ch. 202.

- [1] *Editor's Note: The provisions of former Ch. 174, Residential Growth Management, adopted 3-7-1986, as amended 11-2-1993, expired 6-20-2003. For current provisions on residential growth management, see Ch. 175, Residential Growth Management.*

### § 174-1. Title.

This chapter shall be known and cited as the "Impact Fee Ordinance of the Town of Wells, Maine," and will be referred to as "this chapter."

### § 174-2. Authority.

This chapter is adopted pursuant to 30-A M.R.S.A. § 4354 and pursuant to the Town of Wells' home rule authority as provided in Article VIII-A of the Maine Constitution and Maine statute.

### § 174-3. Purpose of program.

The Town of Wells finds that new development places demands on municipal government to provide new services and expand and improve public facilities. In order to provide an equitable source of funding for these new services and facilities, the Town of Wells has established a capital improvement program which charges a proportionate share of the costs of facilities improvements to those who are creating the demand for these improvements.

### § 174-4. Use of impact fees.

- A. Impact fees may only be used for financing infrastructure improvements needed due to demand caused by new development.
- B. The following costs may be included in determining the capital cost of infrastructure improvements:
  - (1) Acquisition of land or easements including conservation easements;
  - (2) Engineering, surveying, architectural, and environmental assessment services directly related to the design, construction and oversight of the construction of the improvements;
  - (3) Mitigation costs;

- (4) Legal and administrative costs associated with the improvements, including any borrowing necessary to finance the project;
  - (5) Debt service costs, including interest if the Town borrows for the acquisition of the improvements; and
  - (6) Similar costs that are directly related to the improvements.
- C. Funds collected as impact fees shall be expended only for the infrastructure improvement for which the fee was collected.
- D. Impact fees may not be used for any of the following:
- (1) Operations and maintenance costs, such as, but not limited to, paying salaries, day-to-day operational costs, or replacement of existing equipment;
  - (2) The cost to improve facilities to meet existing deficiencies, such as, but not limited to, relieving existing congestion or overcrowding; or
  - (3) The cost to construct or improve facilities that are not needed to serve new development or which do not benefit new development. There must be a reasonable connection between the need for additional facilities and growth due to new development and between spending the fees collected and benefits received by the development paying the fee.

## § 174-5. Applicability; fee schedule.

- A. The Code Enforcement Officer shall require the applicant for a building permit to pay an impact fee as specified in the fee schedule determined by the Board of Selectmen. The impact fee shall be paid prior to the issuance of a building permit and shall be paid separately from, and in addition to, any other fees required by this chapter. The impact fee shall be payable to the Town of Wells, care of the Office of Planning and Development.
- B. The Board of Selectmen shall establish the initial impact fee schedule and shall review and revise the impact fee schedule annually and as necessary to reflect changes in planned improvements, current budget levels, and compliance with the Town of Wells Comprehensive Plan and the Town's Capital Improvement Program. Prior to the establishment or revision of the impact fee schedule, the Board of Selectmen shall hold a public hearing on the proposed fee schedule. Notice of the public hearing shall be published in a newspaper of general circulation in the Town no less than seven days prior to the public hearing.
- C. The impact fee schedule shall indicate the improvements to be financed; the anticipated schedule for construction; and the characteristic of new development by which the fee shall be calculated such as, but not limited to:
- (1) Number of bedrooms;
  - (2) Square footage of floor area; and
  - (3) Traffic generated.
- D. The amount of the fee shall be reasonably related to the development's share of the cost of the facilities improvements made necessary by the development or, if the improvements were previously constructed at municipal expense prior to the

development, the fee must be reasonably related to the portion or percentage of the improvement used by the development.

## § 174-6. Modification of impact fees.

- A. The Board of Selectmen may, by formal vote following a public hearing, reduce or eliminate the payment of a required impact fee if it finds:
  - (1) The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to construct the improvement for which the impact fee would be collected or an equivalent improvement approved by the Board of Selectmen; or
  - (2) The developer or property owner is required, as part of a development approval by the Town or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee.

## § 174-7. Segregation of impact fees from general fund.

- A. The Code Enforcement Officer shall record the name of the individual paying the impact fee, the Tax Assessor's map and lot numbers for the property for which the impact fee is being paid, the amount of the fee paid for each facility for which fees are collected, and the date the impact fee was paid.
- B. Upon collection of an impact fee, the Code Enforcement Officer shall transfer the funds to the Town Treasurer who shall deposit the impact fees in special non-lapsing accounts dedicated for funding the improvements for which the fee is collected.
- C. Impact fee funds shall be maintained separately from and shall not be combined with other municipal revenues.

## § 174-8. Refund of impact fees.

- A. Impact fees shall be refunded in the following cases:
  - (1) If an approval or permit lapses or expires, the permit holder or developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that approval or permit. A request for a refund shall be made in writing to the Office of Planning and Development and shall occur within 90 days of the lapse of the approval or the expiration of the permit. After 90 days, no request for a refund of the impact fee shall be permitted.
  - (2) Any impact fees collected that exceed the Town's actual costs or that were not expended or obligated by contract within 10 years of the date they were collected, shall be returned to the current record owner of the property for which the fee was paid.

## § 174-9. Effective date.

This chapter shall become effective upon its adoption by the Town.

## Chapter 175. (Reserved)

[Former Ch. 175, Residential Growth Management, adopted 4-12-2003 and effective 7-1-2003, expired 6-30-2008.]

## Chapter 177. Rest Rooms, Public

[HISTORY: Adopted by the Town of Wells 3-13-1982. Amendments noted where applicable.]

### § 177-1. Purpose.

The purpose of this chapter is to ensure public rest room facilities for the public health, safety and welfare of customers of business facilities.

### § 177-2. Definitions.

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

#### **BUSINESS**

A commercial activity involving sales or services to the public for profit or other gain and employing one or more persons, including the owner thereof.

#### **GROUND FLOOR BUILDING AREA**

The square foot area of a building or buildings encompassed by the exterior perimeter walls thereof, exclusive of porches, breezeways, terraces, exterior stairways and warehouse facilities.

#### **REST ROOM FACILITIES**

An area of a building affording privacy and permanent operable water closet and lavatory facilities, with access thereto for use by the public being customers of the subject business.

#### **SHOPPING CENTER**

A group of three or more business facilities having a total ground floor building area of 4,000 square feet in one or more buildings.

### § 177-3. Facilities required.

- A. All businesses and business uses encompassing a ground floor building area of 4,000 or more square feet, all shopping centers as hereinbefore defined, all full- and self-service auto service stations, all amusement facilities and all eating and food preparation establishments where food is consumed on the premises or on adjacent premises shall provide public rest room facilities for customers thereof during hours of normal business operation and are classified as businesses regulated hereby.
- B. The minimum number of rest room facilities to be provided shall be determined by the following schedule:  
[Amended 11-7-2000]
  - (1) All full- and self-service auto service stations, all amusement facilities and all eating and food preparation establishments where food is consumed on the premises or

on adjacent premises, encompassing less than 4,000 square feet of ground floor building area, shall provide not less than one rest room facility.

- (2) All businesses regulated hereby and having a ground floor building area of between 4,000 square feet and 14,000 square feet shall provide not less than one rest room facility.
- (3) All businesses regulated hereby and having a ground floor building area of in excess of 14,000 square feet but less than 30,000 square feet shall provide not less than one male rest room facility and one female rest room facility.
- (4) All businesses regulated hereby and having a ground floor building area of 30,000 square feet or more shall provide not less than two male rest room facilities and two female rest room facilities.

## § 177-4. Applicability; implementation.

[Amended 11-7-2000]

The provisions hereof shall apply to all businesses and business uses, all shopping centers, all full- and self-service auto service stations, all amusement facilities and all eating and food preparation establishments which are established subsequent to the date hereof. All existing businesses, business uses, shopping centers, full- and self-service auto service stations, amusement facilities and eating and food preparation establishments shall comply with all of the provisions hereof on or before June 15, 1983.

## § 177-5. Violations and penalties.

- A. Any person, firm, corporation or other business entity operating, owning or controlling by lease or otherwise any premises used for business(es) who violates the provisions of this chapter shall be subject to the following penalty (penalties):
  - (1) The Code Enforcement Officer shall deny a certificate of occupancy for any new business.
  - (2) The Town Health Officer shall issue an order of closure for any existing or operating business.
  - (3) Any violator of this chapter commits a civil violation and, upon conviction therefor, shall be subject to a civil penalty of not less than \$20 nor more than \$100. Each day that a violation exists shall constitute a separate offense. All civil penalties accruing and collected hereunder shall inure to the Town of Wells.
  - (4) Any violation of the provisions hereof is hereby declared a nuisance, for which the Town of Wells may seek appropriate remedies by injunctive relief or otherwise.
  - (5) The license for any business violating the provisions of this chapter shall be subject to suspension or revocation pursuant to the provisions of Chapter 150, Licenses and Permits, of the Wells Municipal Code.
- B. The Town of Wells shall be entitled to recover, from any person, firm, corporation or other business entity found to be in violation of this chapter, all costs of enforcement hereof, including reasonable attorneys' fees incurred.

## § 177-6. Authority.

This chapter is adopted pursuant to the authority given the Town of Wells under the Constitution of the State of Maine and the statutes of the State of Maine for the protection of the public health, safety and welfare.

## § 177-7. Title.

[Amended 11-7-2000]

This chapter shall be known as the "Wells Public Rest Rooms Ordinance."

## § 177-8. Conflicts with other regulations.

In the event that any of the requirements or provisions of this chapter are found to be in conflict or inconsistent with the requirements of any other ordinance, code, statute, rule or regulation, the more restrictive or that imposing the higher standard shall govern.

## § 177-9. Amendments.

This chapter may be amended by a majority vote of the legislative body of the Town of Wells at the Annual Town Meeting.

# Chapter 185. Septage Effluent Disposal

[HISTORY: Adopted by the Town of Wells 9-13-1979. Amendments noted where applicable.]

## § 185-1. Title.

This chapter shall be known as the "Septage Effluent Disposal Ordinance of the Town of Wells."

## § 185-2. Compliance required.

It is unlawful and in violation of this chapter for any person, firm, corporation or other legal entity to dispose of septic tank effluent and/or cesspool effluent at any location within the municipal boundaries of this Town except in compliance with the terms of this chapter.

## § 185-3. Establishment and use of facilities.

The Town shall establish designated effluent disposal facilities within the Town or, through contract, with other municipalities, which facilities shall be utilized, on a permit basis, for the disposal of septic or cesspool effluent. Said disposal facilities shall be available to residents of the Town, real estate property owners within the Town and conveyors and pumpers of septic and cesspool effluent from subsurface waste disposal systems situated within the Town.

## § 185-4. Private systems.

[Amended 11-7-2000]

Nothing in this chapter shall be construed to prevent a homeowner from arranging to dispose of septic effluent from a residence on property of the owner of the residence, in accordance with state law, 38 M.R.S.A. § 1306, and any regulations adopted by the Department of Environmental Protection.

## § 185-5. Disposal permit.

- A. Any person, firm, corporation or other legal entity seeking to dispose of septic and/or cesspool effluent at the designated effluent disposal facility shall, prior to each disposal, secure a permit for such disposal. Said permit may be secured by making application to the office of the Town Manager on forms prescribed by the Town Manager.
- B. At such time as the application is filed, the applicant will be advised as to whether immediate disposal is available at a designated disposal facility. In the event that immediate disposal is not available, the Town shall, to the extent practicable and if requested by the applicant, provide temporary retention facilities for such effluent and shall assess an additional fee to the applicant.

## § 185-6. Application information.

The application for an effluent disposal permit shall, among other things, include:

- A. Property owner's name, address and telephone number.
- B. Location of subsurface system pumped.
- C. Quantity of effluent.
- D. Name of pumper and/or conveyor.
- E. State license number of pumper and/or conveyor and expiration date of license, if applicable.
- F. Signature of applicant.

## § 185-7. Licensing of septic tank pumpers and conveyors.

Any septic tank pumper or conveyor operating pursuant to a permit issued under this chapter shall secure such licenses for pumping or conveying as are required by state law.

## § 185-8. Permit fees.

- A. At the time of issuance of the permit contemplated herein, the Town shall collect from the applicant the permit fee, as such fee is determined from time to time by the Board of Selectmen, following notice and a public hearing, for each one-thousand-gallon quantity, or less, of effluent to be disposed of in the disposal facility and, where applicable, the fees as set from time to time by the Board of Selectmen, following notice and a public hearing, for utilization of the Town's temporary retention facilities.
- B. Any applicant who intends to apply for a series of applications may, with the consent of the Town Manager, deposit with the Town, to the applicant's account, a sum of money against which individual permit fees may be credited.

- C. The Selectmen are authorized to utilize revenues derived from permit fees for the purpose of compensating other contracting parties for the utilization of designated effluent disposal facilities and for the purpose of providing temporary retention facilities.

## § 185-9. Violations and penalties.

Any person, firm, corporation or other legal entity who or which violates any of the terms or provisions of this chapter shall be punished by a civil penalty of not more than \$100, to be paid to the Town, and furthermore no violator shall be eligible to receive any subsequent permits within one year of the date of the violation.

## § 185-10. Certain disposal deemed a nuisance.

The disposal of septic tank and/or cesspool effluent at any location within the Town except as authorized by this chapter shall be deemed to constitute a nuisance.

## Chapter 190. Shellfish Conservation Program

[HISTORY: Adopted by the Town of Wells 3-8-1985; readopted 3-4-1989; readopted 11-7-2000. Amendments noted where applicable.]

## § 190-1. Definitions.

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

### **LOT**

The total number of soft-shell clams in any bulk pile. Where soft-shell clams are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate "lot."

### **NONRESIDENT**

Anyone not qualified as a resident under this chapter.

### **POSSESS**

To dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft-shell clam shell stock.

### **REAL PROPERTY TAXPAYER**

Any individual, whether resident or nonresident, who pays property taxes to the Town of Wells with respect to real property located within the Town of Wells.

[Added 4-25-2008]

### **RESIDENT**

A person who has been domiciled in this Town for at least three months next prior to the time his/her claim of such residence is made. No person shall be considered a resident if he/she:

- A. Has not, if registered to vote, registered in Wells.
- B. Does not, if licensed to drive a motor vehicle, possess a Maine driver's license that reflects a local address.
- C. Has not, if owning a motor vehicle located within the state, registered such vehicle in Maine.



**SHELLFISH or CLAMS**

Soft-shell clams, *Mya arenaria*.

## § 190-2. Statutory authority.

This chapter is enacted in accordance with 12 M.R.S.A. § 6671.

## § 190-3. Purpose.

The purpose of this chapter is to establish a shellfish conservation program for the Town of Wells which will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

- A. Licensing.
- B. Limiting the number of shellfish harvesters.
- C. Restricting the time and area where digging is permitted.
- D. Limiting the minimum size of clams taken.
- E. Limiting the amount of clams taken daily by a harvester.

## § 190-4. Shellfish Conservation Committee.

- A. The shellfish conservation program for the Town of Wells will be administered by the Shellfish Conservation Committee, consisting of five members to be appointed by the Selectmen for terms of three years, except that initial appointments shall be such that the terms of office of no more than three members shall expire in any single year. Terms shall expire in March.  
[Amended 4-25-2008]
- B. The Committee's responsibilities include:
  - (1) Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.
  - (2) Surveying each clam producing area at least once each three years to establish size, distribution and density and annually estimating the status of the Town's shellfish resources.
  - (3) Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
  - (4) Keeping this chapter under review and making recommendations for its amendments.
  - (5) Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.
  - (6) Recommending conservation closures and openings to the Board of Selectmen in conjunction with the area biologists of the Department of Marine Resources.

- (7) Submitting an annual report to the Town and the Department of Marine Resources covering the above topics and all other Committee activities.

## § 190-5. Shellfish digging license required.

- A. A municipal shellfish digging license shall be required. It is unlawful for any person to dig or take shellfish from the shores and flats of this Town without having a current license issued by the Town Clerk of this Town as provided by this chapter.
- B. A commercial digger must also have a valid State of Maine commercial shellfish license issued by the Department of Marine Resources.

## § 190-6. License provisions.

- A. Types of licenses.  
[Amended 11-4-2008]
  - (1) Resident commercial shellfish license: no license available.
  - (2) Nonresident commercial shellfish license: no license available.
  - (3) Resident recreational shellfish license. This license is available to residents and real property taxpayers of this Town and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself/herself and his/her family.
  - (4) Nonresident recreational shellfish license. This license is available to any person not a resident or real property taxpayer of this Town and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself/herself and his/her family.
  - (5) Senior resident recreational shellfish license. This license is available to residents and real property taxpayers of this Town who are 65 years of age or older and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself/herself and his/her family.
  - (6) Senior nonresident recreational shellfish license. This license is available to any person not a resident or real property taxpayer of this Town who is 65 years of age or older and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself/herself and his/her family.
  - (7) Five conservation credit licenses, 25 hours.\*  
[Added 8-19-2014]

\*Conservation Credits - Shellfish Program Volunteers can put in conservation time that contributes to the shellfish program.

One hour of volunteer time is equal to one conservation credit.

For the Town of Wells, a person may volunteer with the Shellfish Program for 25 hours, which must be approved by and provide documentation to the Shellfish Chairman, and recorded by the Town Clerk and kept on record for two years.

- B. The licensee must sign the license to make it valid.
- C. Actual digging is limited to daylight hours. It will be unlawful to dig from sunset to 1/2 hour before sunrise.

- D. Licensee must be 12 years or older.
- E. Digger must use a clam digger's fork or a tined fork with two-inch separation of tines and with a handle no longer than two feet.

## § 190-7. License application.

- A. Individuals must apply in person to the Town Clerk for the licenses required by this chapter on forms provided by the Town. The Clerk may require an applicant to produce evidence of his/her qualifications before issuing the license.
- B. Contents of the application. The application must contain the applicant's name, current address, birth date, height, weight, signature and whatever other information the Town may require. The Clerk shall note on the application the date the license was issued, sign it and file it with his/her records.
- C. Misrepresentation. Any person who gives false information on a license application will cause said license to become invalid and void.

## § 190-8. License fees.

The fees for the licenses shall be established by the Board of Selectmen, following notice and a public hearing, and must accompany in full the application for the respective license. The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licensing shall be used by the Town for shellfish management and conservation and enforcement of this chapter. Such fees shall be kept in a separate account entitled "Shellfish Conservation and Control." Any money not expended for this purpose shall not lapse but shall be carried over to the next fiscal year.

## § 190-9. Limit on licenses.

[Amended 4-25-2008; 11-18-2008; 9-7-2010]

Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of diggers must be controlled. This number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise control:

- A. Prior to July, the Town Shellfish Conservation Committee, with the approval of the Commissioner of Marine Resources, will establish the number of licenses to be permitted and will allocate them within the various license categories itemized in § 190-6.
- B. The Shellfish Conservation Committee will notify the Town Clerk in writing prior to August of the number of licenses to be issued. No reservations will be accepted by telephone. Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which Town officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.
- C. Commencing on the fourth Tuesday in November, the Town Clerk shall issue licenses according to the numbers established and allocated by the Shellfish Conservation Committee pursuant to § 190-9A. If, on the 90th day, following the opening day of sales, all of the licenses established and allocated pursuant to § 190-9A have not been issued,

any remaining licenses, regardless of category, shall be issued on a first-come-first-served basis. All licenses shall become effective on December 1.

[Amended 8-19-2014; 8-16-2016]

## § 190-10. Size limit for soft-shell clams.

- A. It is unlawful for any person to possess soft-shell clams within the Town of Wells, York County, which are less than two inches in the longest diameter except as provided by Subsection B of this section.
- B. Tolerance. Any person may possess soft-shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one peck nor more than four pecks (if allowed by ordinance) taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

[Amended 4-7-2001]

## § 190-11. License expiration date.

[Amended 9-7-2010]

Each license issued under authority of this chapter expires at 12:00 midnight on the 31st day of March next following the date of issue.

## § 190-12. (Reserved)

[1] *Editor's Note: Former § 190-12, License fees waived, as amended, was repealed 11-4-2008.*

## § 190-13. Opening and closing of areas.

[Amended 9-20-2016]

The Town officers, with the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendation of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologists that the status of the shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Town officers may call a public hearing on 10 days' notice to the Department of Marine Resources. The decision of the Town officers made after the hearing shall be based on findings of fact.

- A. Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the Town of Wells to DMR and are part of the resulting permit issued by DMR. These permits are posted at the Town office or online: <http://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html>.

## § 190-14. Violations and penalties.

[Amended 9-20-2016]

A person who violates this chapter shall be guilty of a crime punishable as provided by 12 M.R.S.A. § 6671, except that fines for violation of § 190-10 shall be provided in 12 M.R.S.A. § 6681.

- A. It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the Town of Wells in accordance with DMR Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of this municipality's ordinance and is punishable under 12 M.S.R.A. § 6671.

## § 190-15. When effective.

[Amended 4-12-2003]

This chapter, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the Town, provided that a certified copy of this chapter is filed with the Commissioner within 20 days of its adoption.

## Chapter 196. Solid Waste

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Hazardous waste — See Ch. 127.

Septage effluent disposal — See Ch. 185.

Solid waste flow control — See Ch. 150, Art. XI.

## Article I. (Reserved)

[1] *Editor's Note: Former Article I, Flow Control Regulations, adopted 7-28-1987, as amended, was repealed 6-8-2004 by the Board of Selectmen. See Ch. 150, Licenses and Permits, Art. XI, Collection, Storage, Transport and Disposal of Solid Waste, for current waste flow control regulations.*

### § 196-1. (Reserved)

### § 196-2. (Reserved)

### § 196-3. (Reserved)

### § 196-4. (Reserved)

## Article II. Dumping

[Adopted 3-7-1986]

### § 196-5. Definitions.

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

### WASTE MATTER

All garbage, refuse, solid or liquid wastes, ashes, rubbish, debris and industrial or commercial wastes and all other refuse of every type, nature and description, whether loose, in containers, compacted, baled, bundled or otherwise.

## § 196-6. Prohibited acts.

[Amended 6-8-2004]

No person, firm, corporation or other legal entity shall deposit, or cause or permit to be deposited, any waste matter in any structure or in, on or under any land within the Town of Wells, except as may be authorized by a license issued by the municipal officers pursuant to Chapter 150, Licenses and Permits, of this Code.

## § 196-7. Construal of provisions.

Nothing in this chapter shall be construed to prohibit the transportation of waste matter into the Town of Wells for use as raw material for the production of new commodities which do not constitute waste matter as defined in this chapter (if the imported material is on the list of approved materials) or to prohibit the municipal officers of the Town of Wells from entering into a contract with any other municipality or individuals in the State of Maine for the use of any public dump which may presently exist or be hereafter so designated within the Town of Wells.

## § 196-8. Violations and penalties.

Whoever shall violate any provision of this chapter shall be punished by a civil penalty of not more than \$100 for each violation. Each day that such violation continues or exists shall constitute a separate offense. In addition, the municipal officers or the Health Officer of the Town of Wells may file a complaint with any Justice of the Superior Court seeking to restrain and enjoin the violation of the provisions of this chapter.

## Chapter 201. Streets and Sidewalks

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Subdivision of land — See Ch. 202.

Vehicles and traffic — See Ch. 212.

201a attachments 

## Article I. Street Naming and Numbering

[Adopted 4-24-1993]

### § 201-1. Purpose.

It is the responsibility of the municipality to protect the lives and property of the residents of Wells and it is the desire of the municipality to operate efficient and effective public safety services. These efficient and effective public safety operations are inhibited by the current inconsistent building and street numbering process and overlapping or similar street names.

Therefore, be it ordained by the Town Meeting of Wells, Maine, that the following article entitled "Ordinance Regulating Street Naming and Numbering in the Town of Wells" be enacted.

## § 201-2. Street names.

Initially, the Selectmen shall have the authority to confirm existing street names or, when necessary to avoid duplication or confusion, to rename existing streets to implement the street numbering system. The Selectmen shall review a street list or map showing street names, and, upon adoption by the Selectmen, that list or map shall become the official street designation of the Town. After initial implementation of the program, an applicant for a street name shall submit the proposed name to the Assessor. The Assessor shall review the proposed street name for duplication of names, appropriateness of names and for overall compliance with the street naming and numbering policy. The Assessor shall be responsible for updating the official street list or map in a timely manner.

## § 201-3. Street Numbering Map.

All buildings shall bear a distinctive street number in accordance with and as designated upon the Street Numbering Map on file in the Assessor's office. The Assessor or his/her designee shall be responsible for updating and keeping the map current.

## § 201-4. Display of numbers.

- A. Street numbers shall be displayed upon or near the front door of the main building facing the street. The number shall be plainly visible from the street. Houses that are set back and not visible from the road shall place a post or sign at the driveway entrance upon which shall be affixed the specified numbers in accordance with the street naming and numbering policy.
- B. Numbers shall be in Arabic figures, no less than three inches in height and a one-half-inch-wide stroke, and shall contrast in color with the color of the building or background to which they are attached.
- C. No person shall affix, or allow to be affixed, a different street number from the one designated on the Street Numbering Map by the Assessor.

## § 201-5. Multi-unit complexes.

For multi-unit complexes, the complex street number shall be displayed as outlined in § 201-4. Each individual building and each individual unit shall be clearly sublettered.

## § 201-6. Street name signs and letters.

The design and style of the street name signs and letters shall be provided by the Public Works Department.

## § 201-7. When effective; time frame for compliance.

This article shall become effective upon adoption by the Town Meeting. Any new buildings or major renovation of an existing building shall comply with the requirements of this article prior to occupancy thereof. All existing buildings shall comply with the requirements of this article on or before December 31, 1994.

## § 201-8. Enforcement; violations and penalties.

The Code Enforcement Officer of the Town of Wells shall be responsible for administering and enforcing this article. Any person who, after being notified of a violation of this article by the Code Enforcement Officer and ordered to correct the violation, fails to comply with any of the provisions of this article within 15 days of written notice shall be liable for civil penalties in the amount of \$100.

## Article II. General Provisions

[Adopted 4-23-1994]

## § 201-9. Effective date.

[Amended 11-6-2001]

The effective date of this article shall be July 1, 1994. Amendments shall be effective upon adoption, unless otherwise provided.

## § 201-10. Streets constructed after July 1, 1994.

[Amended 11-6-2001]

- A. All street and related drainage plans shall be stamped and signed by a professional engineer registered by the State of Maine. The engineer's seal shall be affixed to all design drawings.
- B. The minimum right-of-way width for all streets except boulevards shall be 50 feet. The minimum right-of-way width for each lane contained in a boulevard shall be 20 feet and shall include the roadbed. Access to street side embankments and drainage facilities shall be provided within the right-of-way or by access easements over the adjacent land. All such easements shall be shown on the design drawings.
- C. All streets shall be designed in accordance with Article III, Specifications, of this chapter.
- D. The roadway shall be centered within the right-of-way unless otherwise authorized by the Road Commissioner.  
[Amended 4-29-2005]
- E. Any dead-end street shall have a turnaround at its end which shall be a cul-de-sac having a paved area with an outside radius of 65 feet or another design approved by the Road Commissioner and the Fire Chief. Cul-de-sacs may have a center island, provided that the width of the paved area around the island shall be at least 25 feet, and provided that the center island will not obstruct the movements of emergency vehicles around the cul-de-sac.  
[Amended 4-29-2005]
- F. The minimum paved width of a roadway shall be 24 feet and shall be centered on a gravel base. In a residential subdivision containing fewer than 15 lots, the width of the paved



roadway may be reduced to 20 feet. The minimum width of gravel base in either case shall be 30 feet.

[Amended 4-29-2005]

- (1) Private streets in subdivisions providing access to fewer than six lots do not have to be paved, and the width of the gravel base may be reduced to 26 feet.
  - (2) Private streets less than 1,000 feet in length which provide access to fewer than four lots do not have to be paved, and the width of the gravel base may be reduced to 20 feet.
  - (3) Private streets built under the provisions of Subsection F will not be considered for acceptance as Town streets. If the private street is shown on a subdivision plan and/or a site plan, the plan or plans shall contain a note reflecting that the street is and will remain a private street in accordance with the terms of this article.
  - (4) The minimum paved width of a lane in a boulevard shall be 12 feet, centered on a gravel base, with a minimum width of 15 feet.
- G. Roads in condominium projects, campgrounds (whether tent or RV), lodging facilities, and multifamily dwelling unit projects shall be built to the standards imposed by the Planning Board during the review process and shall not be offered to the Town for acceptance. Each approved subdivision or site plan for a condominium, lodging facility, campground or multifamily dwelling project shall contain a note that affords public notice that project roads are and will remain private and will not be considered for Town acceptance.

[Amended 4-29-2005]

## § 201-11. Driveways and private drains.

- A. No driveway shall be connected to a Town street until a permit is obtained from the Road Commissioner or his designee.
- B. A driveway shall be designed so that:
- (1) It does not cause drainage problems or interfere with the operation of the roadway drainage system;
  - (2) If a lot occupied by or proposed for a residential use abuts more than one street the driveway entrance to the lot shall be on the less traveled street, unless the Road Commissioner determines that so locating the driveway is unfeasible because of the features of the lot or because it would be unsafe; and
  - (3) On streets other than local or private streets the following requirements shall apply:
    - (a) An on-site vehicular turnaround shall be provided so that vehicles do not have to back out into the public street; and
    - (b) Adequate sight distance is provided from the driveway. The minimum sight distance provided shall be equal to a distance of 10 feet for every mile per hour of posted speed limit in the street. Sight distances shall be measured from a point that is 10 feet from the edge of the travel lane with the eye at a height of 3.5 feet above the ground to an object having a height of 4.25 feet located within any travel lane of the street. If this requirement cannot be met, the Road Commissioner may approve a location which provides the safest potential access to the lot.

- C. A fee shall be charged for a driveway permit. Connection of a driveway to a Town street without a permit will result in a per diem penalty until the permit is obtained. The fee for a driveway permit and the penalty for failure to obtain a driveway permit shall be established by the Board of Selectmen. Any change to the fee or penalty shall be preceded by notice and a public hearing on the proposed increase.  
[Amended 11-7-2000]
- D. Private drains. Abutting owners along a Town-accepted street do have the right to drain stormwater into Town ditches as long as such drainage does not interfere with roadway purposes. This does not apply to sanitary disposal but only to uncontaminated stormwater. No sewage drain shall be connected to a roadway drainage system.

## § 201-12. Construction hours and standards; inspections.

- A. No street construction will be permitted between the hours of 7:00 p.m. and 7:00 a.m. except with the written consent of the Town Manager and the Board of Selectmen upon such terms and conditions as they deem appropriate.
- B. Construction shall be conducted in accordance with all applicable safety ordinances and in accordance with the requirements of the Town of Wells Street Specifications.
- C. The Road Commissioner shall be notified prior to the start of construction. The Road Commissioner shall have access to the project area to make periodic inspections.

## § 201-13. Temporary street closings.

- A. The Chief of Police is authorized to temporarily close a Town street for construction activities.
- B. It shall be the Police Chief's responsibility to notify the Fire Department and Road Commissioner when a street is temporarily closed and when the street is opened again.
- C. If a person or corporation is denied permission to temporarily close a street, he or it may appeal the Police Chief's decision to the Selectmen. Any denial by the Police Chief shall be in writing and shall state the reasons for the denial. The applicant may appeal the denial in writing to the Board Of Selectmen within five business days of the denial by the Police Chief.

## § 201-14. Street openings.

- A. No person shall place any pavement in a street right-of-way without obtaining a street opening permit, except that placement of pavement for driveways which are less than 16 feet in width at the edge of the right-of-way may be done without obtaining a street opening permit.
- B. No person, utility or company may excavate in a street without obtaining a street opening permit. The Road Commissioner or his designee shall be authorized to issue said permits and to impose reasonable conditions applicable to traffic control and other safety considerations. The fee and general policies for street opening permits issued by the Road Commissioner or his designee shall be established by the Selectmen, following notice and a public hearing.

- C. If a street opening is not approved by the Road Commissioner, the utilities or persons may apply to the Selectmen. Fees for permits issued by the Selectmen shall be set on a case-by-case basis by the Selectmen.
- D. Appropriate utilities shall be notified by the Road Commissioner or his designee a minimum of 30 days prior to the paving of a street or reconstruction of a street.

## § 201-15. Specifications.

- A. All streets to be constructed after the enactment of this article shall meet the requirements of this article and Article III of this chapter, except that any street approved by the Planning Board prior to the enactment of this article shall be built to the standards in effect when it was approved.
- B. From time to time, it may be necessary to revise the specifications. The Road Commissioner may revise the specifications with the approval of the Selectmen. Notice of any proposed change shall be published for two consecutive weeks in a newspaper of general circulation in the Town prior to consideration by the Selectmen.

## § 201-16. Street acceptance.

[Amended 11-7-2000; 11-6-2001; 4-29-2005]

Purpose. The purpose of this section is to provide notice to the community and to developers that the Town will not consider accepting certain types of streets and to outline the procedures and standards that govern the acceptance process. This restriction is adopted to promote the efficient and cost-effective allocation of funds for road construction, maintenance and plowing and to encourage development of connecting streets rather than cul-de-sacs. The following types of streets, although permitted in the Town in accordance with the other standards of this chapter, are not eligible to be presented to the Town for acceptance: (1) Streets constructed as boulevards; (2) Streets connecting to fewer than two different Town roads; (3) Roads constructed pursuant to § 201-10F or 201-10G of this Code.

- A. Acceptance procedure for streets constructed after July 1, 1994.
  - (1) The owner(s) of the street shall present a written offer to dedicate the street to the Town in accordance with the statutory requirements of 23 M.R.S.A. § 3025, which may include an approved subdivision plan showing the proposed streets. The Board of Selectmen, upon receipt of the written offer and the written recommendation from the Road Commissioner, shall recommend acceptance (or not) to the Town Meeting, and the question shall be placed on the warrant for the next Annual Town Meeting.
  - (2) (Reserved)
  - (3) Upon completion of a street, a written notice shall be sent to the Road Commissioner. The Road Commissioner or his designee shall promptly inspect the street and note any items that are not in accordance with this article or the Town of Wells street specifications.<sup>[1]</sup> The list of items, if any, shall be provided to the street builder. Once these items are resolved, the Road Commissioner shall make a written recommendation regarding acceptance of the street to the Selectmen.
 

[1] *Editor's Note: See Art. III, Specifications, of this chapter.*
  - (4) The street builder shall provide the Town of Wells with a maintenance bond in the amount of 5% of the cost of the street construction at the time the request for

street acceptance is filed. The bond shall be valid for a period of one year after the date of acceptance of the street by the Town.

- (5) Prior to the Board of Selectmen making a recommendation for acceptance (or not), the Town Attorney shall provide a written report to the Selectmen regarding problems of title to the street, if any. The Town Attorney shall also review the maintenance bond and report to the Selectmen. The owners of the street shall reimburse the Town for all legal and any other expenses incurred as determined by the Board of Selectmen.
- (6) The Selectmen may propose a street for acceptance, provided that they have received a favorable recommendation for acceptance from the Road Commissioner, a maintenance bond from the street builder and a statement from the Town Attorney that the title, maintenance bond, and any other required documentation are proper.
- (7) The Road Commissioner or his designee shall inspect the accepted street prior to the expiration of the guaranty period and shall note any items to be repaired. The list of items shall be provided to the street builder. The street builder shall be responsible for the execution of all maintenance required on the work performed by the street builder for a period of one year following acceptance. Once these items are repaired to the satisfaction of the Road Commissioner, the maintenance bond shall be released.

B. Acceptance procedure for streets constructed prior to July 1, 1994.

- (1) The owner(s) of the street shall present a written offer to dedicate the street to the Town in accordance with the statutory requirements of 23 M.R.S.A. § 3025, which may include an approved subdivision plan showing the proposed streets. The Board of Selectmen, upon receipt of the written offer and the written recommendation from the Road Commissioner, shall recommend acceptance (or not) to the Town Meeting, and the question shall be placed on the warrant for the next Annual Town Meeting.
- (2) Anyone proposing to offer a street constructed prior to July 1, 1994, to the Town for acceptance as a public street shall provide the Town with a layout plan for the street showing its boundaries, the location of the roadway, signs, culverts, drainage swales and any other structures located within the right-of-way. The Road Commissioner or his designee shall review the layout plan and report in writing to the Selectmen regarding any recommended monumentation or improvements to signage, drainage or other improvements.
- (3) The Town shall be provided with a legal description of the street and documentation as to who owns the street. The Town Attorney shall provide a written report to the Selectmen regarding problems of title to the street, if any. The owners of the street shall reimburse the Town for all legal or any other expenses incurred as determined by the Board of Selectmen.
- (4) The Board of Selectmen, in conjunction with the Road Commissioner, shall determine what, if any, improvements should be made to the street if it is to be recommended for acceptance by the Town. Any requested improvements to the street shall be completed or the construction secured by a performance bond approved as to form and amount by the Town Manager, unless the Town Meeting votes to accept the street and fund the necessary improvements in another way.

## § 201-17. Street betterment program.

- A. If the majority of the property owners abutting a street (in number and in assessed value) petition the Board of Selectmen to improve a Town-accepted street or a street proposed to be accepted, the street is eligible for improvement under this section, provided the petition is submitted to and accepted by the Board of Selectmen on or before November 3, 1998, and approved by the voters at the April 1999 Annual Town Meeting. Availability of the street betterment program shall end as of November 2, 1998, although this section shall remain in effect and govern any street betterment project approved by the voters in accordance with this section. Any funding or any assessment program shall conform to the procedures specified in 23 M.R.S.A. § 3606.  
[Amended 4-18-1998]
- B. A program for improving the street and for funding the street improvements shall be developed by the Board of Selectmen and the property owners abutting the street.
- C. The Town shall pay 1/3 the cost of the improvements, and the property owners abutting the street shall pay 2/3 of the cost of the improvements plus any financing charges incurred by the Town.
- D. The cost shall be allocated among the property owners along the street based upon their percentage of potential buildable lots along the street. Any unbuildable potential lots shall be exempt as long as a deed restriction, stating that the lot shall not be built upon for 20 years, is filed at the York County Registry of Deeds.
- E. The improvement and funding program developed for improving a street shall be approved by the legislative body of the Town prior to the vote on acceptance if the betterment program applies to a street proposed to be accepted.

## § 201-18. Street classification system.

[Amended 11-6-2001]

- A. All streets located within the Town of Wells shall be classified by the Board of Selectmen into the following categories:
- (1) State arterial: high-volume streets that are identified by a state route number.
  - (2) Town arterials: high-volume streets that are designed and used for high volumes of traffic going from one section of Town to another section of Town or out of the Town.
  - (3) Collectors: moderate-volume streets that are not designed for high traffic volumes or through truck traffic and which are used for going from one section of Town to another section of Town.
  - (4) Local: low-volume streets which provide direct access to abutting properties.
  - (5) Private: all streets that are privately owned.
- B. The Board of Selectmen may revise the classification of any street after holding a public hearing. Notice of any such hearing shall be posted in the Town Hall and shall be published for two consecutive weeks in a newspaper of general circulation in the Town prior to consideration by the Selectmen.
- C. Through truck traffic (traffic not going to or coming from a property located on the subject street via the most direct route from a state or Town arterial) by trucks having a gross vehicular weight of more than 23,000 pounds may be restricted by the Board of Selectmen on collector and local streets. The Board of Selectmen shall hold a public

hearing prior to restricting through truck traffic on any street, and make a finding that restricting truck traffic is necessary to protect the street from damage or to protect the public health, safety and welfare. Notice of any such hearing shall be posted in the Town Hall and shall be published for two consecutive weeks in a newspaper of general circulation in the Town prior to consideration by the Selectmen.

- D. Only streets constructed as boulevards according to a subdivision plan approved prior to April 30, 2005, may be constructed as boulevards. Neither the Planning Board nor the Road Commissioner may approve a design for boulevard streets after April 30, 2005.  
[Amended 4-29-2005]

## Article III. Specifications

[Adopted 4-23-1994]

### § 201-19. Applicability.

The following specifications shall be used as a guide for construction of all Town street improvements. All improvements located within a street right-of-way shall be designed in accordance with the Maine Department of Transportation Highway Design Guide dated February 1991, unless otherwise specified in this article.

### § 201-20. Deviations.

If it is found necessary or advantageous to deviate from these specifications to ensure the public safety, prior approval shall be obtained from the Road Commissioner or his designee. All requests and approvals shall be in writing and kept on file in the Road Commissioner's office.

### § 201-21. Definitions.

[Amended 11-6-2001; 4-12-2003]

Any word or term defined in Chapter 145, Land Use, shall have the same definition as in that chapter, unless otherwise defined below. As used in this chapter, the following terms shall have the meanings indicated:

#### **BACKFILL**

The refilling with suitable material of all spaces excavated and not occupied by drainage structures, drainage systems and other permanent structures up to the elevation of the surrounding ground.

#### **BASE**

That portion of the roadway constructed of special material on the subgrade and supporting the surface or pavement.

#### **BEDDING**

Material below the sidewalk surface.

#### **BORROW**

Approved material obtained from beyond the cut slopes for completing embankments and for other purposes necessary to complete the grading, when sufficient quantities of suitable materials are not available from roadway or structural excavation.

**BOULEVARD**

A local street consisting of at least two approximately parallel travel lanes (at least one in each direction) and lanes connecting the travel lanes, separated by a landscaped median strip at least ten feet wide, providing access to lots in a residential subdivision.

**BRIDGES**

Structures having a clear span of 10 feet or more.

**CULVERTS**

All structures not defined as bridges which provide an opening under the roadway, usually constructed of plastic, corrugated metal or reinforced concrete.

**CURB**

The granite, bituminous concrete/asphalt or concrete raised portion of a road pavement that defines the edge of roadway and directs stormwater runoff to drainage structures or ditches.

**CURB CUT**

The removal of a portion of a curb for construction of a driveway approach or handicapped ramp for a sidewalk.

**DRAINAGE**

The systems of pipes, drainageways, ditches and structures by which surface or subsurface waters are collected and conducted from the highway area.

**EMBANKMENT**

That part of the roadbed above the old ground and below the subgrade.

**HIGHWAY**

The right-of-way reserved for the use of the traveling public.

**MATERIALS**

Any substance specified for use in the construction of the project.

**RECORD DRAWINGS**

Plans that have been revised according to field construction records.

**REFERENCE STAKES**

Wooden stakes, generally set beyond the lines of improvement on which reference marks are placed, from which lines and grades may be obtained.

**RIGHT-OF-WAY**

All lands or other property interest provided or acquired for the development and operation of a public highway or street.

**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 continued passage of vehicles. The term "road" includes the term "street."

**ROADBED**

That portion of the roadway between the outside edges of the finished shoulders.

**ROAD COMMISSIONER**

The Town Manager or his designee or an appointee of the Selectmen. The Road Commissioner has the statutory duties and responsibilities of a Road Commissioner.

**ROADSIDE**

General term denoting the area adjoining the outer edge of the roadway.

**ROADWAY**

That portion of the highway within the limits of construction.

**SHOULDERS**

That part of the roadway lying immediately outside the pavement.

**SIDEWALK**

A pedestrian walkway typically paved (i.e., covered with bituminous concrete/asphalt, concrete, concrete cobble pavers, or other surfaces suitable for walking), and located in a street right-of-way between the curblines or edge of pavement of the roadway and the edge of the right-of-way or within another right-of-way or easement.

**SIDEWALK DEVELOPMENT PLAN**

A specific plan to implement the Town of Wells Comprehensive Plan related to the development of pedestrian sidewalks or walkways that is adopted at a Town Meeting.

**STREET**

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

**SUBGRADE**

That portion of the roadway upon which the base and shoulders are constructed.

**SURFACE TREATMENT**

Any bituminous treatment applied or placed on the surface gravel course.

**SURFACING**

That portion of the roadway constructed on the base course to facilitate fine grading and produce good rideability.

## § 201-22. Street boundaries.

[Amended 11-6-2001]

All petitions for the acceptance of a street by the Town of Wells must be accompanied by a plan showing the boundaries of such street in conformance with the following standards:

- A. Boundary survey. The street boundary survey must be prepared by a land surveyor registered to practice in the State of Maine. The survey must conform to the standards adopted by the American Congress on Surveying and Mapping and the Maine Society of Land Surveyors, using methods of measurement which will obtain the precision required on the plan.
- B. Monumentation. Class A or Class B monuments must be set on both sides of the street at every intersection, angle point, point of curvature, point of tangent, point of compound curve and point of reverse curve. A Class A monument must be set at the center of all culs-de-sac. At least four Class A monuments must be set along each 1/4 mile of street or fraction thereof, preferably at each end of long tangents. The Road Commissioner may require additional monuments. Class A monuments must be made of stone or reinforced concrete and must be a minimum of five inches by five inches by five inches if square and six inches in diameter if circular and must be at least 36 inches long. A drill hole at least 1/2 inch deep or metal insert must be placed in the top of each monument to mark the exact point. All monuments must be set in the ground accurately and properly backfilled and compacted to minimize any possible disturbance. Class B monuments must be a metal rod or pipe at least 1/2 inch in diameter and 36 inches long. In exposed ledge outcroppings, drill holes at least 1/2 inch deep or metal inserts may be used for



Class B monuments. (Note: Typical Monument Detail is on file in the office of the Town Clerk.)

- C. Ties. If a National Geodetic Survey or Maine State Coordinate system control point exists within 1/2 mile of any portion of the proposed street, the survey must be tied to that point. All intersections with existing streets must be tied in to the nearest boundary line of record. All monuments must be tied in by measurements to whatever relatively permanent physical objects, such as structures, foundations, etc., are available within 200 feet of each monument. Two reference ties to each monument must be taken when available. When two ties are not available, reference directions to distant objects, such as towers or steeples, shall be substituted when those are available.
- D. Plans.
- (1) The plan of the street boundaries shall be made on durable drafting media, such as tracing cloth, Mylar, herculene or an equivalent drafting film. Tracing paper is not acceptable. The scale may be any convenient scale between the ranges of one inch equals one foot to one inch equals 50 feet that clearly depicts the required information. The maximum sheet size is 24 inches by 36 inches. If necessary, more than one sheet may be used. If more than one sheet is used, all sheets must be appropriately referenced to each other.
  - (2) The plan of the street boundaries shall show the following information:
    - (a) Appropriate title, including location.
    - (b) Date of survey.
    - (c) Seal and signature of registered land surveyor.
    - (d) Graphic scale English units.
    - (e) Meridian arrow with specific definition of representation.
    - (f) Source of bearings used if not covered by meridian arrow designation.
    - (g) A location sketch showing the location of the street within the Town relative to surrounding streets, railroads, waterways and other important geographical features.
    - (h) Space for signatures by appropriate municipal officials.
    - (i) The direction of each straight line to the nearest 30 seconds [zero degrees zero minutes plus or minus thirty seconds ( $0^{\circ} 00' 30''$ )] of arc.
    - (j) The length of every line to the nearest 0.01 of a foot.
    - (k) The radius, central angle and length of every curve to the same precision as the last two above items.
    - (l) The location and description of each monument and whether found or set as a result of the survey.
    - (m) The coordinates of at least two monuments and reference to the grid system used. The Maine Coordinate Grid System must be used if a control point is available within 1/2 mile of any part of the street.
    - (n) The direction and lengths of all ties taken and descriptions of the points to which the ties were taken. Tie measurements must be shown to the same

degree of precision as for the boundary measurements.

- (o) From one point on the street boundary, show the direction and length and description of the horizontal control point tied to, if one is available.
- (p) Full name of present record owner(s) of the land on which the street is laid out and the book and page numbers of deed references.
- (q) Names of record owners of abutting lands and the book and page number of their deed references.
- (r) Outline of abutting portions of subdivisions, lot numbers and reference to subdivision plans.
- (s) Reference to any other plans of lands on which the street is laid out.
- (t) Names of all intersecting and adjoining streets, ways and bodies of water.
- (u) The location, dimensions and descriptions of all easements, rights and privileges appurtenant to or affecting the street and existing record references.
- (v) Any physical features or conditions observed, such as encroachments, structures, cemeteries, natural drainageways, ecologically sensitive areas, utility installations or other conditions that could affect title or use of the proposed street.
- (w) When both sides of the street boundaries are not parallel or concentric, tie lines from one side of the street to the other must be shown.
- (x) The center-line profile of the street and cross sections at intervals determined by the Road Commissioner.

E. (Reserved)<sup>[1]</sup>

[1] *Editor's Note: Former Subsection E, regarding plans for boulevards, was repealed 4-29-2005.*

- F. Filing. Upon acceptance of the street by the Town and signing the plan on the durable drafting media, the plan shall be filed in the office of the Town Clerk. Paper copies of the plan shall be filed with the Road Commissioner and the Assessor's office.

## § 201-23. Clearing of land.

- A. This shall consist of cutting and disposing of all trees, down timber, stubs, brush and bushes that interfere with excavation, embankment or clear vision or are otherwise considered objectionable within the right-of-way.
- B. In fill areas of five feet or more in height, measured from the subgrade to old ground, stumps will be allowed to remain but shall be cut as close to the ground as practicable. In no case will the stumps exceed a height of six inches above the surrounding ground.
- C. In fill areas of five feet or less, measured from subgrade to old ground, all stumps, bushes and objectionable material shall be removed and disposed of in waste areas prior to the placing of the fill. However, suitable waste material with all large stumps removed may be used in the toe of slopes in fill areas. The toe of the slope area shall be defined as that area below the subgrade and outside of a 2:1 slope from the shoulder break. Suitable waste material does not include trees and brush cleared from the right-of-way.

- D. Because of the disease-carrying characteristics of elm trees, especially after being cut, they shall be disposed of within two days after cutting. This may be accomplished by burying under soil in waste areas.
- E. Burning is permitted with written permission of the Wells Fire Chief. Logs, brush and other refuse as a result of clearing may be disposed of at an approved disposal site or other area approved by the Road Commissioner or his designee. Chippers may be used to dispose of the brush on site.  
[Amended 11-7-2000]

## § 201-24. Excavation.

- A. Excavation consists of removing and satisfactorily disposing of all material encountered within the limits of the work.
- B. Suitable material taken from excavated areas shall be used in the fill areas. "Suitable material" shall mean excavation that is free from all stumps, roots, bushes, grass, turf, loam, clay or other objectionable material that should be removed and disposed of in waste areas.
- C. During the process of excavating, the subgrade shall be maintained in such condition that the excavation will be well drained at all times.
- D. The subgrade shall be compacted, shaped and maintained to a tolerance of two inches above or below the design grade and cross section before the application of the gravel base. A grader should be used to shape the subgrade before the gravel is applied.
- E. If the operator excavates below the designated grade, such depressions shall be filled with excavated material of equal or better quality to the material removed, i.e., holes and depressions in a clay subgrade shall be filled and shaped with clay and not with a granular material, to produce a uniform subgrade.

## § 201-25. Structural excavation.

- A. Structural excavation consists of excavation, removal and satisfactory disposal of all materials encountered within the limits of the work as required for the construction of all drainage structures and sewer structures.
- B. All suitable materials removed from the excavation shall be used for backfilling or within the fill areas.
- C. If the foundation material is soft or otherwise unsatisfactory and it is necessary to excavate to a greater depth and backfill with granular material to establish a firm and suitable foundation for the drainage structure, the structural excavation shall be excavated to a depth acceptable to the Road Commissioner.
- D. If the foundation material is solid rock, the trench shall be excavated to a depth of six inches below the flow line and backfilled with pea stone to ensure a cushion between the structure and the rock foundation.
- E. The foundation shall be carefully shaped so that the structure will have full support for the entire length. Shimming beneath the structure with dirt, stones, wood, etc., to meet the designated grade is not permitted.

- F. Backfilling shall be started as soon as practicable after structure installation has been completed and concrete has acquired a suitable degree of strength. Backfill shall be started at the lowest section of the area to be backfilled.
- G. Backfill material shall not contain visible roots, vegetation, organic matter or other foreign debris. Stones larger than six inches shall be removed or broken. Stones shall not be placed in clusters which will create voids.
- H. Backfill material shall not be placed when moisture is too high to allow proper compaction. When material is too dry for adequate compaction, water shall be added to the extent necessary.
- I. No backfill material shall be placed on frozen ground, nor shall the material itself be frozen when placed. No calcium chloride or other chemicals shall be added to prevent freezing.
- J. Trenches should be excavated to a width of 12 inches beyond each side of the pipe or culvert to allow for proper backfill and compaction. The backfill material should be placed in layers and each layer thoroughly compacted by means of hand tamps or vibratory compactors if available. The first layer should not exceed 1/2 the diameter of the pipe or culvert, with the following layers not exceeding 12 inches. The layers shall be placed on all sides at the same time to prevent displacement of the pipe or culvert. When the backfill reaches a sufficient depth, compaction may be obtained by running heavy equipment or trucks back and forth within the trench.
- K. A minimum depth of 12 inches of backfill shall be placed and compacted over the top of any pipe or culvert before using heavy equipment for compaction.

## § 201-26. Embankment.

- A. Suitable material obtained from excavation or borrow sources shall be placed in the embankment in accordance with the design line and grade. Suitable material does not mean trees and bushes.
- B. In the construction of embankments, starting layers shall be placed in the deepest portion of the fill. Each layer shall be distributed uniformly over the full width of the fill, except that when traffic is to be maintained and it is impractical to construct layers over the full width, partial width layers may be authorized. If the partial width layers are found to be necessary, care should be taken to have uniform material for the full width of the embankment, i.e., 1/2 of a fill should not be constructed of ledge with the other half constructed of clay or sand.
- C. The material shall be deposited and spread in layers not more than 12 inches in depth. The haul trucks and leveling equipment should be utilized to obtain compaction prior to the placing of the next layer.
- D. All embankments shall be crowned at all stages of construction so as to permit ready runoff of rainwater. No depression or ruts will be permitted on the upper surface of the embankment. Any ruts or depressions that may develop shall be completely removed prior to the placing of the gravel base. All soft and unstable material and portions of the subgrade which cannot be compacted readily shall be removed and disposed of. These areas shall be brought to grade with satisfactory material and recompacted.
- E. Frozen material shall not be placed in the embankment. The embankment shall not be placed upon frozen material, except that the construction of embankments may be

allowed when the depth of the fill plus the depth of frozen ground beneath does not exceed five feet.

- F. The construction of embankments may continue during cold weather if all frozen material in the top of the embankment is moved to the outside of the slopes before placing additional material. All material added must be free from frost.
- G. When filling in layers of specified thickness is not feasible, such as filling in water, the embankment may be constructed in one layer to the minimum elevation at which the compacting equipment can be operated. The embankment, when placed in water, shall be constructed to such minimum elevation with granular material (or rock) suitable for use under the conditions encountered.
- H. In the construction of ledge fills, each layer shall not exceed three feet in depth. The top of each layer shall be so chinked with small rock fragments that there will be no infiltration of the earth embankment placed on the surface of the rock embankment. In no case shall the rock embankment be placed within one foot of the subgrade.
- I. When the height of a fill is 10 feet or more over the top of a pipe or culvert, a precompacted embankment will be required. This embankment shall be made of approved selected material for the full width of the section, and it shall be of a length of 12 feet on each side of the center line of the pipe or culvert. The embankment shall be constructed to a height of 1 1/2 times the pipe diameter above the flow line grade of the pipe. This embankment shall be constructed and compacted in twelve-inch layers as previously described. After this precompacted embankment is constructed, the trench may be excavated and the culvert installed as provided for under § 201-32. It shall be kept in mind that the trench should be kept as narrow as possible and the trench walls as vertical as possible or the whole effect of this method will be lost.

## § 201-27. Gravel base course.

- A. This shall consist of a foundation course of hard durable particles of granular material which is free from vegetable matter, lumps or balls of clay and other deleterious substances. Construction shall be in conformity with the typical sections in Appendix A.<sup>[1]</sup>  
[1] *Editor's Note: See the diagrams included at the end of this chapter.*
- B. All gravel base shall be placed in two layers with the top layer not exceeding a compacted depth of nine inches. No stone whose size exceeds six inches shall be allowed. The stones shall be measured along the greatest axis. If an excess of oversized stones is encountered, they should either be removed by screening before delivery to the project or removed by other methods on the project during the process of spreading the gravel. All stones exceeding the maximum dimension shall be removed from each layer prior to the addition of the next course. The top three inches of the gravel base shall contain no stone whose size exceeds 3/4 of an inch.
- C. Each layer of gravel shall be placed uniformly over the full width of the subgrade. If existing traffic or other conditions restrict this operation, the Road Commissioner may allow layers of less than the full width. Equipment of adequate size to handle the volume of material being delivered shall be required.
- D. Shoulder sections shall not be constructed in a separate operation from that of the gravel base. The shoulder shall be constructed and compacted with the gravel base operation.
- E. Eighteen inches of gravel base shall be used on fill sections and may be used in cut sections when the existing material is a clean, well-draining sand or gravel. Twenty-four

inches of gravel base shall be used in cut sections of earth or ledge. When the existing material is a clean, well-draining sand or gravel, the base may be lessened to 18 inches.

- F. The gravel base shall be thoroughly compacted, shaped and maintained to a tolerance of 1/2 inch above or below the required grade before the application of any surface course.
- G. If it is necessary to suspend a project for the winter before any bituminous material is applied, the gravel base or gravel surfacing shall be crowned to six inches in order to provide for adequate drainage.

## § 201-28. Bituminous pavement.

- A. Before any bituminous pavement is applied, the gravel surface shall be bladed with a power grader to obtain a proper shape and crown.
- B. No bituminous pavement shall be applied unless the atmospheric temperature in the shade is 40° F. and rising or above 50° F. if falling and has not been below 40° F. during the previous 24 hours. The weather shall not be foggy or rainy and the prepared roadbed shall be in satisfactory condition. The roadbed shall be free from pools of water.
- C. No bituminous pavement shall be placed between October 1 and May 1 without the written approval of the Road Commissioner or his designee. The minimum pavement thickness shall be 2 1/2 inches applied in two applications.

## § 201-29. Curbing.

[Amended 11-7-2000]

Curbing shall meet the requirements of the State of Maine State Highway Commission Standard Specifications, Bridges and Highways, Revision of June 1968, Section 609, a copy of which is on file in the Town Clerk's office. The curb shall have a minimum of six inches of reveal.

## § 201-30. Catch basins and manholes.

- A. Catch basins and manholes shall be constructed of portland cement concrete blocks, precast concrete sections or parts of both, placed on a prepared eight-inch concrete base or prepared earth foundation for the precast bases. Blocks shall be machine-made solid segments not less than eight inches in width.
- B. Cement concrete blocks shall be laid on the prepared concrete base by a mason and in a workmanlike manner. The blocks shall be set with water before laying. All joints shall be completely filled with mortar. No joint shall be greater than 1/2 inch in thickness. Joints shall be neatly tooled on the inside of the structure. Mortar shall be composed of one part portland cement and two parts of sand.
- C. Precast portland cement concrete catch basins or manholes shall conform to the dimensions and specifications as described in Appendix A.<sup>[1]</sup>  
*[1] Editor's Note: See the diagrams included at the end of this chapter.*
- D. Concrete blocks or their equivalent shall be used for the layers involved around the inlet and outlet pipes and may be used for the remaining section of the structure.

- E. Type E catch basins are preassembled from either twenty-four-inch or thirty-inch zinc or aluminum coated corrugated steel pipe or reinforced concrete pipe and constructed on a six-inch concrete base. They shall conform to the dimensions as described in Appendix A.
- F. All manholes and catch basins shall be a minimum of one inch below the street surface.

## § 201-31. Trench excavation; fill; underdrains.

- A. The trench shall be excavated to the required width and depth called for in the Appendix. A bed of the required granular material six inches in depth shall be placed in the bottom of the trench. On this prepared bed, the perforated pipe shall be laid true to line and grade with the perforations on the bottom side of the pipe. If corrugated steel pipe is used, it must be zinc or aluminum coated. Four-inch diameter pipe shall be the minimum size pipe used as underdrain.
- B. After the pipes have been firmly bedded and all joints securely connected, granular material shall be filled around and over the pipe. As soon as an adequate height is reached, the material should be compacted by rolling with heavy equipment or trucks.
- C. Granular material for underdrain shall consist of uniformly graded clean, sharp sand or fine gravel with 100% passing the two-inch screen. Screening will not be required, but any stones over two inches in diameter shall be removed during the process of backfilling.
- D. If any underground water is encountered in the excavation, it should immediately be brought to the attention of the construction supervisor for approval of the use of underdrain.

## § 201-32. Culverts.

- A. The pipes shall be bedded in a foundation of uniform density that is compacted and carefully shaped at the required grade to fit the lower part of the pipe exterior for at least 10% of its overall height.
- B. Gravel or sand shall be placed under the pipe if the natural foundation material is unstable. If the addition of foundation material is required, it should be of a uniform thickness.
- C. Laying of pipe shall begin at the outlet. It shall be laid carefully in the prepared bed with the outside laps of circumferential joints pointing upgrade. The longitudinal laps parallel to the center line of the pipe shall be placed on the sides of the culvert with the outside laps pointing down. The ends of sections shall be fully and closely joined and true to the line and grade given. Each section of joint and pipe shall be securely attached to the adjoining section of joint and pipe with connecting bands. The bands shall be tightly drawn, so that a rigid joint will be formed.
- D. In fills with five feet or more in depth over the top of the pipe, all pipe culverts 48 inches in diameter and larger shall be elongated along the vertical diameter approximately 3% by means of timber struts. Struts shall be left in place until the fill is thoroughly consolidated.
- E. New zinc or aluminum coated corrugated steel pipe, plastic pipe, corrugated aluminum pipe or reinforced concrete pipe with a minimum diameter of 15 inches shall be used under the roadway and all paved side streets.

- F. Salvaged culverts in good condition or new bituminous-coated corrugated metal pipes shall be used under driveways and side roads not paved. Driveway culverts shall extend at least three feet beyond the travel way of the driveway (including the turning radius) and have a minimum diameter of 12 inches.

## § 201-33. Loam.

- A. Loam shall be of an approved quality topsoil. It shall be free from gravel, roots, clods, stones or other material which would tend to form air pockets in the soil. The use of sour loam or muck will not be permitted. Prior to stripping the loam, all briars, stumps or roots shall be removed by grubbing or other satisfactory means.
- B. Loam shall be spread on the prepared areas to a uniform depth of two inches. After spreading, all existing lumps or clods shall be broken up and all rocks over two inches in diameter and roots, litter or foreign matter shall be raked up and disposed of.

## § 201-34. Seeding.

- A. All areas adjacent to lawns or in front of houses shall be seeded or sodded and shall be watered and maintained until the lawn is established.
- B. The slopes of the street and back slopes shall be seeded following construction to prevent erosion.

## § 201-35. Construction safety regulations.

- A. Protection of the public.
  - (1) Traffic control devices shall be set up prior to the start of construction and shall remain in place only as long as they are needed.
  - (2) All signs shall be kept in proper position, clean and legible at all times. Special care shall be taken to ensure that weeds, brush, construction materials or equipment does not obscure any signs.
  - (3) Flagmen shall be trained how to flag in the recommended and uniform manner.
- B. Signs and barricades.
  - (1) All traffic control devices used shall conform to applicable provisions of the Manual of Uniform Traffic Control Devices, a copy of which is on file in the Town Clerk's office, and shall be subject to the approval of the Chief of Police.  
[Amended 11-7-2000]
  - (2) Street construction projects shall have reflectorized advance warning signs and reflectorized standard construction signs as needed for adequate protection of motorists. The construction project shall have adequate quantities of Type II barricades and directional arrows to be used for routing traffic through the project and around obstructions and hazardous locations. Reflectorized Type I barricades shall be used to mark open ditches and obstructions.
  - (3) Signs.



- (a) "Trucks Entering" signs shall be placed well in advance of all pit or storage area entrances that are off the project and enter onto a state or Town street. Commercial pit entrances or pit entrances with adequate sight dimensions do not require signs.
  - (b) Any site where electric blasting caps are located or where explosive charges are being placed or have been placed shall be designated as a blasting area. A blasting area within 300 feet of any traveled way shall be marked by approved signs with information similar to the following: "Blasting Area Turn Off Radio Transmitters" and, on the reverse side: "End of Blasting Area."
  - (c) These signs shall be conspicuously placed a distance of 300 to 500 feet from each end of the blasting area and shall remain in place only while the above conditions are in effect and shall be removed after all caps have been removed from the area.
- (4) If any difficulty is encountered in securing reasonable compliance, a request should be made to a police officer for assistance.
- C. Traffic on project. The project superintendent should plan the construction operations in such a way that the safety of the public using the street will be assured. Careful handling of traffic traveling past working trucks and equipment is imperative. Directional arrows and temporary detour signs should be used to direct traffic into the proper lane. Unnecessary delays in the movement of traffic must be avoided. The Chief of Police shall be notified one week prior to the anticipated construction, so that the traffic flow can be reviewed and coordinated.
- D. Construction near waterways. Every reasonable precaution shall be taken throughout the project to prevent siltation or pollution to rivers, streams, brooks, coves, bays, ponds or tidal marshlands. Excavated materials shall not be deposited in or near the above-mentioned waterways to be washed away by high waters or natural runoff. Every reasonable effort should be made towards minimizing soil erosion by reasonable control. If any other permits are needed for such construction, the permit(s) and the terms of approval shall be filed with the Road Commissioner, and the developer shall comply with all conditions of approval.

## § 201-36. Completion of projects.

- A. A short time before completion, the Road Commissioner shall review the project to check the items remaining to be completed. Each project shall be inspected by the Road Commissioner and/or street foreman before final acceptance. The Road Commissioner and/or foreman shall file a written report of that inspection with the Town Manager.
- B. Cleanup checklist.
- (1) Cut off all stumps so they will not project more than six inches above the existing ground.
  - (2) Pick up all debris left from clearing and selective thinning, such as sawed-off stumps, logs and brush.
  - (3) Trim all branches overhanging the roadbed to 16 feet above the pavement and shoulder.
  - (4) Clean up edges of waste dumps and cut all damaged and bent trees visible from the roadway.

- (5) Clean out sand silt from all culverts, catch basins, drop inlets and manholes.
- (6) Remove debris from inlets and outlets of culverts and underdrain outlets.
- (7) Sod or riprap outlets of culverts where there is a possibility of erosion. In the main line ditch where grades may vary 2% to 5%, erosion control mesh can be used where deemed necessary. The use of sod could apply to grades in excess of 5%.
- (8) Repair damaged and bent corrugated metal pipe of inlets and outlets. Repaint damaged asphalt coating using asbestos bonding and asphalt paint obtainable at most hardware stores.
- (9) Clean up all ditches and check for proper drainage.
- (10) Clean up all ledge debris. Check 200 to 300 feet or more in blasted areas for flying debris in fields to be mowed.
- (11) Check all shoulders for uniform width.
- (12) Grade and clean up all driveways, field and woods entrances.
- (13) Compact gravel surfaces in driveways, field and woods entrances.
- (14) See that all slopes are uniformly graded to present a neat appearance.
- (15) Remove all grade stakes in lawns and fields.
- (16) Check all survey monuments.

## § 201-37. Copies of record drawings.

- A. Upon completion of the street construction or reconstruction, reproducible copies of the record drawings shall be provided to the Town. The plans shall show alignment, center-line profile, sanitary sewers and storm drains, as revised from the field records. The plans shall also show survey monuments and a typical section.
- B. The plans shall be on durable drafting media, such as Mylar, herculene or an equivalent drafting film. Tracing paper is not acceptable. Each plan shall be 24 inches by 36 inches.

## Article IV. Sidewalk Specifications

[Adopted 4-12-2003]

### § 201-38. Applicability.

This article shall be applicable only within the area of the Town that is covered by the Town of Wells Sidewalk Development Plan. Sidewalk improvements shall be designed in accordance with the standards established in the Town of Wells Sidewalk Development Plan and as specified in this article.

### § 201-39. Deviations.

Deviations from these specifications may be obtained from the Road Commissioner if it is found necessary to ensure public safety. All deviations must receive approval prior to construction, or prior to approval of the development plan by the Planning Board, if applicable. The Road Commissioner may allow the design and construction of sidewalks that do not meet these standards upon a written finding that application of these standards would promote the intent of the Sidewalk Development Plan, that physical conditions of a particular site do not allow for full implementation of these standards, and that safety of pedestrians will not be put at risk by following alternate design and construction standards.

## § 201-40. (Reserved)

## § 201-41. Requirements for new sidewalk construction.

- A. The following types of development in the Town shall provide for the location and construction of sidewalks as provided in this section.
  - (1) Establishment of a use that requires construction of any new building other than a single-family dwelling or duplex on a vacant lot.
  - (2) Establishment of a use that requires construction of a new building or the demolition or alteration of an existing building on a lot that contained a building, provided the alteration affects more than 75% of the floor area or perimeter walls of the existing building, other than the establishment of a single-family dwelling or duplex on a vacant lot.
  - (3) The expansion of a structure other than a single-family dwelling or a duplex by more than 2,000 square feet of floor area after April 15, 2003.
  - (4) The conversion of a residential use to a commercial use, if the residential use is discontinued.
- B. This shall include the dedication of necessary right-of-way or public access easement and the construction of sidewalks in accordance with the specifications provided in § 201-42, or a contribution to the Town's Sidewalk Construction Fund as specified in § 201-43. Newly constructed sidewalks shall be paid for entirely by the property owner unless otherwise determined by the Planning Board. Provision for sidewalk construction shall be included as part of site plan review or subdivision approval and/or part of plans submitted for obtaining a building permit.

## § 201-42. Sidewalk construction standards.

- A. All sidewalks and related improvements including but not limited to curbs, pavement, and handicapped accessways, shall be constructed according to the standards in the Sidewalk Development Plan, including those in this article.
- B. Sidewalks shall be at least five feet wide and shall be located between the curb or grade line of the public street and the right-of-way line or public access easement if approved by the Town, but no closer than two feet to the curb or grade line. Sidewalk width and distance to curb or grade line may be reduced where right-of-way width does not allow this standard to be met. The Town may approve alteration of the alignment so the sidewalk meanders within the area between the curb and right-of-way line or public access easement. The Town may request that an easement be granted from property owners to locate the sidewalk if it is necessary for public safety and/or if the landowner is willing in order to increase green space between the roadway curb and the sidewalk.

- C. Where a new sidewalk adjoins existing sidewalks that are not five feet in width, the new sidewalk shall taper on each side over a five-foot length to meet the existing condition.
- D. A site plan indicating the location of the sidewalk shall be submitted to the appropriate Town reviewing authority determined by the Reviewing Authority Chart in § 145-71A for site plan approval or to the Planning Board for subdivision approval.
- E. All sidewalks shall be constructed in accordance with the Americans with Disabilities Act (ADA) standards. Wheelchair access ramps must be constructed at any point a proposed sidewalk intersects a Town street with the exception of walks leading from the street to the door of a single-family residence. Access ramps shall be built to grades no greater than one foot of fall per 12 feet in length.
- F. Sidewalk materials. Sidewalks shall be constructed of the materials specified in Table 5.4.1 of the Sidewalk Development Plan<sup>[1]</sup> in accordance with the details and specifications in the Sidewalk Development Plan.  
*[1] Editor's Note: The Sidewalk Development Plan is on file in the office of the Town Clerk and may be examined there during normal office hours.*
- G. Curb materials. Curb materials shall be constructed of the following materials in accordance with the specifications in the Sidewalk Development Plan.
  - (1) Vertical granite. (See Sidewalk Development Plan Figure 4.5.A.)
- H. To the extent possible, sidewalks shall be constructed to within one foot of the right-of-way to maximize green space between the roadway curb or grade line.

## § 201-43. Sidewalk Construction Fund.

- A. The Town Treasurer shall establish a nonlapsing Sidewalk Construction Fund for the purpose of financing the construction and improvement of sidewalks in the area covered by the Sidewalk Development Plan. The Sidewalk Construction Fund shall be segregated from the municipality's general revenues.
- B. The Sidewalk Construction Fund may be used provide the local match to state and federal grants for sidewalk construction and improvement.
- C. Funds from the Sidewalk Construction Fund shall not be used for any purpose other than the construction and improvement of sidewalks in the area covered by the Sidewalk Development Plan.
- D. A property owner in the area covered by the Sidewalk Development Plan may, in lieu of construction of a sidewalk as otherwise required by § 201-42, make a contribution to the Sidewalk Development Fund.
- E. The amount of the required contribution shall be calculated by multiplying the average per foot cost for construction of the segment by the length of sidewalk adjacent to or on the property.
- F. At the time a contribution to the Sidewalk Construction Fund is made, the Town shall record the date, amount, name and address of the contributor, and the assessor's map and lot number of the property for which the contribution is made. If within seven years of the date of the contribution, the Town has not constructed the segment of sidewalk for which a contribution has been made to the Fund or included such construction in the budget for the current fiscal year, then the contribution shall be refunded to the owner of record of the property from which the contribution was credited.

- G. If the town receives state or federal funding for the construction of a sidewalk, then the town shall refund to the owner of record of the property from which the contribution was credited an amount proportional to the funding received from state or federal sources.

## § 201-44. Repair and replacement of sidewalks.

The Town's Road Commissioner or designee shall determine if a sidewalk requires repair and will investigate specific areas whenever a property owner abutting a public street submits a request for sidewalk repair or reconstruction. Repair of sidewalks constructed within the right-of-way of the Town's road and streets or public access easement will be the responsibility of the Town unless:

- A. The sidewalk is damaged by the abutting property owner by willful misuse or carelessness. For such costs, the abutting property owner shall be responsible for the full costs of repair.
- B. Where construction of an otherwise satisfactory sidewalk is desired by an abutting property owner for the property owner's convenience, such as lowering of grade to provide a more suitable driveway. For such costs, the abutting property owner shall be responsible for the full costs of repair.

## § 201-45. Sidewalk repair, rebuilding or construction in conjunction with street project.

Whenever the Town considers the necessity for construction, reconstruction or resurfacing of a public street, the Town shall also consider the necessity for construction, repair or reconstruction of the sidewalk. Whenever feasible, such sidewalk work shall be completed in conjunction with the street project as finally approved by the Board of Selectmen.

## § 201-46. Sidewalk use.

It shall be unlawful for any person to use a sidewalk or other pedestrian way for the use of any motorized vehicles, except for handicap carts/wheelchairs, skateboards, or roller blades. The sidewalk shall not be used to sell any goods or personal property upon the sidewalk whereby free passage to any person is hindered or prevented or where prohibited by other Town ordinances.

## § 201-47. Sidewalk obstructions.

The standard sidewalk width (minimum five feet) shall be clear of obstructions such as sign posts, utility and signal poles, mailboxes, parking meters, fire hydrants, trees and other street furniture. Obstructions should be placed between the sidewalk and the roadway, to create a buffer for increased pedestrian comfort, if possible. Obstructions shall not be placed in such a manner that they impair visibility of motorists.

## § 201-48. Permit required; permit fee.

A sidewalk permit shall be obtained from the Road Commissioner or designee prior to the commencement of construction, repair, reconstruction or removal of any sidewalk within the

right-of-way of streets and roadways within the Town or public access easement. A sidewalk permit fee as established by the Board of Selectmen, following notice and a public hearing, shall be paid at the time a sidewalk permit application is filed.

## § 201-49. Sidewalk acceptance.

The Road Commissioner or designee shall inspect all sidewalks constructed within the right-of-way of a street or public access easement. If the Road Commissioner finds the sidewalk construction to be complete and satisfactory, the sidewalk shall be accepted and written notification of the acceptance shall be submitted to the property owner. If the Road Commissioner finds the sidewalk construction to be unsatisfactory, the Commissioner shall notify the property owner or other persons responsible for construction of the improvements or changes that must be made in for the sidewalk to be acceptable.

## Chapter 202. Subdivision of Land

[HISTORY: Adopted by the Planning Board of the Town of Wells 4-11-1994; readopted and renumbered by the Town of Wells 4-16-2004.<sup>[1]</sup> Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Planning Board — See Ch. 53.

Building construction — See Ch. 91.

Floodplain management — See Ch. 116.

Historic preservation — See Ch. 132.

Land use — See Ch. 145.

[1] *Editor's Note: The Town voted to enact former Ch. 260, Subdivision of Land, including Appendices A through E on file in the office of the Town Clerk, as an ordinance, to be codified as Ch. 202, Subdivision of Land, of the Code of the Town of Wells. This ordinance also renumbered §§ 260-1 through 260-14 as §§202-2 through 202-15. In addition, this ordinance made several additions and amendments to the text of the subdivision regulations. Such changes are noted in the text as "[Amended (added) 4-16-2004]."*

## § 202-1. Statutory authority; legislative purpose.

[Added 4-16-2004]

This chapter is adopted pursuant to 30-A MRSA § 4403, which authorizes the legislative body to adopt, repeal or replace subdivision regulations initially promulgated by the Planning Board. The purpose is to replace the current Planning Board regulations for reviewing land subdivisions with an ordinance containing the same regulations, except that the ordinance authorizes the municipal officers to set the fees for the review of subdivisions, after notice and a hearing, in the manner that other Town fees are set.

## § 202-2. Purpose; criteria for approval.

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Wells, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Wells, Maine, the Planning Board shall consider the following criteria and, before granting approval, shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of 30-A M.R.S.A. § 4404.

## A. The subdivision:

- (1) Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the floodplains; the nature of soils and subsoils and their ability to adequately support waste disposal; and the slope of the land and its effect on effluents;
- (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- (3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- (6) Will provide for adequate solid and sewage waste disposal;
- (7) Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste and sewage if municipal services are to be utilized;
- (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- (9) Is in conformance with this chapter, the Comprehensive Plan for the Town and Chapter **145**, Land Use, of the Wells Municipal Code, as amended;
- (10) Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water; and
- (11) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;

## B. The subdivider has adequate financial and technical capacity to meet the above-stated standards;

## C. If any part of a subdivision is located in a flood-prone area, as indicated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Maps, the subdivider shall determine the one-hundred-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition requiring that principal structures will be constructed with their lowest floor, including the basement, at least one foot above the one-hundred-year flood elevation; and

## D. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision.

## § 202-3. Authority; title; administration; applicability.

## A. These standards have been prepared in accordance with the provisions of 30-A M.R.S.A. § 4403, Subsection 2.

- B. These standards shall be known and may be cited as the "Subdivision Regulations of the Town of Wells, Maine."
- C. The Planning Board of the Town of Wells, hereinafter called the "Board," shall administer these standards.
- D. The provisions of these standards shall pertain to all land proposed for subdivision, as defined in 30-A M.R.S.A. § 4401, within the boundaries of the Town of Wells.

## § 202-4. Definitions.

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined in Chapter 145, Land Use, of the Wells Municipal Code, and those definitions are incorporated herein by this reference as follows:

### **COMPLETE APPLICATION**

An application shall be considered complete upon a specific finding of completeness by the Planning Board, which may include a vote by the Board to waive submission of required information.

### **COMPREHENSIVE PLAN**

Any part or element of or amendment to the overall plan or policy for development of the municipality as defined in 30-A M.R.S.A. § 4301 which was adopted by the Town of Wells in November 1991.

### **DRIVEWAY**

A vehicular accessway serving two dwelling units or fewer.

### **FINAL PLAN**

The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

### **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]

### **HIGH-INTENSITY SOIL SURVEY**

A soil survey conducted by a certified soil scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to the subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high-intensity soil surveys.

### **OFFICIAL SUBMITTAL DATE**

The date upon which the Board issues a receipt indicating a complete application has been submitted.

### **ONE-HUNDRED-YEAR FLOOD**

The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one-percent chance of occurring in any year).

### **PERSON**



Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

**PLANNING BOARD**

The Planning Board of the Town of Wells.

**PRELIMINARY SUBDIVISION PLAN**

The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

**RESUBDIVISION**

The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

**SUBDIVISION, MAJOR**

Any subdivision containing more than four lots or dwelling units or any subdivision containing a proposed street.

**SUBDIVISION, MINOR**

Any subdivision containing not more than four lots or dwelling units and in which no street is proposed to be constructed.

**TRACT or PARCEL OF LAND**

All contiguous land in the same ownership, whether or not the tract is separated at any point by an intermittent or nonnavigable stream, tidal waters where there is no flow at low tide or a private road established by the abutting landowners.

## § 202-5. Administrative procedure.

- A. Purpose. The purpose of this section is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.
- B. Agenda. In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least 10 days in advance of a regularly scheduled meeting by contacting the Code Enforcement Officer. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes. The Board shall not accept more than two preapplication sketch plans in any month.  
[Amended 7-11-1996]
- C. If any portion of a proposed subdivision crosses a municipal boundary, the Planning Board shall meet with the Planning Board from the adjoining municipality to discuss the application.

## § 202-6. Preapplication.

- A. Procedure:
  - (1) Applicant presentation and submission of sketch plans.
  - (2) Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.

(3) Scheduling of on-site inspection.

- B. Submission. The preapplication sketch plan shall show, in simple sketch form, the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan, which may be a freehand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's map(s) on which the land is located. The sketch plan shall be accompanied by a copy of a portion of the USGS topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than 10 acres in size. The sketch plan shall also be accompanied by a list of names and addresses of abutters to the proposed project and certification that notices describing the proposed project have been sent or delivered by the applicant to the abutters. The addresses of these abutters shall be obtained from the Town of Wells Tax Assessor's records, and the notice and certification form shall be supplied by the Office of Planning and Development.  
[Amended 3-24-1997]
- C. Contour interval and on-site inspection. Within 30 days, the Board shall hold an on-site inspection of the property and determine and inform the applicant in writing of the required contour interval on the preliminary plan, or final plan in the case of a minor subdivision. However no on-site inspections shall be held during the months of January, February or March or when the ground is covered with snow.
- D. Rights not vested. The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.

## § 202-7. Minor subdivisions.

- A. General. The Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision.
- B. Procedure.
- (1) Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a final plan at least 10 days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.  
[Amended 7-11-1996]
  - (2) All applications for final plan approval for a minor subdivision shall be accompanied by an application fee in the amount established by the Board of Selectmen, following notice and a public hearing, and payable by check to the municipality.  
[Amended 7-9-2002; 4-16-2004]
  - (3) When the application is received by the Planning Board, it shall give the applicant a dated receipt acknowledging that it has received the application.
  - (4) Within 20 days of the Board meeting at which the application is received, the Board shall notify by certified mail all owners of abutting property and the Town Clerk and Planning Board of any municipality that abuts or includes any portion of the proposed subdivision that an application for subdivision approval has been submitted. The notice shall include the location of the proposed subdivision and a

general description of the proposed development. The notice shall be mailed no less than seven days prior to the Board commencing review of the plan.

[Amended 7-9-2002]

- (5) The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the final plan.
- (6) Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider.  
[Amended 3-24-1997]
- (7) The Board shall hold a public hearing within 30 days of determining that a complete application has been received and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- (8) Within 30 days of a public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application and approve, approve with conditions or deny the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

C. Submissions.

- (1) The subdivision plan for a minor subdivision shall consist of a reproducible, stable-based transparent original and three copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. Plans shall be no larger than 24 inches by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Twelve bound copies of all information accompanying the plan and plans not larger than 11 inches by 17 inches shall be submitted.
- (2) The application for approval of a minor subdivision shall include the following information:
  - (a) Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's map and lot numbers.
  - (b) A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
  - (c) A copy of the deed from which the survey was based and a copy of all deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
  - (d) A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
  - (e) Indication of the type of sewage disposal to be used in the subdivision.

[1] When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Wells Sanitary District stating that the

district has the capacity to collect and treat the wastewater shall be provided.

- [2] When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses prepared by a licensed site evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
- (f) Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by the Kennebunk, Kennebunkport and Wells Water District, a written statement from the district shall be submitted indicating that there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief stating approval of the location of fire hydrants, if any, shall be submitted.
  - (g) The date the plan was prepared, North point (identified as true or magnetic), graphic map scale, names and addresses of the record owner, subdivider and individual or company who or which prepared the plan and the names of adjoining property owners.
  - (h) A copy of the portion of the county soil survey covering the subdivision.
  - (i) Contour lines at the intervals specified by the Planning Board, showing elevations in relation to mean sea level.
  - (j) If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year flood elevation shall be delineated on the plan.
  - (k) A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and the subdivision has an average density of less than 100,000 square feet per dwelling unit.
  - (l) The location of any wetlands, streams, rivers, brooks or ponds located within or adjacent (within 75 feet) to the proposed subdivision.
  - (m) The location of any significant wildlife or fisheries habitat as located by the Department of Inland Fisheries and Wildlife.

## § 202-8. Preliminary plan for major subdivision.

### A. Procedure.

- (1) Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a preliminary plan at least 10 days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.  
[Amended 7-11-1996]
- (2) All applications for preliminary plan approval for a major subdivision shall be accompanied by an application fee in the amount established by the Board of Selectmen following notice and a public hearing. In addition, the applicant shall pay a fee of \$25 per lot or dwelling unit, to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring

independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant and require that an additional \$10 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require that an additional \$10 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a final decision on the subdivision application by the Board shall be returned to the applicant.

[Amended 5-16-1996; 7-9-2002; 4-16-2004]

- (3) The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the preliminary plan.
- (4) When the application is received by the Planning Board, it shall give the applicant a dated receipt acknowledging that it has received the application.
- (5) Within 20 days of the Board meeting at which the application is received, the Board shall notify by certified mail all owners of abutting property and the Town Clerk and Planning Board of any municipality that abuts or includes any portion of the proposed subdivision that an application for subdivision approval has been submitted. The notice shall include the location of the proposed subdivision and a general description of the proposed development. The notice shall be mailed no less than seven days prior to the Board commencing review of the plan.  
[Amended 7-9-2002]
- (6) If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the plan.
- (7) Within 30 days of receipt of a preliminary plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required for a complete application.
- (8) Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. Within 30 days of determining a complete application has been submitted, the Board shall hold a public hearing on the preliminary plan application and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and the owners of abutting property.
- (9) The Board shall, within 30 days of a public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application and approve, approve with conditions or deny the preliminary plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial.
- (10) When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
  - (a) The specific changes which it will required in the final plan;
  - (b) The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety and general welfare; and

- (c) The amount of all performance guaranties which it will require as prerequisite to the approval of the final plan.

- (11) Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

B. Submissions.

- (1) Location map. The preliminary plan shall be accompanied by a location map adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:
  - (a) Existing subdivisions adjacent to the proposed subdivision.
  - (b) Locations and names of existing and proposed streets.
  - (c) Boundaries and designations of zoning districts.
  - (d) An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- (2) Preliminary plan. The preliminary plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. The Board may allow plans for subdivisions containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. In addition, the applicant shall submit to the Office of Planning and Development 11 copies of the plan(s) reduced to a size of 11 inches by 17 inches and all accompanying information assembled into a booklet no less than 10 days prior to the meeting. The following information shall either be shown on the preliminary plan or accompany the application for preliminary approval:  
[Amended 4-12-1999]
  - (a) The proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's map and lot numbers.
  - (b) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
  - (c) A copy of the deed from which the survey was based and a copy of all covenants or deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
  - (d) A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.

- (e) Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.
- (f) The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan.
- (g) Indication of the type of sewage disposal to be used in the subdivision.
  - [1] When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Wells Sanitary District indicating that there is adequate capacity within the district's system to transport and treat the sewage shall be submitted.
  - [2] When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses prepared by a licensed site evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
- (h) Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by public water supply, a letter from the Kennebunk, Kennebunkport and Wells Water District shall be submitted indicating that there is adequate supply and pressure for the subdivision.
- (i) The date the plan was prepared, North point (identified as true or magnetic), graphic map scale, and names and addresses of the record owner, subdivider and individual or company who or which prepared the plan.
- (j) The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
- (k) The location of any zoning boundaries affecting the subdivision.
- (l) The location and size of existing and proposed sewers, water mains, culverts and drainageways on or adjacent to the property to be subdivided.
- (m) The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- (n) The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- (o) The proposed lot lines with approximate dimensions and lot areas.
- (p) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (q) The location of any open space to be preserved and an indication of its improvement and management.
- (r) A copy of that portion of the county soil survey covering the subdivision. When the medium-intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a registered soil scientist indicating the suitability of soil conditions for those uses.

- (s) If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year-flood elevation shall be delineated on the plan.
- (t) A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
  - [1] Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers" by the Maine Geological Survey, 1985, Map Nos. 2 and 4; or
  - [2] The subdivision has an average density of less than 100,000 square feet per dwelling unit.
- (u) The location of any wetlands, streams, rivers, brooks or ponds located within or adjacent (within 75 feet) to the proposed subdivision.
- (v) The location of any significant wildlife or fisheries habitat as located by the Department of Inland Fisheries and and Wildlife.

## § 202-9. Final plan for major subdivision.

### A. Procedure.

- (1) The subdivider shall, within six months after the approval of the preliminary plan, file with the Board an application for approval of the final plan at least 10 days prior to a scheduled meeting of the Board. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board may refuse without prejudice to act on the final plan and require resubmission of the preliminary plan. The final plan shall approximate the layout shown on the preliminary plan, plus any recommendations made by the Board.  
[Amended 7-11-1996]
- (2) If a public hearing is deemed necessary by the Board, an additional fee in the amount established by the Board of Selectmen following notice and a public hearing shall be required to cover the costs of advertising and postal notification.  
[Amended 7-9-2002; 4-16-2004]
- (3) The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the final plan.
- (4) When the application is received by the Planning Board, it shall give the applicant a dated receipt acknowledging that it has received the application.
- (5) Within 30 days after receiving any application, the Board shall notify the applicant in writing either that the application is complete or, if it is incomplete, the specific additional material needed to complete the application. The Board shall determine whether to hold a public hearing on the final plan application.
- (6) Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where appropriate:
  - (a) Maine Department of Environmental Protection, under the Site Location of Development Act and the Natural Resources Protection Act.<sup>[1]</sup>



[1] *Editor's Note: See 38 M.R.S.A § 481 et seq. and 38 M.R.S.A. § 480-A et seq., respectively.*

- (b) The Kennebunk, Kennebunkport and Wells Water District, if the district's water service is to be used.
  - (c) Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
  - (d) The Wells Sanitary District, if the public sewage disposal system is to be used.
  - (e) Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
  - (f) An Army Corps of Engineers dredge and fill permit.
  - (g) NPDES permit for stormwater discharges.
- (7) A public hearing may be held by the Planning Board within 30 days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing, and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. When a subdivision is located within 500 feet of a municipal boundary and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved at least 10 days prior to the hearing.
- (8) Upon receipt of an application for a subdivision containing 20 lots or dwelling units or more, the Planning Board shall notify the Road Commissioner, School Superintendent, Police Chief and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways and the size and construction characteristics of any multifamily, commercial or industrial buildings. The Planning Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- (9) Before the Board grants approval of the final plan, the subdivider shall meet the performance guaranty requirements contained in § 202-13.
- (10) The Board, within 30 days from the public hearing or within 60 days of the official submittal date if no hearing is held, shall make findings of fact and conclusions relative to the standards contained in 30-A M.R.S.A. § 4404, Subsection 3 and in these regulations. If the Board finds that all standards of the statute and these regulations have been met, it shall approve the final plan. If the Board finds that any of the standards of the statute and these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board.
- B. Submissions. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 inches by 36 inches in size and shall have a margin of two inches outside of the border line on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. One reproducible, stable-based transparent original and three copies of the plan shall be submitted. In addition, the applicant shall submit 11 copies of the final plan, reduced to a size of 11 inches by 17 inches, and all accompanying information to the Office

of Planning and Development no less than 10 days prior to the meeting. The application for approval of the final plan shall include the following information:

[Amended 4-13-1999]

- (1) Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's map and lot numbers.
- (2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- (3) The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses and other essential existing physical features.
- (4) Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Wells Sanitary District indicating that the district has reviewed and approved the sewerage design shall be submitted.
- (5) Indication of the type of water supply system(s) to be used in the subdivision.
  - (a) When water is to be supplied by public water supply, a written statement from the Kennebunk, Kennebunkport and Wells Water District shall be submitted indicating that the district has reviewed and approved the water system design. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
  - (b) The Board makes a finding that adequate groundwater resources to support one- and two-family homes, in both quantity and quality, are available generally throughout the Town of Wells. However:
    - [1] When a proposed subdivision is not served by the Kennebunk, Kennebunkport and Wells Water District, evidence of adequate groundwater quality shall be required for proposed subdivisions in the vicinity of known sources of potential groundwater contamination, such as the Wells landfill, Bragdon septage disposal site and the Spiller sludge disposal site. The results of a primary inorganic water analysis performed upon a well on the parcel to be subdivided or from wells on adjacent parcels, between the parcel to be subdivided and the potential contamination source, shall be submitted.
    - [2] When a proposed subdivision is to be served by a private central water system or contains structures other than one- or two-family dwellings, evidence of adequate groundwater quantity shall be required.
- (6) The date the plan was prepared, North point (identified as magnetic or true), graphic map scale, and names and addresses of the record owner, subdivider and individual or company who or which prepared the plan.
- (7) The location of any zoning boundaries affecting the subdivision.
- (8) The location and size of existing and proposed sewers, water mains, culverts and drainageways on or adjacent to the property to be subdivided.
- (9) The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and

be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angle radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.

- (10) The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- (11) All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If land is to be offered to the municipality, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- (12) A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots and, for subdivisions containing more than 20 lots, a separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality or quasi-municipal districts.
  - (a) These lists shall include but not be limited to: schools, including busing; street maintenance and snow removal; police and fire protection; solid waste disposal; recreation facilities; stormwater drainage; wastewater treatment; and water supply.
  - (b) The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.
- (13) If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the one-hundred-year flood elevation shall be delineated on the plan.
- (14) 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]
- (15) 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.  
[Amended 4-27-2007]
- (16) If any portion of the proposed subdivision is located in the direct watershed of Ell Pond or within 500 feet of the upland edge of Hobbs Pond and meets the following criteria: 1. five or more lots or dwelling units created within any five-year period; or 2. any combination of 800 linear feet of new or upgraded driveways and/or streets, then the following shall be submitted or indicated on the plan:  
[Added 4-27-2007]
  - (a) A phosphorus impact analysis and control plan conducted using the procedures set forth in MDEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and

construction specifications and diagrams for control measures, as required by the most recent edition of Stormwater Management For Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006;

- (b) A long-term maintenance plan for all phosphorus control measures;
- (c) The contour lines shown on the plan shall be at an interval of no less than five feet; and
- (d) Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

C. Final approval and filing.

- (1) No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plan.
- (2) Upon findings of fact and determination that all standards in 30-A M.R.S.A. § 4404 and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void, unless an extension is granted by the Board in writing before the expiration of the ninety-day period.
- (3) At the time the Board grants final plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that his department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the Superintendent of Schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding.
- (4) No changes, erasures, modifications or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with § 202-11A(3). The Board shall make findings that the revised plan meets the standards of 30-A M.R.S.A. § 4404 and these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- (5) The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement or other open space shown on such plan. When a park, playground or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the

municipal officers covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such dedicated area.

- (6) Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this subsection, the Board shall have a notice placed in the Registry of Deeds to that effect.

## § 202-10. Revisions to approved plans.

- A. Procedure. An applicant for a revision to a previously approved plan shall, at least five business days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda.
  - (1) If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed, unless the revised plan meets the definition of a minor subdivision. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.
  - (2) The applicant shall pay a fee established by the Board of Selectmen following notice and a public hearing, to include the applicable per-dwelling-unit fee according to the procedures for a minor subdivision or preliminary plan for a major subdivision. In addition, the applicant shall pay a fee to be determined by the Board, to be deposited in a special account designated for that application, to be used by the Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant and require that an additional \$50 beyond the balance after invoices received are paid be deposited by the applicant. The Board shall continue to notify the applicant and require that an additional \$50 be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the revision by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee of \$200 shall be required to cover the costs of advertising and postal notification.  
[Amended 7-23-2002; 4-16-2004]
- B. Submissions. The applicant shall submit a copy of the approved plan, as well as 11 copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds. The applicant shall provide evidence that all owners of abutting property were notified of the application if new lots or dwelling units are proposed to be created.  
[Amended 7-23-2002]
- C. Scope of review. The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

## § 202-11. Inspections; violations and penalties.

- A. Inspection of required improvements.

- (1) At least five business days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements so that the municipal officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
- (2) If the inspection official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the municipal officers, Planning Board and the subdivider or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.
- (3) If at any time before or during the construction of the required improvements it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances, such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this Subsection A(3) in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.
- (4) At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.
- (5) Prior to the issuance of a building permit in any approved subdivision, the subdivider shall provide the Code Enforcement Officer with a letter from a registered land surveyor stating that all monumentation shown on the plan for the lot receiving the building permit and for the approved subdivision perimeter boundaries or phase therein as approved by the Planning Board has been installed.  
[Amended 1-28-2002]
- (6) Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed Town way to a Town Meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the municipal officers, at the expense of the applicant, certifying that the proposed Town way meets or exceeds the design and construction requirements of these regulations and the Town's street ordinance (Chapter 201, Articles II and III, of the Wells Municipal Code). If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
- (7) The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

B. Violations and enforcement.

- (1) No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been

approved by the Board in accordance with these regulations.

- (2) No person may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- (3) No person may convey, offer or agree to convey any land in an approved subdivision which is not shown on the final plan as a separate lot.
- (4) Any person who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished in accordance with the provisions of 30-A M.R.S.A. § 4452.
- (5) No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- (6) Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots or construction of buildings which require a final plan approved as provided in these regulations and recorded in the Registry of Deeds.
- (7) No lot or unit in a subdivision may be sold, leased or otherwise conveyed before the street upon which the lot or the lot containing the unit fronts is completed up to and including the hot top base course of pavement, in accordance with these regulations, up to and including the entire frontage of the lot, and a performance guaranty acceptable to the Board of Selectmen is posted for the completion of the street with the Town of Wells.

## § 202-12. General standards.

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a final plan. In all instances the burden of proof shall be upon the applicant.

- A. Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan of the municipality and with the provisions of all pertinent state and local codes and ordinances.
- B. Retention of open spaces and natural or historic features.  
[Amended 6-11-2013]
  - (1) In any subdivision with no more than five lots or dwellings units, no dedicated open space is required. In any subdivision with at least six lots or dwelling units and no more than 10 lots or dwelling units, there shall be a minimum of 10% or 20,000 square feet, whichever is greater, of the total property net area dedicated as open space. Off site dedication of open space land may be approved by the Planning Board if excess land is provided and the land has a greater benefit to the public than land within the development. In any subdivision with more than 10 lots or dwelling units, there shall be a minimum of 35% of the total property net area dedicated as open space.
  - (2) Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Planning Board may deem suitable. The configuration of such sites shall be deemed adequate by the Planning Board with regard to scenic or

historic attributes to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.

- (3) Reserved open space land, acceptable to the Planning Board and subdivider, may be dedicated or conveyed to the municipality, a land trust, or other recognized conservation organization. Such reservation may also be accomplished by incorporation into homeowners' association or condominium association documents or into restrictive deed covenants. (See § 145-49, residential cluster development standards.)
  - (4) The Planning Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24 inches in diameter at breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.
- C. Blocks. Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require an utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width. Maintenance obligations of the easement shall be included in the written description of the easement.
- D. Lots.
- (1) All lots shall meet the minimum requirements of Chapter 145, Land Use, for the zoning district in which they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.
  - (2) Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
  - (3) Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan and deed restrictions shall indicate that vehicular access shall be located only on the less traveled way.
  - (4) Wherever possible, side lot lines shall be perpendicular to the street.
  - (5) The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as to preclude future resubdivision.
  - (6) Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
  - (7) If a lot on one side of a river, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the river, tidal water or road to meet the minimum lot size.
  - (8) Odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than three to one.
  - (9) Lots shall be numbered in accordance with Chapter 201, Article I, Street Naming and Numbering, of the Wells Municipal Code.



- (10) Where the Board finds that safety considerations so require, driveways of adjoining lots shall be combined or joined so as to minimize the number of driveway entrances and maximize the distance between entrance points.
- (11) Proposed lots shall not be permitted to have driveway entrances onto existing arterial or collector streets unless the Planning Board determines that no reasonable alternate exists.

E. Utilities.

- (1) Utilities shall be installed underground except as otherwise approved by the Board.
- (2) Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- (3) The size, type and location of streetlights, electric and gas lines, telephone and other utilities shall be shown on the plan and approved by the Board.

F. Required improvements. The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

(1) Monuments.

- (a) Stone or concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- (b) Stone or concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less. New monumentation shall not be required at corner or angle points where there is existing monumentation that complies with this section.
- (c) Stone monuments shall be a minimum of four inches square at the top and four feet in length and set in the ground at final grade level. After they are set, drill holes one-half-inch deep shall locate the point or points described above.
- (d) Concrete monuments shall be portland cement reinforced with half-inch reinforcement bar. Concrete monuments shall be either four inches square or four inches in diameter and four feet in length and set in the ground at final grade with their top flush to four inches above the final grade.
- (e) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points, shall be marked by suitable monumentation.

(2) Water supply.

- (a) When a subdivision is to be served by the Kennebunk, Kennebunkport and Wells Water District, the complete supply system, including fire hydrants, shall be installed at the expense of the subdivider.

[1] The subdivider shall provide a written statement from the Water District that adequate water for both domestic and fire-fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved. The subdivider shall be responsible for paying the costs of system improvements necessary to serve the subdivision.

- [2] The size and location of mains, gate valves, hydrants and service connections shall be reviewed and approved in writing by the Water District and the Fire Chief.
- (b) When the location of a subdivision does not allow for a financially reasonable connection to the Kennebunk, Kennebunkport and Wells Water District, the Planning Board may allow the use of individual wells or a private community water system.
  - [1] Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other groundwater sources and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
  - [2] If a central water supply system is provided by the subdivider, the location and protection of the source and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. 231).
  - [3] Fire protection.  
[Amended 3-11-2002]
    - [a] The subdivider shall construct dry hydrants connected to ponds or water storage tanks, provide fire hydrants connected to a public water source or implement an alternative program approved by the Fire Chief to provide for adequate water for fire-fighting purposes within the subdivision. An easement shall be granted to the municipality providing access to the hydrants or other improvements where necessary. If a subdivision has fewer than 10 lots or dwelling units or any combination of lots and dwelling units, the Board, may waive the requirement for an adequate on-site water supply only upon submittal of evidence that:
      - [i] There is a fire pond, fire hydrant connected to public water, or another water source within one mile of the subdivision that the subdivider has obtained the legal right to use for fire protection purposes; and
      - [ii] The Fire Chief has determined that the proposed water source has sufficient capacity to serve the needs of the subdivision and any other subdivisions currently using or relying on the water source for fire protection.
    - [b] For purposes of this section, the one-mile distance is measured from the pond, water source or fire hydrant to the driveway of the subdivision residence located farthest from the water supply along routes that fire trucks can safely travel year round.
  - [4] The results of the water quality test submitted shall indicate that the groundwater meets the primary drinking water standards of the Maine Rules Relating to Drinking Water for those categories tested. If the Board has reason to believe, due to previous uses of the property or due to previous or existing uses of neighboring property, that the existing water quality may be threatened by contaminants not tested for in the primary inorganic water analysis, it may require the water to be tested for those contaminants.

- (c) Prior to the issuance of a building permit for the construction of any principal structure in a subdivision, the applicant shall present evidence of suitable water supply to the Code Enforcement Officer. This evidence shall consist of:
  - [1] A letter from the Kennebunk, Kennebunkport and Wells Water District indicating availability of service; or
  - [2] The results of a primary inorganic water analysis performed upon the well to serve the structure indicating the groundwater meets the primary drinking water standards of the Maine Rules Relating to Drinking Water for those categories tested.
- (3) Sewage disposal.
  - (a) Public system.
    - [1] A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1,000 feet of the proposed subdivision at its nearest point. The Wells Sanitary District shall certify that providing service to the proposed subdivision is within the capacity of the district's collection and treatment system.
    - [2] The district shall review and approve in writing the construction drawings for the sewage system.
  - (b) Private systems.
    - [1] The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve areas shall be shown on the plan and restricted so as not to be built upon.
    - [2] In no instances shall a disposal area be permitted on soils or on a lot which requires a new system variance from the subsurface wastewater disposal rules.
- (4) Stormwater management.  
[Amended 4-27-2007]
  - (a) Where a subdivision is traversed by a stream, river or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a registered professional engineer.
  - (b) Drainage easements for existing watercourses or proposed drainageways shall be provided and indicated on the plan.
  - (c) The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in other properties. The engineer shall certify that peak runoff from the subdivision onto other properties shall not be increased

either in volume or duration from the peak runoff characteristics existing prior to development.

- (d) A stormwater management plan, meeting the standards of Chapter **201**, Streets and Sidewalks, Articles **II** and **III**, Wells Municipal Code, shall be submitted.
- (e) For subdivisions that require MDEP review under 38 M.R.S.A. § 481 et seq. (Site Location of Development), a stormwater management plan shall be submitted which complies with the Site Location of Development permit and the requirements of MDEP Chapter 500 Stormwater Regulations.
- (f) For subdivisions that do not require a Site Location of Development permit, but that require a MDEP permit pursuant to 38 M.R.S.A. § 420-D, a stormwater management plan shall be submitted which complies with the requirements of MDEP Chapter 500 Stormwater Regulations.
- (g) For subdivisions outside of the watershed of a great pond that neither require a Site Location of Development permit, nor a MDEP permit pursuant to 38 M.R.S.A. § 420-D, a stormwater management plan shall be submitted which incorporates the low-impact development techniques set forth in Volume I, Chapter **3** of the Maine Stormwater Best Management Practices Manual, 2006 (LID Techniques) on each individual lot approved by the Planning Board when such LID Techniques are adopted by MDEP. At such time that the MDEP adopts the LID Techniques, the Planning Board shall adopt them for use in approving subdivisions for the Town of Wells.
- (h) For subdivisions located within the watershed of a great pond containing: 1. five or more lots or dwelling units created within any five-year period; or 2. any combination of 800 linear feet of new or upgraded driveways and/or streets, a stormwater management plan shall be submitted that meets the phosphorus allocation across the entire subdivision in accordance with the methodology described in the MDEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006.
- (i) The Planning Board may require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development. This hydrologic analysis would be in the form of a "Downstream Analysis" under conditions of the ten-year, twenty-four-hour storm, the twenty-five-year, twenty-four-hour storm, and the one-hundred-year, twenty-four-hour storm, as described below:
  - [1] Downstream Analysis Methodology: The criteria used for the downstream analysis is referred to as the "10% rule." Under the 10% rule, a hydrologic and hydraulic analysis for the ten-year, twenty-four-hour storm, the twenty-five-year, twenty-four-hour storm, and the one-hundred-year, twenty-four-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a ten-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.

#### G. Streets.

- (1) All streets in a subdivision shall meet Chapter **201**, Streets and Sidewalks, Articles **II** and **III**, Wells Municipal Code.

- (2) Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets, streets shown on an Official Map or streets on an approved subdivision plan for which performance guaranties have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map or streets on an approved subdivision plan for which performance guaranties have been filed and accepted. Said two street connections' center lines shall be no closer than 400 linear feet apart. Traffic generation rates shall be based on the Traffic Generation Manual, 1988 Edition, Institute of Transportation Engineers. Some typical traffic generation rates are:
  - (a) Single-family house: 10.0 trips per day per unit.
  - (b) Residential condominium: 5.9 trips per day per unit.
  - (c) Motel: 10.2 trips per day per room.
  - (d) Industrial: 7.0 trips per day per 1,000 square feet of floor space.
- (3) In any subdivisions located in the Residential A Zoning District or east of U.S. Route 1 provisions shall be made for the interconnection of proposed streets with other subdivisions or adjacent properties if it is determined to be practical and desirable by the Planning Board.

H. Land features.

- (1) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas and building excavations. Topsoil shall not be removed from the site until completion of construction and inspection by the Town to assure four inches of topsoil has been spread over all areas to be grassed.
- (2) Except for normal thinning, landscaping and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take the following measures to correct and prevent soil erosion in the proposed subdivision:  
[Amended 4-27-2007]
  - (a) The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
  - (b) The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
  - (c) Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
  - (d) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- (3) To prevent soil erosion of shoreline areas the cutting or removal of vegetation shall only be permitted as regulated in § 145-33 of Chapter 145, Land Use, of the Wells Municipal Code.
- (4) Dedication and maintenance of common open space and services.

- (a) All common land shall be owned jointly or in common by the owners of the dwelling units by means of a homeowners' association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition or by the municipality.
  - (b) Further subdivision of the common land or its use for other than noncommercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land.
  - (c) The common open space shall be shown on the final plan with appropriate notation on the plan to indicate that:
    - [1] It shall not be used for future building lots; and
    - [2] A part or all of the common open space may be dedicated for acceptance by the municipality.
  - (d) If any or all of the common open space and services are to be reserved for use by the residents, the bylaws of the proposed homeowners' association shall specify maintenance responsibilities and shall be submitted to the Board prior to final plan approval.
  - (e) Covenants for mandatory membership in the homeowners' association setting forth the owners' rights, interests and privileges in the association and the common property shall be reviewed by the Board and included in the deed for each lot or dwelling.
  - (f) The homeowners' association shall have the responsibility of maintaining the common property.
  - (g) The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
  - (h) The developer or subdivider shall maintain control of the common property and be responsible for its maintenance until development sufficient to support the association has taken place.
- (5) Construction in flood hazard areas. When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall conform with Chapter 115, Floodplain Management, of the Wells Municipal Code.
- (6) Impact on groundwater.
- (a) When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
    - [1] A map showing the basic soils types.
    - [2] The depth of the water table at representative points throughout the subdivision.
    - [3] Drainage conditions throughout the subdivision.
    - [4] Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.

- [5] An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a pond, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
  - [6] A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- (b) Projections of groundwater quality shall be made at any wells within the subdivision and at the subdivision boundaries or at a distance of 500 feet from potential contamination sources, whichever is a shorter distance.
  - (c) Projections of groundwater quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
  - (d) No subdivision shall increase any contaminant concentration in the groundwater to more than 1/2 of the primary drinking water standards. No subdivision shall increase any contaminant concentration in the groundwater to more than the secondary drinking water standards.
  - (e) If groundwater contains contaminants in excess of the primary standards and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.
  - (f) If groundwater contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
  - (g) Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the final plan and as restrictions in the deeds to the affected lots.

## § 202-13. Performance guaranties.

[Amended 4-12-1999]

### A. Types of guaranties.

- (1) With submittal of the application for final plan approval, the applicant shall provide any one or a combination of the following performance guaranties for an amount adequate to cover the total site preparation and construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs:
  - (a) Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner for the establishment of an escrow account.
  - (b) A performance bond payable to the municipality issued by a surety company approved by the municipal officers or Town Manager.

- (c) An irrevocable letter of credit (See Appendix B for a sample.<sup>[1]</sup>) from a financial institution establishing funding for the construction of the subdivision from which the municipality may draw if construction is inadequate, approved by the municipal officers or Town Manager.
- <sup>[1]</sup> *Note: Appendix B, originally attached to the Subdivision Regulations, has not been reproduced in the Code. Consult the original Town records in the office of the Clerk.*
- (d) An offer of conditional approval prohibiting the sale of any units or lots until all required improvements serving those units or lots have been constructed to the satisfaction of the Town and in compliance with all ordinances, plans and specifications.
- (2) The conditions and amount of the performance guaranty shall be determined by the Board with the advice of the Town Planner, Road Commissioner, municipal officers and/or Town Attorney. If an offer of conditional approval is made by the applicant, pursuant to Subsection A(1)(d), the applicant shall be required, in addition, to present a cash escrow, performance bond or irrevocable letter of credit, as described in Subsections A(1)(a) through (c) above, to cover the cost of restoring the site to a stable condition, should the applicant create erosion or sedimentation problems for an unreasonable duration during site preparation or during the construction of roads and/or utilities or other required improvements.
- B. Contents of guaranty. The performance guaranty shall contain a construction schedule, cost estimates for each major phase of construction, taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guaranty to the developer and a date after which the applicant will be in default, and the municipality shall have access to the funds to finish construction. The Board may require the services of a third party inspector, to be paid for at the expense of the applicant upon recommendation of the Town Manager.
- C. Escrow account. If the applicant chooses to establish an escrow account, a cash contribution to the account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements. The Town Attorney and Town Treasurer shall review and have final authorization on the establishment of escrow accounts.
- D. Performance bond. If the applicant chooses to submit a performance bond, the performance bond shall detail any special conditions, the method for release of the bond or portions of the bond to the applicant and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.
- E. Letter of credit. If the applicant chooses to submit an irrevocable letter of credit from a bank or other lending institution, at a minimum the letter shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan. The Town Manager or Town Treasurer shall certify the bank or institution as acceptable to the Town. The Town Attorney shall review and, if found acceptable, approve the wording of all letters of credit.



- F. Standard condition of approval. As a standard condition of approval for all applications for which a performance guaranty is required pursuant to Subsection K, the Board shall require the applicant to enter into a binding agreement with the municipality regarding the development of the required improvements and the sale of lots or units in the subdivision until such time as one or more of the allowable performance guaranties have been accepted by the municipality.
- (1) The agreement shall prohibit the sale or occupancy of any lot or unit in the subdivision for which the improvements to be covered by the guaranty are required for access to or intended use of the lot until either:
    - (a) It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
    - (b) A performance guaranty, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.
  - (2) Notice of the agreement and any conditions shall be on the final plan that is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guaranties contained in Subsection H.
- G. Phasing of development. The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guaranty. When development is phased, road construction shall commence from an existing public way. The subdivision shall be divided in such a manner that each phase, when aggregated with the previous phase(s), shall meet the standards of these regulations. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- H. Release of guaranty. Prior to the release of any part of the performance guaranty, the Board shall determine to its satisfaction, in part upon the report of the Town Manager and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- I. Default. If upon inspection the third party inspector, Municipal Engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Board and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.
- J. Private streets. Where the subdivision streets are to remain private streets, the following words shall appear on the recorded plan: "All streets in this subdivision shall remain private roads to be maintained to Town standards by the developer or the lot owners and shall not be accepted or maintained by the Town."
- K. Improvements guaranteed. Performance guaranties shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the public or private streets, stormwater management facilities, public or private sewage collection or disposal facilities and water systems that are shared by multiple dwelling units and erosion and sedimentation control measures, as well as any other improvements required by the Board.

## § 202-14. Waivers.

- A. Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, Chapter **145**, Land Use, or these regulations. Any waivers granted hereunder are not a variance and may be granted by the Board in the absence of a hardship.
- B. Where the Board makes written findings of fact that, due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare or is inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions. Any waivers granted hereunder are not a variance and may be granted by the Board in the absence of a hardship.
- C. In granting waivers to any of these regulations in accordance with Subsections **A** and **B**, the Board shall require such conditions as will assure the objectives of these regulations are met.

## § 202-15. Appeals.

An aggrieved party may appeal any decision of the Board under these regulations to York County Superior Court.

## § 202-16. Savings clause and effective date.

[Added 4-16-2004]

- A. The fees for Planning Board review of subdivisions established by the former Chapter 260, Land Subdivision, shall remain in effect and apply to subdivision applications filed or pending before the Planning Board until the Board of Selectmen acts to set new subdivision review fees as authorized by this chapter; provided, however, that the fee for reviewing preliminary plans for major subdivisions filed after the effective date of this chapter shall include a fee of \$100 per lot or dwelling unit for lots or dwelling units 11 through 50 for subdivisions with more than 10 lots or dwelling units, which shall be in addition to other fees for preliminary plan review.
- B. This chapter shall be effective upon enactment by the Town Meeting.

[Note: Appendices A through E, originally attached to the Subdivision Regulations, have not been reproduced in the Code. Consult the original Town records in the office of the Clerk.]

## Chapter 203. Property Tax Deferral for Senior Citizens

[HISTORY: Adopted by the Town of Wells 6-14-2011. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Taxation — See Ch. **204**.

## § 203-1. Purpose.

The purpose of this chapter of the Wells Code is to provide a means for certain individuals to take advantage of the Property Tax Deferral Program for Senior Citizens enacted by the 124th Maine Legislature during its Second Regular Session, as amended, to defer certain property taxes assessed by the Town of Wells, and to enable the Town to collect those taxes at the end of the deferral period, with interest.

## § 203-2. Definitions.

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

### **ELIGIBLE HOMESTEAD**

The owner-occupied principal dwelling, either real or personal property, owned by the taxpayer and the land upon which it is located. If the dwelling is located in a multiunit building, the eligible homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the dwelling compared to the total value of the building exclusive of the common elements, if any.

### **FEDERAL POVERTY LEVEL**

The non-farm income official poverty line for a family of the size involved, as defined by the Federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2.

### **HOUSEHOLD**

A claimant and spouse and members of the household for whom the claimant is entitled to claim an exemption as a dependant for the year in which relief is requested.

### **HOUSEHOLD INCOME**

All income received by all persons of a household in a calendar year while members of the household.

### **TAX-DEFERRED PROPERTY**

The property upon which taxes are deferred under this chapter.

### **TAXES or PROPERTY TAXES**

Ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll.

### **TAXPAYER**

An individual who is responsible for payment of property taxes and has applied to participate or is currently participating in the program under this chapter.

## § 203-3. Eligibility requirements.

In order to qualify for the tax deferral under this chapter, the applicant must meet all of the following requirements when the application is filed and thereafter as long as the payment of taxes by the taxpayer is deferred:

- A. The property must be an eligible homestead where the taxpayer has resided for at least 10 years prior to application. The residency requirement of this subsection does not apply if absence from the eligible homestead was/is by reason of health.

- B. The taxpayer is an owner of the eligible homestead, is at least 70 years of age on April 1 of the first year of eligibility and occupies the eligible homestead.
- C. The household income of the taxpayer does not exceed 300% of the federal poverty level.
- D. The household income of the taxpayer may not exceed 300% of the federal poverty level during the entire period of the deferral. The applicant may be asked to provide documentation of this during the period the property tax on eligible property is deferred.
- E. There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the eligible homestead is security.
- F. There must be no outstanding property taxes owed on the homestead at the time of application for deferral. The restriction imposed by this subsection may be waived if the municipal treasurer determines that the taxpayer is eligible to participate in the deferral of taxes pursuant to this chapter but for this subsection. If such a waiver is recommended, the municipal treasurer shall forward the application with an explanation of the waiver to the Board of Selectmen for acceptance, and by majority vote of the Board of Selectmen, they shall defer the delinquent taxes subject to the provisions of this chapter.

## § 203-4. Application for deferral.

- A. An individual or two or more individuals jointly may request a deferral on the property taxes on their eligible homestead by filing an application, on a form supplied by the Town, for deferral with the municipal treasurer, after January 1, but no later than March 31 of the first year in which deferral is requested. Nothing in this chapter may be constructed to require a spouse of an individual to request a deferral jointly with the individual even though the spouse may be eligible to apply for deferral jointly with the individual.
- B. The application, information submitted in support of an application and files and communications relating to an application for deferral of taxes under the program are confidential. Hearings and proceedings held by the Town of Wells on an application must be held in executive session unless otherwise requested by the applicant. Nothing in this subsection applies to the recording of liens or lists, or any enforcement proceedings undertaken by the Town of Wells pursuant to this chapter or other applicable law.
- C. The Town of Wells will make available upon request the most recent list of tax-deferred properties required to be kept and filed. The Town may also publish and release as public information statistical summaries concerning the program as long as the release of the information does not jeopardize the confidentiality of individually identifiable information.

## § 203-5. Determination of eligibility.

- A. Within 30 days of receipt of the application, the municipal treasurer shall determine if all qualifications are met and take one of the following actions:
  - (1) If the municipal treasurer determines that the applicant(s) is/are eligible for the deferral, the treasurer shall approve the application and notify the Tax Collector, Tax Assessor, and the applicant(s), in writing, of this decision.

- (2) If the municipal treasurer determines that the applicant(s) is/are not eligible for the deferral, the treasurer shall notify the taxpayer, in writing, with the reason for the ineligibility and notification of the right to supply additional information within 10 days of receipt of the determination.
- B. If the request for property tax deferral is not accepted by the treasurer, the treasurer shall, within 10 days, notify the taxpayer, in writing, with the reason for denial and the right to appeal pursuant to § 203-6.
- C. If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes under this chapter, the guardian or conservator may act for that individual in complying with this chapter.

## § 203-6. Appeal.

- A. Any person aggrieved by a denial of a deferral of homestead property taxes or a disqualification from deferral of homestead property taxes may file a written appeal of said determination to the Board of Selectmen, within 30 days of notification of the denial or disqualification.
- B. The Board of Selectmen shall schedule a hearing of the applicant's appeal, in executive session, within 15 days of receipt of notice of an appeal. The Board of Selectmen shall make a decision within 15 days of the hearing, and shall notify the applicant, in writing, of its decision within five days of making such decision.
- C. In the event an applicant is dissatisfied with the decision of the Board of Selectmen, he or she may appeal that decision to court in accordance with the Maine Rules of Civil Procedure, Rule 80B, which governs appeals of municipal governmental action.

## § 203-7. Effect of property tax deferral.

If the taxpayer is determined to be eligible and the request for a property tax deferral is accepted, it shall have the effect of:

- A. Deferring the payment of the property taxes levied on the eligible homestead for the municipal fiscal year beginning on or after April 1 of the year the determination of eligibility is made.
- B. Continuing deferral of the payment by the taxpayer of any property taxes deferred under this chapter for previous years that have not become delinquent.
- C. Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of this chapter are met.
- D. If property taxes are deferred under this program, the lien established on the eligible homestead under Title 36, Section 552 of the Maine Revised Statutes continues for the purpose of protecting the municipal interest in the tax-deferred property.
- E. Interest on the deferred taxes accrues at the rate of 0.5% above the otherwise applicable rate for delinquent taxes.
- F. In order to preserve the right to enforce the lien, the Town shall record in the county registry of deeds a list of the tax-deferred properties. The list must contain a description of each tax-deferred property as listed in the municipal valuation together with all of the names of each of the taxpayers listed on the valuation. The list must be updated annually

to reflect the addition or deletion of tax-deferred properties, the amount of deferred taxes accrued for each property and payments received.

- G. The recording of the tax-deferred properties under this subsection is notice that the Town claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county registry of deeds in connection with the recording. For a property deleted from the list, the recording serves as notice of release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

## § 203-8. Application.

The application for deferral under this chapter shall be in writing on a form supplied by the Town of Wells, which may be amended from time to time by the Board of Selectmen, and shall contain the following at a minimum:

- A. A description of the eligible homestead property, which shall include the Property Tax Map and Lot Number as well as the physical address of the property.
- B. Name(s) and address(es) of the applicant(s).
- C. Date(s) of birth of the applicant(s).
- D. Social security number of the applicant(s).
- E. A recitation of the facts establishing the eligibility for the deferral under the provisions of this chapter, including:
  - (1) Facts that establish that the household income was less than 300% of the federal poverty level, as defined above, for the calendar year immediately preceding the calendar year in which the application is filed; and
  - (2) Facts that show the applicant(s) has maintained the property as the primary residence for the previous 10 consecutive years.
- F. A statement, upon information and belief, that the household income will be less than 300% of the federal poverty level, as defined above, for the current calendar year in which the application is made.
- G. A notice that the applicant may be required to provide evidence that the requirements of § 203-3 have been met, which may include a copy of the deed for the property, and a birth certificate.
- H. A signature line which shall also have a statement notifying the applicant(s) that s/he attests, under penalty of perjury, that the statements contained in the application are true.

## § 203-9. Listing of tax-deferred property.

- A. If eligibility for deferral of homestead property is established as provided in this chapter, the municipal treasurer shall notify the municipal assessor who shall show on a list as provided herein which property is tax-deferred property by an entry clearly designating that the property is tax-deferred property. The Treasurer shall also notify the Tax Collector of the decision to permit a property to be tax deferred.

- B. On or before December 15 of each year, the municipal treasurer shall send a notice by ordinary mail to each taxpayer who has claimed deferral of property taxes for the current tax year. The notice must:
- (1) Inform the taxpayer(s) that the property taxes have been deferred in the current year.
  - (2) Show the total amount of deferred taxes remaining unpaid since initial application for deferral and the interest accruing thereon to November 15 of the current year.
  - (3) Inform the taxpayer(s) that voluntary payment of the deferred taxes may be made at any time, and that such payments shall first be applied to the oldest deferred taxes.
  - (4) Inform the taxpayer(s) they must notify the municipal treasurer if they no longer meet the income eligibility criteria under § 203-5.
  - (5) Contain any other information that the Board of Selectmen considers necessary to facilitate administration of the homestead deferral program including, but not limited to, the right of the taxpayer to submit any amount of money to reduce the total amount of the deferred taxes and interest.

## § 203-10. Events requiring payment of deferred tax and interest.

Subject to § 203-11, all deferred property taxes, including accrued interest, become payable when:

- A. Death of claimant. The taxpayer who was granted a deferment of collection of property taxes on the eligible homestead dies or, if there was more than one applicant, the survivor of the taxpayers who originally applied for deferment dies.
- B. Transfer of the property. The eligible homestead is sold, or some person other than the taxpayer who received the deferment becomes the owner of the property.
- C. Taxpayer moves. The tax-deferred property is no longer occupied by the taxpayer(s) as a principal residence, except if the taxpayer(s) must be absent from the eligible homestead for health reasons.
- D. Removal of home. The tax-deferred property, a mobile or floating home, is moved out of the Town.
- E. Change in eligibility status. The taxpayer's household income was not less than 300% of the federal poverty level for the calendar year immediately preceding the date of the receipt of the annual deferral notice under § 203-9.

## § 203-11. Tax payments.

- A. When it is determined that one of the events set out in § 203-10 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the treasurer shall send notice by certified mail to the taxpayer, or the taxpayer's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and establishing a due and payable date. For events listed in § 203-10A, B, C and E, payment is due within 45 days of the date of the notice. When the event listed in § 203-10D occurs, the total amount of deferred taxes is due and payable five days before

the date of removal of the property from the Town. The notice from the Treasurer shall include a statement that the lien enforcement procedures pursuant to state law apply.

- B. If the deadlines established in § 203-11A have not been met, the Town may enforce its lien according to governing state statute.
- C. Any partial payments accepted during the deferral period or during the eighteen-month redemption period provided for in state statute may not interrupt or extend the redemption period or in any way affect applicable foreclosure procedures.

## § 203-12. Election by spouse to continue tax deferral.

- A. When one of the circumstances listed in § 203-10 occurs, the spouse who did not or was not eligible to file an application jointly with the taxpayer may continue the property in its deferred tax status by filing an application within the time and in the manner provided in § 203-4 if:
  - (1) The spouse of the taxpayer is or will be 70 years of age or older not later than six months from the day the circumstance listed in § 203-10 occurs; and
  - (2) The property is the homestead of the spouse of the taxpayer and meets the requirements of § 203-3B.
- B. Continuation of deferral by spouse. A spouse who does not meet the age requirements of this chapter but is otherwise qualified to continue the property in its tax-deferred status under § 203-12A may continue the deferral of property taxes deferred for previous years by filing an application within the time and in the manner provided under this chapter. If a spouse eligible for and continuing the deferral of taxes previously deferred under this subsection becomes 70 years of age prior to April 1 of any year, the spouse may elect to continue the deferral of previous years' taxes deferred under this subsection and may elect to defer the current assessment year's taxes on the homestead by filing an application within the time and in the manner provided in this chapter. Thereafter, payment of the taxes levied on the homestead and deferred under this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to this chapter.

## § 203-13. Voluntary payment of deferred tax.

- A. All payments of deferred taxes shall be made directly to the Town of Wells.
- B. Subject to § 203-13C below, all or part of the deferred taxes and accrued interest may at any time be paid by:
  - (1) The taxpayer or the spouse of the taxpayer; or
  - (2) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer, or any person having or claiming a legal or equitable interest in the property.
- C. A person listed in § 203-13B(2) may make the payments only if no objection is made by the taxpayer within 30 days after the Town deposits in the mail notice to the taxpayer of the fact that the payment has been tendered.
- D. Any payment made under this section shall be applied first against the oldest taxes and any remainder against other deferred taxes. This payment does not affect the deferred-tax status of the property. Unless otherwise provided by law, this payment does not give



the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

- E. When the deferred taxes are paid in full and the property is no longer subject to deferral, the Treasurer shall prepare and record in the York County Registry of Deeds a certification of payment in the form of an affidavit by the Tax Collector that payment has been made.

## § 203-14. Limitations.

Nothing in this chapter is intended or may be construed to:

- A. Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property.
- B. Affect any provision or provisions of any mortgage, or other instrument relating to land, requiring a person to pay taxes.

## § 203-15. Separability.

If any provision of this chapter is held invalid, the other provisions of the chapter will not be affected thereby.

# Chapter 204. Taxation

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Assessments — See Ch. 5.

## Article I. Time-Share Estates

[Adopted 11-2-1999]

### § 204-1. Authority and scope.

This article is enacted by the municipal officers in accordance with 33 M.R.S.A. Chapter 10-A, § 593. The article governs the taxation of all time-share estates in the Town of Wells.

### § 204-2. Purpose.

The purpose of this article is to facilitate the collection and payment of property taxes on time-share estates.

### § 204-3. Definitions.

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

### **ESCROW ACCOUNT**

An account established and maintained by the managing entity in accordance with 33 M.R.S.A. § 593(5).

**MANAGING ENTITY**

The condominium association responsible for management of time-share estates or, if the association has designated an agent responsible for the obligations imposed by this article, such agent.

**TIME-SHARE ESTATE**

Any interest in a unit or any of several units under which the exclusive right of use, possession or occupancy of the unit circulates among the various owners of the unit in accordance with a fixed time schedule on a periodically recurring basis for periods of time established by the schedule, coupled with a freehold estate or an estate for years in a time-share property or a specified portion thereof.

**TIME-SHARE OWNER**

A person who is an owner or co-owner of a time-share estate other than as security for an obligation.

## § 204-4. Tax bill; collection of funds.

- A. The Town of Wells shall send the managing entity a tax bill for the time-share project, which shall include the information necessary to identify the assessed value of and the amount of tax owing for each time-share unit.
- B. The managing entity shall collect and receive funds from time-share estate owners for the purpose of paying the real estate taxes assessed on each time share estate.

## § 204-5. Escrow account.

- A. The managing entity shall establish and maintain an escrow account with a financial institution licensed by the state and deposit any money collected or received for taxes in the escrow account within 10 days after collection or receipt.
- B. The escrow account shall be established in the name of both the managing entity and the Town of Wells.
- C. No withdrawal may be made from the escrow account without the written agreement of the Town of Wells.
- D. Prior to the delinquency date established by the Town of Wells at its Annual Town Meeting, the managing entity shall pay to the Wells Tax Collector all money deposited in the escrow account for the purpose of tax payment. If the amount paid from the escrow account is not sufficient to discharge all taxes and tax-related costs due and owing, the managing entity shall place a lien on those time-share estates whose owners have not contributed to the escrow account as provided in 33 M.R.S.A. § 594, and pay the outstanding amount no later than 30 days after the date it has collected the taxes and costs from the delinquent owner or has foreclosed the lien and sold the time-share estate to a new owner or 10 months from the date of commitment, whichever is earlier. If requested by the Town of Wells, the managing entity shall provide a list identifying those owners and their interests, including the periods of ownership, to the Wells Tax Collector, who may then, if he or she so elects, proceed to collect the taxes on those interests as allowed by law.

[Amended 11-6-2007]

- E. If the Tax Collector and Treasurer use the lien procedure described in 36 M.R.S.A. §§ 942, 942-A and 943 to collect delinquent taxes on time-share estates, whatever notice is called for in §§ 942, 942-A and 943 shall be sent to the owner of the time-share estate as required by law. The Tax Collector and Treasurer shall also give to the managing entity or leave at the managing entity's last and usual place of abode or send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice that lists all the time-share estate owners to whom notices have been delivered.

## § 204-6. Violations and penalties.

- A. When a violation of any provision of this article shall be found, the Tax Collector shall inform the managing entity, the municipal officers and the Town Manager of the violation. If the notice does not result in the correction of the violation, the Board of Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking to enjoin the violation and the imposition of civil penalties, that may be appropriate or necessary to enforce this article.
- B. Any managing entity that fails to comply with the provisions of this article shall be punished by a civil penalty of at least \$100 and not more than \$200 per day payable to the Town of Wells and for court costs and reasonable attorney fees incurred by the Town. All such penalties and costs shall be recovered on complaint for the use of the Town. Each day the violation continues after the Town gives notice thereof shall constitute a separate violation.

## § 204-7. Effective date.

This article shall become effective January 3, 2000, for taxes assessed and billed for the fiscal year 2001, which commences July 1, 2000.

## Article II. Active Duty Military Excise Tax Exemption

[Adopted 5-16-2017]

## § 204-8. Authority.

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which expressly authorizes such ordinances.

## § 204-9. Purpose.

The purpose of this article is to grant an excise tax exemption for residents of the Town of Wells who are currently on active duty with the United States Armed Forces.

## § 204-10. Definitions.

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

### **AUTOMOBILE**

A motor vehicle as further defined in 36 M.R.S.A. § 1481(6), as amended.

**DEPLOYED FOR MILITARY SERVICE**

Active duty with the state military forces, or the United States Armed Forces, including the National Guard and Reserves, as defined in 26 M.R.S.A. § 814, as amended.

**PRIMARY VEHICLE**

An automobile with title held by the eligible resident. If such resident owns more than one automobile, the exemption outlined in § 204-10 shall only apply to the automobile on which the least amount of excise tax is owed in the current year.

**UNITED STATES ARMED FORCES**

All branches of the United States Military, including the National Guard and the Reserves of the United States Armed Forces.

## § 204-11. Excise tax exemption; qualifications.

- A. A primary vehicle owned by a resident of the Town of Wells who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station, or base outside the State of Maine, or deployed for military service for a period of more than 180 days and who desires to register that resident's primary vehicle in this state is hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. § 1482.
- B. To apply for this exemption, the resident must present to the excise tax collector of the Town of Wells certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base, or is deployed for military service for a period of more than 180 days.

## Chapter 207. Towing

[HISTORY: Adopted by the Town of Wells as indicated in article histories. Amendments noted where applicable.]

**GENERAL REFERENCES**

Vehicles and traffic — See Ch. 212.

## Article I. General Provisions

[Adopted 7-7-1987 by the Board of Selectmen]

### § 207-1. Purpose and authority.

[Amended 4-10-1996]

This article is enacted pursuant to the authority delegated to the municipal officers by 30-A M.R.S.A. § 3009. In order to protect persons who operate motor vehicles within the municipal boundaries of the Town of Wells, to ensure that the streets and public ways of the Town remain open and free of hazard to the public and to further effectuate the efficient enforcement of the Town's traffic, parking, snow removal and other ordinances, it is necessary to authorize the towing of vehicles and to regulate persons engaged in the business of providing vehicle wrecker or towing and required repair services, to establish maximum rates for such service and to regulate the storage and disposition of vehicles so towed.

### § 207-2. Definitions.

The following words and terms as used in this article shall have the meaning ascribed herein, unless the context otherwise indicates:

### **TOWING LIST**

A list maintained by the Police Department containing the names of those wreckers authorized by the Town to respond to requests for the towing of vehicles made by the Police Department.

### **WRECKER**

A person engaged in the business of, or offering the service of, a vehicle wrecker or towing service, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designed for that purpose.

## **§ 207-3. Vehicle towing policy.**

All wreckers operating within the Town of Wells shall comply with this article and the regulations denominated the "Vehicle Towing Policy," as the same shall be established and from time to time amended by the Chief of Police, provided that the Board of Selectmen shall review and approve the policy and all amendments thereto.<sup>[1]</sup>

[1] *Editor's Note: See Art. II of this chapter.*

## **§ 207-4. Towing of illegally parked vehicles.**

[Amended 4-10-1996]

The following vehicles may be removed, towed, stored and disposed of pursuant to the provisions of this article until all waiver fees established pursuant to 30-A M.R.S.A. § 3009 for all such outstanding notices of violation, if applicable, and also the charges authorized by this article have been paid or until the requirements of this article have been met:

- A. Any vehicle which has accumulated three or more notices of violation of any Town parking regulation for which there has been neither payment of waiver fees nor issuance of court process and which is parked in violation of any such provision; or
- B. Any vehicle which is illegally parked and which is determined by a police officer to:
  - (1) Represent a danger to the public by creating a hazardous or potentially hazardous condition;
  - (2) Obstruct a private or public way; or
  - (3) Obstruct access by fire or other emergency vehicles.
- C. Any vehicle which is parked or left standing between the hours of 11:00 p.m. and 6:00 a.m. in a Town parking lot or a parking lot managed by the Town in which overnight parking is not allowed when a police officer determines that the vehicle is obstructing the operation of street sweeping or other maintenance equipment in the parking lot.

[Added 7-3-2002]

## **§ 207-5. Accidents.**

Any vehicle which has been immobilized as a result of an accident or which, in the opinion of the police officer at the scene, cannot be safely driven from the scene shall be removed in accordance with the Vehicle Towing Policy, except that the wrecker may submit additional

reasonable towing charges for any extra expenses resulting from the accident; provided, however, that any such additional charge shall be subject to approval, modification or disapproval by the Chief of Police or his designee.

## § 207-6. Arrest.

Any vehicle operated by a person who has been arrested for a moving violation, the nature of which prevents the person so arrested from continuing to lawfully operate the vehicle, shall be removed in accordance with the Vehicle Towing Policy.

## § 207-7. Procedure for removal; notice to owner.

Any police officer requesting removal of a vehicle under this article shall, at the time of such removal, or within a reasonable time thereafter if the police officer determines that a delay is justifiable, notify the dispatcher of the intended storage location of the subject motor vehicle. Such information shall be recorded by the dispatcher for use of the Chief of Police. The Chief of Police shall notify by certified mail, return receipt requested, the owner of such vehicle within five business days of the impoundment thereof, the storage location of such vehicle and the requirement of release as set forth in § 207-8. This section shall not apply where an impounded vehicle has been released within the five-day period.

## § 207-8. Disposition of abandoned vehicles.

- A. Any wrecker shall, within 15 days of the towing and storage of a vehicle pursuant to the provisions of this article, notify by registered mail the registered owner of such vehicle or a holder of a security interest therein, if his or her identity can be readily ascertained, that the vehicle has been taken into custody.
- B. If the wrecker has not been able to ascertain the identity of such owner or holder of the security interest therein, he or she shall cause the notice to be published once a week for two consecutive weeks in a newspaper of general circulation in the Town. A copy of such notice shall also be mailed to the Chief of the state police. The notice shall be tendered on forms prescribed and provided by the Chief of Police and shall:
  - (1) Describe the year, make, model and serial number of the stored vehicle;
  - (2) Identify the location of the facility where the vehicle is being held;
  - (3) Note the right to reclaim such vehicle within 60 days after the date of the mailing of the notice or of the final published notice by paying all towing and storage charges and properly following the procedure for doing so; and
  - (4) Indicate that the failure to reclaim such vehicle within the time provided shall be deemed to transfer all rights, title and interest in the vehicle to the wrecker.
- C. Upon failure to reclaim such vehicles within the time period specified above, the licensed wrecker may dispose of such vehicle in the manner authorized by 29-A M.R.S.A. § 1858.  
[Amended 11-7-2000]

## § 207-9. Release of vehicles impounded.

- A. Whenever a vehicle has been removed and stored pursuant to the provisions of this article, it shall not be released until:
- (1) The individual requesting release of such a vehicle presents satisfactory evidence of his or her right to possession and signs a receipt therefor; and
  - (2) The Chief of Police or his designee certifies that all waiver fees and all charges described in this article have been paid, including all costs for towing, required notices and storage of the vehicle; or
  - (3) Until a bond is posted equal to all fees and charges as set forth in § 207-10 of this article; or
  - (4) Upon certification by the Chief of Police or his designee that the individual requesting release of such a vehicle has demonstrated, by providing satisfactory proof of such status, that he or she is unable to pay any accumulated waiver fees by reason of poverty; provided, however, that such person shall have accepted service of process initiating the court proceeding to determine his or her liability for the prescribed penalty for the alleged violation of this article and that such person has paid all charges for towing and storage.
- B. Release of any towed vehicle or any accessory or part thereof from the lot or storage area of the wrecker without written permission from the Chief of Police, if not otherwise punishable under state law, shall be considered a civil violation. This shall apply to any person not the wrecker or owner of the storage area, including the owner of such vehicles.

## § 207-10. Bond.

Whenever any person requests the right to post bond pursuant to § 207-9, such bond shall be given in cash and a receipt shall be given therefor. Such bond money shall be refunded in the amount of the waiver fee for each alleged violation of this article upon acceptance by such person of service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for the alleged violation of this article. Any bond shall be forfeited unless the person posting it requests and accepts service of such process from the Chief of Police within 30 days of posting unless prevented from so doing by the actions or inaction of the Town.

## § 207-11. Refund of charges for impoundment.

Whenever any person obtains a determination from a court of competent jurisdiction that a vehicle was not parked in violation of this article or any other ordinance of the Town at the time it was impounded pursuant to § 207-4, such person shall be reimbursed for the charges for immobilization or for towing and storage pursuant to this article, if paid, and if such charges have not been paid they shall be promptly paid or canceled by the Town.

## Article II. Vehicle Towing Policy

[Adopted 7-28-1987 by the Board of Selectmen]

## § 207-12. Purpose and authority.

This Vehicle Towing Policy is established pursuant to § 207-3. The purpose of this policy is to ensure efficient enforcement of the Vehicle Towing Ordinance and other ordinances of the Town of Wells and to regulate the towing, storage and disposition of the vehicles which are towed, stored or disposed of pursuant to the Vehicle Towing Ordinance.

## § 207-13. Application for inclusion on towing list.

Any wrecker who applies to the Chief of Police or his designee shall be added to the towing list provided that:

- A. Application is submitted on a form provided by the Police Department.
- B. The applicant provides with the application a complete list and description of all equipment and facilities, including vehicles, dollies, storage capacity in the Town of Wells and any other information which the Chief of Police may require.
- C. The Chief of Police shall conduct an investigation into the background of the applicant. If the applicant operated a wrecker service in another jurisdiction the Chief shall contact the law enforcement agency with authority in that jurisdiction and inquire into the background of the applicant. The Chief shall consider any and all consumer complaints, civil and criminal complaints and the driving record of the applicant. The Chief may approve, deny or approve with reasonable conditions based upon the background investigation. If the application is denied or conditions are imposed on the applicant by the Chief of Police, he shall issue a written decision stating the reasons for the denial. The wrecker operator may appeal the Chief's decision to the Wells Board of Selectmen within 10 days of the denial.  
[Amended 10-6-1992]

## § 207-14. Towing list rotation.

- A. Wreckers shall be added to the towing list in the order in which their applications are received by the Chief of Police.
- B. Assignments shall be made in the order in which wreckers appear on the towing list. After an assignment is made to a wrecker, that wrecker shall be rotated to the end of the towing list and all other wreckers on the towing list shall move forward one slot.
- C. Any wrecker who refuses any assignment for any reason other than that the assignment requires specialized equipment which the wrecker does not have shall be considered to have accepted the assignment for purposes of the towing list rotation.

## § 207-15. Insurance.

- A. All wreckers shall maintain the following insurance policies and shall render proof of the same to the Chief of Police:
  - (1) Garagekeepers' policy to cover fire, theft, windstorm, vandalism and explosion in the amount of at least \$50,000. Each vehicle suffering damage or loss shall be deemed a separate claim.
  - (2) Garagekeepers' liability covering bodily injury, death or property damage. The policy shall be maintained at a minimum of \$250,000 per claim, \$500,000 per accident and \$25,000 for property damage.



- (3) Road service liability covering the lifting, hoisting, towing and servicing of vehicles in a minimum amount of \$25,000.
- B. Each policy described in Subsection A above shall include an endorsement by the insurer:
- (1) Providing 30 days' notice to the Chief of Police and the insured of any proposed change in coverage or cancellation.
  - (2) Indemnifying and holding harmless the Town of Wells and any of its police officers or employees from any claim or claims arising from or related to any assignment made pursuant to this policy and the Vehicle Towing Ordinance.<sup>[1]</sup>
- [1] *Editor's Note: See Art. I of this chapter.*
- C. Any wrecker who does not maintain insurance as required by this section or who receives notice that his coverage has lapsed or no longer conforms to this section shall be removed from the towing list immediately.
- D. Wreckers shall notify the Chief of Police or his designee of any and all claims made under the insurance policies required by this section.

## § 207-16. Solicitation of business.

No wrecker shall respond to the scene of an accident or emergency for the purpose of towing any vehicle involved therein without having received an assignment pursuant to the Vehicle Towing Ordinance.<sup>[1]</sup>

[1] *Editor's Note: See Art. I of this chapter.*

## § 207-17. Indemnity.

All wreckers shall enter into an indemnification agreement with the Town of Wells which shall hold the Town and its police officers and other employees harmless from all claims for damages to property and injuries to persons resulting from a wrecker's negligence in removing, towing, storing or disposing of a vehicle.

## § 207-18. Request for specific wrecker.

If a request is received from a vehicle owner or operator at the scene for a specific wrecker, that request shall be honored if practicable, and the wrecker requested shall not lose his place on the towing list.

## § 207-19. Recommendations.

No police officer, employee, officer or agent of the Town of Wells shall recommend a wrecker to the public or any member thereof.

## § 207-20. Complaints from public.

The Chief of Police shall maintain a record of complaints against wreckers. Depending on the nature of the complaint, the Chief of Police may notify that wrecker that, within 10 days, he is

to appear before the Selectmen at a public hearing in order to show cause as to why his name should not be removed from the towing list.

## Chapter 212. Vehicles and Traffic

[HISTORY: Adopted by the Board of Selectmen of the Town of Wells 10-5-1982; amended in its entirety 6-26-1984. Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Bicycles — See Ch. 88.

Towing — See Ch. 207.

### 212a Appendix A

## § 212-1. Title.

This chapter shall be known and may be cited as the "Revised Parking and Traffic Ordinance of the Town of Wells, Maine."

## § 212-2. Statutory authority.

[Amended 4-10-1996; 8-20-2002]

The Board of Selectmen, in accordance with 30-A M.R.S.A. § 3009, hereby enacts the following chapter regulating the operation of vehicles, including taxicabs and the designation of locations for taxicab stands, within the Town of Wells, Maine.

## § 212-3. Definitions.

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

### CHIEF

The Police Chief of the Town of Wells or an authorized designee.

[Added 8-20-2002]

### COMMERCIAL FISHING

A watercraft used in (a) attempting to catch fish or other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels, (b) charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds; and shall exclude fishing for personal use or noncommercial sport fishing. Commercial fishing shall include only those that work at least 90 calendar days per year out of Wells Harbor.

[Added 6-1-2010]

### COMMERCIAL FISHERMEN

Individuals who are routinely engaged in commercial fishing.<sup>[1]</sup>

[Added 6-1-2010]

### FOOD TRUCK

A vehicle or cart primarily providing food and drink for members of the public, in parking lots, outside the traveled way of a public or private street, or on private property pursuant to a properly approved site plan, which is not stationary but is capable of moving from site to site. The term "food truck" does not include ice cream trucks.

[Added 1-16-2018]

**ICE CREAM TRUCK**

A vehicle, not to exceed 20 feet in length and eight feet in width, from which the operator vends only pre-packaged frozen dairy or frozen water-based food products, soft serve, or hand-dipped frozen dairy products or frozen water-based food products, and pre-packaged beverages. No trailer or other such wheeled extension may be attached to an ice cream truck.

[Added 1-16-2018]

**LOCATION**

Any single parcel or combination of contiguous parcels that are owned or controlled by a single entity or affiliated entities.

[Added 1-16-2018]

**MOTOR VEHICLE**

Any self-propelled vehicle not operated exclusively on tracks, including motorcycles.

**OPERATE**

To offer for sale food, beverage, and other permitted items from a food truck.

[Added 1-16-2018]

**OPERATE WITHIN THE TOWN**

The act or business of picking up a person(s) in a taxicab within the Town of Wells for transportation to locations within or outside the Town. Operation within the Town does not include the discharge of a person(s) from a taxicab within the Town, provided the trip originated outside the Town.

[Added 8-20-2002]

**OPERATOR**

Any person operating or permitted to operate a food truck.

[Added 1-16-2018]

**OWNER**

A person owning any taxicab used in the taxi business.

[Added 8-20-2002]

**PERSON**

Includes an individual, partnership, corporation or other legal entity.

[Added 8-20-2002]

**PUBLIC WAY**

Public way means a way, owned and maintained by the state, a county or a municipality, over which the general public has a right to pass. This includes the area of the Town's right-of-way along the side of each public way.

[Amended 11-7-2000; 6-1-2010]

**RECREATIONAL VEHICLE**

Includes, but is not limited to, motor homes, campers, motorcycles, motorbikes, minibikes, off-the-road bikes or dirt bikes, so-called, four-wheel-drive vehicles and snowmobiles.

**STANDING VEHICLE**

A vehicle not in motion, whether occupied, motor running, in gear or not.

[Added 6-1-2010]

**STREET**

Includes all public ways and public easements.<sup>[2]</sup>

[Amended 11-7-2000]

**TAXICAB**

A motor vehicle used for the transportation of one or more individuals for compensation, but excluding buses, trolleys, carpools, and vehicles commonly referred to as "limousines."

[Added 8-20-2002]

**TAXICAB COMPANY**

A person engaged in the business of operating more than one taxicab within the Town or of employing or otherwise authorizing one or more persons to operate a taxicab within the Town.

[Added 8-20-2002]

**TAXICAB OPERATOR**

A person who operates a taxicab.

[Added 8-20-2002]

**TOWN**

The Town of Wells, Maine.

[Added 8-20-2002]

**TOWN CLERK**

The Wells Town Clerk or a duly authorized designee.

[Added 8-20-2002]

**VEHICLE**

Includes all kinds of conveyances on ways for persons and for property, including those propelled or drawn by human power.

[1] *Editor's Note: The former definition of "mobile selling unit," which immediately followed this definition, was repealed 1-16-2018.*

[2] *Editor's Note: The definitions of "taxicab," "taxicab company," and "taxicab operator," added 8-20-2002, which immediately followed this definition, were repealed 6-1-2010.*

## § 212-4. Restrictions on vehicle weights on posted streets.

[Added 8-20-2002<sup>[1]</sup>; amended 9-3-2002; 1-16-2018]

- A. Purpose and authority. The purpose of this § 212-4 is to prevent damage to streets and bridges in the Town of Wells, which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of Town streets and bridges, and to reduce the public expense of their maintenance and repair. This chapter is adopted by the Wells Board of Selectmen pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.
- B. Definitions. Terms used in § 212-4 which are undefined in this chapter shall be given the meanings assigned to them by Title 29-A of the Maine Revised Statutes Annotated, as amended. Said Title 29-A shall also govern the construction of such words. Any terms undefined by this chapter and in Title 29-A shall be given their common and ordinary meanings.
- C. Restrictions and notices.
  - (1) The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the Town streets and bridges to which the restrictions shall apply.

- (2) Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restrictions during any applicable time period on any street or bridge so posted unless otherwise exempt as provided herein.
- (3) Pursuant to 29-A M.R.S.A. § 2395, as amended, the notice shall contain, at a minimum, the following information:
  - (a) The name of the street or bridge;
  - (b) The time period during which the restriction applies;
  - (c) The date on which the notice was posted;
  - (d) The signature of the Road Commissioner; and
  - (e) A reference to the Road Commissioner's authority to exempt the road or bridge from restriction depending on temperature and road conditions. The notice shall be conspicuously posted at each end of the restricted portion of the street or bridge in a location clearly visible from the travelled way.

D. Exemptions. The following vehicles are exempt from this chapter:

- (1) Any emergency vehicle, e.g., a firefighting apparatus or ambulance, while responding to an emergency or routine training or maintenance activities;
- (2) Any vehicle engaged in highway maintenance or repair under the direction of the State of Maine or the Town of Wells;
- (3) Any school transportation vehicle while transporting students;
- (4) Any public utility vehicle while providing emergency service or repairs;
- (5) Any tow truck or wrecker transporting a vehicle of legal weight from a posted highway;
- (6) Any vehicle delivering home heating fuel, provided that any such vehicle is operating in accordance with a permit issued by the Maine Department of Transportation under 29-A M.R.S.A. § 2395(4);
- (7) During a declared drought emergency, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well;
- (8) Any two-axle vehicle registered for a gross weight in excess of 23,000 pounds and less than or equal to 34,000 pounds that is carrying any of the following:
  - (a) Petroleum;
  - (b) Groceries;
  - (c) Bulk milk;
  - (d) Solid waste;
  - (e) Animal bedding;
  - (f) Returnable beverage containers;

- (g) Sewage from private septic tanks or porta-potties; or
  - (h) Medical gases.
- E. Permits. The owner or operator of any vehicle not otherwise exempt as provided in Subsection D above may apply, in writing, to the Director of Public Works, or his/her designee, for a permit to operate on a posted way or bridge notwithstanding the restriction.
- (1) Factual findings required: The Director of Public Works, or his/her designee, may issue a permit only upon making all of the following findings:
    - (a) No other route is reasonably available to the applicant;
    - (b) It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
    - (c) The applicant has tendered cash, a bond, or other suitable security running to the Town of Wells in an amount sufficient, in the opinion of the Director of Public Works or his/her designee, to repair any damage to the way or bridge which may reasonably result from the applicant's use of the same.
  - (2) Permit applications denied notwithstanding factual findings. Even if the Director of Public Works or his/her designee makes the above findings, he/she need not issue a permit if they determine that the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the Town of Wells. He/she may also limit the number of permits issued or outstanding as may, in his/her judgment, be necessary to preserve and protect the Town's highways and bridges. In making such determinations, the Director of Public Works or his/her designee shall consider the following factors:
    - (a) The gross registered weight of the vehicle;
    - (b) The current and anticipated condition of the way or bridge;
    - (c) The number and frequency of vehicle trips proposed;
    - (d) The cost and availability of materials and equipment for repairs;
    - (e) The extent of use by other exempt vehicles; and
    - (f) Such other circumstances, if any, in their judgment, be relevant.
  - (3) Reasonable conditions allowed. The Director of Public Works or his/her designee may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight of a permitted vehicle and the number or frequency of vehicle trips. Such conditions shall be clearly noted on the issued permit.
- F. Administration and enforcement. This § 212-4 shall be administered and may be enforced by the municipal officers, the Director of Public Works, or any duly authorized law enforcement officer.
- G. Penalties. Notwithstanding the penalty for violations of other sections of this chapter as set forth in § 212-12 hereof, any violation of this section shall be a civil violation subject to a civil penalty of not less than \$250 nor more than \$1,000. Each violation shall be deemed a separate offense. In addition to any penalty, the Town may seek restitution for the cost of repairs to any damaged street or bridge, to the extent that such damage is not covered

by bond provided by a permit applicant as outlined in Subsection **E(1)(c)** above, and reasonable attorney fees and costs. Prosecution shall be in the name of the Town and shall be brought in Maine District Court.

H. Severability; effective date.

- (1) In the event that any portion of this § **212-4** is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.
- (2) This amendment shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

[1] *Editor's Note: This ordinance also redesignated former §§ 212-4 through 212-11 as §§ **212-5** through **212-12**, respectively.*

## § 212-5. Operation of vehicles.

- A. No person shall operate a motor vehicle upon any street so as to make or cause any loud, unusual or unnecessary noise against the peace, quiet and good order of the community.
- B. No person shall operate any vehicle at a speed in excess of any posted speed limits on any street.
- C. No person shall operate a vehicle in excess of 10 miles per hour in any Town parking lot.  
[Amended 11-7-2000]
- D. No motor vehicles shall be operated on the ocean beaches, Ell Pond Beach or any public way adjacent to the beaches, with the exception of emergency vehicles, Wells Highway Department vehicles or those vehicles used to launch or retrieve watercraft. However, the Town Manager may grant to certain individuals permission to use a vehicle to harvest seaweed or other sea products.
- E. It shall be unlawful at any time for any person or persons to engage in roller-skating, skateboarding or frisbee or ball throwing on any street or bridge within the Town or in the Wells Beach Casino parking lot.
- F. It shall be unlawful at any time for a person or persons to engage in rollerblading/in-line skating in the following public areas, which includes on sidewalks, pedestrian walk areas, ramps, street rights-of-way, gravel lanes and shoulders and pedestrian seating and entrance areas to the beach:  
[Added 8-1-1995]
  - (1) Entire length of Mile Road from Route 1 to Casino Square parking area.
  - (2) Casino Square parking area from Mile Road to Ledge Lane.  
[Amended 6-1-2010]

## § 212-6. Parking of vehicles.

- A. No person shall park or leave standing any vehicle, including but not limited to any food truck, on or at any of the following:  
[Amended 8-27-1985; 5-20-1986; 1-16-2018]
  - (1) On any sidewalk or any public right-of-way to the beaches.
  - (2) Upon any paved or traveled portion of any public way, unless otherwise posted.



[Amended 6-1-2010]

- (3) Upon the traveled portion of any gravel street.
- (4) Within 15 feet either side of a fire hydrant.
- (5) Within 20 feet in any direction of any intersection.
- (6) In such a manner as to interfere with passage of a vehicle in or out of any driveway or public way.
- (7) In any place where, as per order of the Selectmen, no parking signs have been posted or streets have been so marked or curbs have been painted yellow.
- (8) In any place where the Police Chief has ordered the posting of emergency "no parking" signs. The Police Chief may prohibit parking along any street when parking would interfere with temporary events, such as parades or festivals, or in an emergency, when in the Police Chief's opinion parked vehicles would interfere with traffic movement or public safety. "No parking" signs shall be removed at the end of the temporary event or when the emergency has passed.

[Added 9-2-2003]

- (9) Upon any paved or traveled portion of any private road or way so as to impair, impede or block access for any emergency vehicle.

[Added 6-1-2010]

- B. No person shall stop, stand or park a vehicle other than between designated parking lines as provided in any public parking area that is so marked. Whenever possible, motorcycles, mopeds and other motor-driven cycles shall use designated parking spaces.
- C. It shall be illegal to park any vehicle except a passenger car, motorcycle, pickup truck without protrusions or recreational vehicle measuring less than 20 feet in length at the Wells Beach parking lot (known as the "Casino parking lot"), the Gold Ribbon parking lot or at the Drakes Island parking lot (known as the "Jetty parking lot").
- [Amended 11-4-2003]
- D. It shall be illegal to park a vehicle, other than one displaying a handicapped placard or plate, in a space designated for the handicapped.
- E. It shall be illegal to park or leave standing any vehicle in any of the Town's parking lots from 11:00 p.m. until 6:00 a.m. This section applies to any Town parking lot or a parking lot managed by the Town pursuant to an agreement with the owner allowing public parking in the lot, regardless of whether a fee is charged for parking. This section shall not apply to any person authorized to park in the area of the Eastern Shore Parking Lot and the Wells Harbor Parking Lot. Without the written permission of the Wells Police Department, overnight parking at the Wells Harbor Parking Lot and Eastern Shore Parking Lot is limited to 72 consecutive hours while actively engaged in commercial fishing.
- [Amended 7-3-2002; 6-1-2010]
- F. It shall be illegal for any person to sleep in any motor vehicle located on any public way or in any of the Town's parking lots between the hours of 11:00 p.m. and 6:00 a.m., unless special provisions are made in advance with the Town.

[Added 7-19-2016<sup>[1]</sup>]

[1] *Editor's Note: This ordinance also redesignated former Subsections F through I as Subsections G through J, respectively.*



- G. No person shall park or leave standing, attended or unattended, any food truck on any public way or parking lot, unless pursuant to a valid outdoor festival or special amusement permit, as outlined in Chapter **150** of this Code of Ordinances.  
[Amended 1-16-2018]
- H. From November 1 to April 1 of each year, no person shall park any vehicle within 10 feet of a paved way that is plowed by the Town during a winter storm and within 72 hours following it to allow proper cleanup to occur. A law enforcement officer may cause the removal to a suitable parking place, at the expense of the registered owner, of a vehicle interfering with snow removal. A reasonable effort shall be made to contact the owner of the vehicle prior to towing. A telephone call to the registered owner, if such owner can be determined, shall constitute a reasonable effort.  
[Added 6-6-1995; amended 6-1-2010]
- I. No person may stop, park or leave standing a vehicle at a taxicab stand established and designated pursuant to § **150-120** of this Code, except a taxicab operator assigned to the stand by the municipal officers.  
[Added 8-20-2002; amended 6-1-2010]
- J. The Town may designate and mark by appropriate signs, parking spaces for the use of the Town lifeguards. Parking in these areas shall be restricted from 9:00 a.m. to 5:00 p.m.  
[Added 6-1-2010]
- K. No person shall park or leave standing, attended or unattended, any ice cream truck on any public way or parking lot in excess of 15 minutes' duration. All such vehicles must leave the public way or parking lot for at least 30 minutes before reentering said public way or parking lot.  
[Added 1-16-2018]

## § 212-7. One-way streets.

[Amended 6-1-2010]

The following streets are hereby designated as one-way streets. No person shall cause or permit a vehicle to move on or along any of the one-way streets designated below in an opposite direction to that in which traffic is permitted.

<b>Name of Street</b>	<b>Direction</b>	<b>Limits</b>
Gold Ribbon Drive [Added 3-5-2013]	North	Entire length
Ledge Lane	West	From Wells Beach parking area to Church Street
Shady Lane	South	From CMP Pole #8 to the intersection of Eaton Avenue and Summit Terrace

## § 212-8. Parking zones and restricted no-parking zones.

[Amended 8-27-1985; 5-20-1986; 5-22-1990; 6-5-1990; 4-27-1995; 6-6-1995; 4-10-1996; ; 11-16-2004; 6-1-2010; 3-5-2013]

The following streets are hereby designated as no-parking zones:

- A. The following streets are hereby designated as parking zones [exceptions to § **212-6A(2)**]:

<b>Name of Street</b>	<b>Side</b>	<b>Limits</b>
-----------------------	-------------	---------------

<b>Name of Street</b>	<b>Side</b>	<b>Limits</b>
Central Avenue	North	From fire station to Main Street
Gold Ribbon Drive	West	From 50 feet from both intersections of Webhannet Drive for a distance of 200 feet
Harbor Road	Both	Parking off the paved portion of the roadway is allowed
Ocean Avenue	East	15 minutes allowed between CMP Pole Nos. J-75 and J-74 for customer use
Webhannet Drive	East	Between CMP Pole Nos. J-39 and J-28 along the seawall

- B. The following streets are hereby designated as restricted no parking zones. No parking within 10 feet of paved portion of public way unless otherwise posted [additional restrictions to § 212-6A(2)]:

<b>Name of Street</b>	<b>Side</b>	<b>Limits</b>
Bourne Avenue	Both	Entire length
Drakes Island Road*	Both	Entire length
Eldridge Road	Both	Entire length
Furbish Road	Both	Entire length
Island Beach Road	Both	Entire length
Mile Road	Both	Entire length
Post Road	Both	Entire length
Sanford Road (Route 109)	Both	Entire length

Notes:

\* During shellfish harvesting season, this parking restriction shall be suspended on the north side of the road for those holding a valid shellfish license.

## § 212-9. Taxicab regulations.

- A. Inspection. Each taxicab operated in the Town shall have a current State of Maine inspection sticker at all times when operating in the Town.
- B. Each vehicle operated as a taxicab within the Town shall be identified on the exterior of the vehicle as a taxicab and shall post a copy of the fares charged in the vehicle so that the fares are visible from the passenger section of the vehicle.
- C. No taxicab operator may:
- (1) Use abusive or profane language to or in the presence of a member of the public, the driver of another taxicab, a passenger or Town official, including a police officer while operating a taxicab;
  - (2) Keep a taxicab in an unsafe, unclean or unsanitary condition;
  - (3) Harass or interfere with the operation of any other taxicab operator;
  - (4) Stop or park a taxicab other than in a designated taxicab stand except in conformity with parking regulations and while actually picking up or discharging passengers; or
  - (5) Deceive or attempt to deceive any person with respect to the amount of a fare.

## § 212-10. Taxicab stands.

The municipal officers are hereby authorized to establish taxicab stands on such streets and in such places, including the Wells Transportation Center, and in such manner and numbers as the municipal officers determine appropriate to provide for the public convenience and to be of benefit to the public. Each taxicab stand shall be designated and the location identified by appropriate signage. The municipal officers may assign to licensed taxicab operators or companies or to a taxicab operator authorized to do business in Wells pursuant to Article XII of Chapter 150, Licenses and Permits, of this Code the right to engage in providing taxicab services using said stands for the benefit and convenience of the public. The municipal officers may revoke, alter or amend any established stand or any assignment to any established stand. The municipal officers may establish such rules for taxicab operators assigned to taxicab stands as the municipal officers determine are necessary or appropriate to the safe, efficient and fair operation of the taxicab stands.

## § 212-11. Location of stop signs.

[Added 9-15-1998]

- A. Stop signs in place as of September 1, 1998. The Chief of Police shall prepare an inventory of all stop signs located at any intersection within the municipal boundaries of the Town of Wells and submit the inventory to the Board of Selectmen for review on or before January 4, 1999. The Board of Selectmen shall review the inventory list of stop signs and adopt the list with additions or deletions as appropriate following notice and hearing in the manner required for an amendment of this chapter.
- B. Stop signs proposed after September 1, 1998. The Board of Selectmen may approve the location of any new stop sign at an intersection within the Town of Wells when the Board finds that a stop sign will promote the public safety, improve the flow of traffic or protect pedestrians, bicyclists or others using the streets. Anyone proposing a new stop sign at any intersection in Wells shall make a written request to the Board of Selectmen, outlining the reason for the request. The Board of Selectmen shall seek the written recommendation of the Police Chief regarding the proposed stop sign. After notice and hearing in the manner required for an amendment of this chapter, the Board of Selectmen may authorize the placement of a stop sign at any intersection, and the inventory of stop sign locations shall be updated to reflect the location of the new sign.
- C. Stop sign inventory. The Inventory of Stop Signs, set forth in **Appendix A** to this chapter and as the same may be amended in accordance with this section, is incorporated herein and made a part of this chapter.

## § 212-12. Enforcement.

The Town of Wells Police Department is hereby authorized to enforce the provisions of this chapter and to issue tickets to violators thereof. Violators will be notified of any violation in the form of a parking ticket, said tickets to be designed by the Chief of Police.

## § 212-13. Towing of vehicles.

- A. Tow-away zones. In addition to the authority to remove vehicles delegated by Maine statutes, any Wells police officer may order the removal of any vehicle illegally parked in the following areas:

[Amended 3-25-1986; 7-5-1994; 7-3-2002; 6-1-2010]

- (1) That portion of Bourne Avenue from the bridge to the intersection of Bourne Avenue and Ocean Avenue.
  - (2) That portion of Ocean Avenue from the intersection of Ocean Avenue and Bourne Avenue to the so-called "Moody parking lot" in Ogunquit.
  - (3) Any of the Town-owned public ways leading from Atlantic Avenue or Ocean Avenue to the Atlantic Ocean.
  - (4) Any of the Town-owned parking lots or any parking lot managed by the Town pursuant to an agreement with the owner allowing public parking in the lot, whether or not a fee is charged for parking.
  - (5) The portion of Bald Hill Road on both sides from the intersection of Quarry Road south 500 feet and on Quarry Road west 1,100 feet from the intersection of Bald Hill Road on both sides.
- B. The Chief of Police is authorized to enter into an agreement with tow-crane operators in order to establish uniform removal and storage fees.
- C. The Town shall notify the registered owner of the vehicle by personal delivery in hand by a police officer or by certified mail, return receipt requested, to the address available from the Motor Vehicle Registration Department of the state in which the vehicle is registered, provided that the vehicle is not claimed within 24 hours.
- D. Prior to the release of any impounded vehicle, the owner or operator shall pay all outstanding fines and penalties, as well as removal and storage fees.

[1] *Editor's Note: See also Ch. 207, Towing.*

## § 212-14. Violations and penalties.

[Amended 6-1-2010]

- A. Whoever violates or fails to comply with the provisions of any section of this chapter shall be guilty of a traffic infraction and shall be punished by a civil penalty of \$35 if paid within 30 days of the violation or, if after 30 days and before a court summons is issued, a civil penalty of \$70, to be paid to the Town of Wells Police Department. The fine amount for violations of § 212-6D (handicapped parking) shall match the state fine for violation of Maine Title 29-A, § 521-12.
- B. A summons may be issued answerable to the appropriate District Court of Maine, for any violation of this chapter, and if the civil penalty is not paid to the Town of Wells Police Department before a summons is issued, the violator shall be subject to a civil penalty of not less than \$100 and not more than \$150, to be recovered for the use of the Town of Wells. For the purpose of this ordinance, the registered owner of a vehicle shall be deemed to be the responsible party, with the exception of rental vehicles if the rental company furnishes the name of the person renting the vehicle at the time of the parking violation.
- C. All money collected under this chapter shall be turned over to the Town Treasurer for use of said Town.

## § 212-15. Parking exemptions.

[Added 6-1-2010]

- A. Vehicles exempt from the Town Parking Ordinance include the following when used in the scope of their duties: emergency vehicles (i.e., police, fire, ambulance, EMT) and public utility vehicles (water district, power company, street maintenance).
  - B. Vehicles which are allowed up to fifteen-minute parking when used in the scope of their employment as long as not to prevent access to/for emergency vehicles include: commercial delivery/supply vehicles (UPS, FedEx, U.S. Postal Service), commercial service vehicles (cable, telephone, landscaping) and ice cream trucks.
- [Amended 1-16-2018]

## Part III, Regulations

### Chapter 230. Ethics, Code of

[HISTORY: Adopted by the Town of Wells 4-18-1995. Amendments noted where applicable.]

#### **GENERAL REFERENCES**

Personnel policies — See Ch. 49.

#### § 230-1. Declaration of policy.

The proper operation of democratic government requires that Selectmen and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used simply for personal gain; and that such Selectmen and their appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established pursuant to 30-A M.R.S.A. § 2605 for all Selectmen and all members and associate members of the Zoning Board of Appeals, Planning Board, Personnel Advisory Board, Assessment Review Board, Board of Voter Registration, Budget Committee, Town Conservation Commission, Shellfish Conservation Committee, Historic Preservation Commission, Recreation Commission and the Capital Improvement Committee.

#### § 230-2. Definitions.

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

##### **BOARD**

The Zoning Board of Appeals, Planning Board, Personnel Advisory Board, Assessment Review Board, Board of Voter Registration and any other municipal board which exists or may be created.

##### **BOARD MEMBER**

Any member or associate member of a board.

##### **BOARD OF SELECTMEN**

For purposes of this code, references to the "Selectmen" or to the "Board of Selectmen" shall be construed to mean the Selectmen of the Town of Wells and any of the committees or subcommittees thereof.

##### **BUSINESS**

Any corporation, partnership, individual, sole proprietorship, joint venture or any other legally recognized entity organized for the purpose of making a profit.

**COMMISSION**

The Town Conservation Commission, Historic Preservation Commission, Recreation Commission and any other municipal commission which exists or may be created.

**COMMISSION MEMBER**

Any member or associate member of a commission.

**COMMITTEE**

The Budget Committee, Capital Improvement Committee, Shellfish Conservation Committee and any other municipal committee which exists or may be created.

**COMMITTEE MEMBER**

Any member or associate member of a committee.

**FINANCIAL INTEREST**

A direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of stock.

**IMMEDIATE FAMILY**

A spouse and the following when living in the household of a Selectman, board member, committee member or commission member: children, parents, brothers and sisters.

**SELECTMAN**

Any member of the Town of Wells Board of Selectmen.

**SPECIAL INTEREST**

A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution, or the approval or disapproval thereof, by the Selectmen, board, committee or commission and which interest is not shared by the general public.

**TOWN EMPLOYEE**

Any individual working for, on a permanent or temporary basis, and drawing a salary from the Town of Wells, except employees of the School Department. The term "Town employee" shall not include consultants or special personnel providing services on a short-term contractual basis.

## § 230-3. Standards of conduct.

The purpose of this code is to establish ethical standards of conduct for all Selectmen, board members, committee members and commission members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the Town of Wells.

- A. Statutory standards. There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this policy. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics and shall apply to all Selectmen, board members, committee members or commission members of the Town of Wells whenever applicable as if more fully set forth therein, to wit:

- (1) 17 M.R.S.A. § 3104, Conflicts of Interest; Purchases by the State.

- (2) 17-A M.R.S.A. § 456, Tampering with Public Records or Information.
- (3) 17-A M.R.S.A. § 602, Bribery in Official and Political Matters.
- (4) 17-A M.R.S.A. § 603, Improper Influence.
- (5) 17-A M.R.S.A. § 604, Improper Compensation for Past Action.
- (6) 17-A M.R.S.A. § 605, Improper Gifts to Public Servants.
- (7) 17-A M.R.S.A. § 606, Improper Compensation for Services
- (8) 17-A M.R.S.A. § 607, Purchase of Public Office.
- (9) 17-A M.R.S.A. § 608, Official Oppression.
- (10) 17-A M.R.S.A. § 609, Misuse of Information.
- (11) 17-A M.R.S.A. § 903, Misuse of Entrusted Property.
- (12) 21-A M.R.S.A. § 504, Persons Ineligible to Serve.
- (13) 30-A M.R.S.A. § 2605, Conflicts of Interest.
- (14) 30-A M.R.S.A. § 5122, Interest of Public Officials, Trustees or Employees.

B. Contracts, purchases and employment.

- (1) No Selectman, board member, committee member or commission member shall participate directly by means of deliberation, approval or disapproval or recommendation in the purchase of goods and services for the Town, and the award of any contracts with the Town, except as permitted under the Town's purchasing regulations and under the laws of the State of Maine, where to his or her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:
  - (a) Himself or herself or a member of his or her immediate family;
  - (b) A business in which he or she or a member of his or her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
  - (c) Any other person or business with whom or which he or she or a member of his or her immediate family is in business or is negotiating or has an arrangement concerning future employment.
- (2) No Selectman, board member, committee member or commission member shall participate by means of deliberation, approval or disapproval or recommendation in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, as the case may be, where said applicant or employee is:
  - (a) A member of his or her immediate family; or
  - (b) A person with whom either he or she or a member of his or her immediate family is in business.

C. Disclosure of confidential information. No Selectman, board member, committee member or commission member shall, without proper legal authorization, disclose

confidential information concerning the property, government or affairs of the Town; nor shall he or she use such information to advance the financial or private interest of himself or herself or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Selectman, board member, committee member or commission member only because of his or her position with the Town and is not a matter of public record. Information received and discussed during an executive session of the Wells Selectmen or any town agency called pursuant to 1 M.R.S.A. § 405 et seq. shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

- D. Gifts and favors. No Selectman, board member, committee member or commission member shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person and/or business who or which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town, nor shall any Selectman, board member, committee member or commission member accept any gift, favor or thing of value that tends to influence him or her in the discharge of his or her official duties or grant in the discharge of his or her official duties any improper favor, service or thing of value. Nothing herein shall prohibit the acceptance of gifts or favors by Selectmen, board members, committee members or commission members from members of their immediate families.
- E. Use of town property. No Selectman shall use or permit the use of any Town-owned property, including but not limited to motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established.
- F. Representing third party interest before town agencies. No Selectman shall either appear on behalf of any third party interest before any Town agency or represent a third party interest in any action, proceeding or litigation in which the Town or one of its agencies is a party. Nothing herein shall prohibit a Selectman, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any Selectman on behalf of his or her personal interest, from appearing before a Town agency. No board member, committee member or commission member shall appear on behalf of any third party interest before a Town agency of which he or she is a current member. Nothing herein shall prohibit a board member, committee member or commission member, on behalf of his or her personal interest, from appearing before any Town agency, including that of which he or she is a current member.
- G. Conflicts of interest. Agenda items.
  - (1) Deliberation and vote prohibited. No Selectman, board member, committee member or commission member shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision-making process, on any agenda item before his or her collective body in which he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally.
  - (2) Disclosure of conflict. Any Selectman, board member, committee member or commission member who believes that he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure. Additionally, any Selectman, board member, committee member or commission member who believes that any fellow Selectman, board member, committee member or commission member, or a member of such fellow Selectman's, board member's, committee member's or commission member's immediate family has a financial or special interest, other



than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure.

- (3) Determination of conflict. Once the issue of conflict has been initiated relative to an individual Selectman, board member, committee member or commission member and disclosure has been made as provided above, such individual's fellow Selectmen, board members, committee members or commission members shall vote on whether or not such individual shall be excused from participating in the deliberation or vote, or otherwise taking part in the decision-making process, on the relevant agenda item. Such individual shall be excused only upon a vote of the majority of his or her fellow Selectmen, board members, committee members or commission members then present that a conflict of interest in fact exists.
- (4) Avoidance of appearance of conflict. To avoid the appearance of a violation of this section, once any individual Selectman, board member, committee member or commission member is determined to have a conflict of interest in respect to any agenda item, said individual shall immediately remove himself or herself from the meeting room or to the area of the room occupied by the general public. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual Selectman, board member, committee member or commission member to remove himself or herself for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by the other members and the right to abstain from voting on the item has been granted.
- (5) Personal interest. Nothing herein shall be construed to prohibit any Selectman, board member, committee member or commission member from representing his or her own personal interest by appearing before his or her collective body on any such agenda item.
- (6) Political activities.
  - (a) No Selectman, board member, committee member or commission member shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the Town.
  - (b) In conjunction therewith, no Selectman, board member, committee member or commission member may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from Town employees for political purposes. No Selectman, board member, committee member or commission member may distribute pamphlets or handbills while he or she is performing his or her official functions and duties with the Town. Nothing herein shall be construed to prohibit any Selectman, board member, committee member or commission member from participating in the political process in his or her capacity as a private citizen.
- (7) Incompatible employment of office. No Selectman, board member, committee member or commission member shall occupy any other office, elected or appointed, in any other governmental entity when the duties of such office are incompatible with the proper discharge of his or her official duties with the Town. For purposes of this code, the occupancy of any office, elected or appointed, with any other governmental entity by any Selectman, board member, committee member or commission member is hereby prohibited in any one of the following circumstances:

- (a) Where the duties of the other office make it a physical impossibility to discharge the duties of the Town position;
- (b) Where one office is a subordinate of the other;
- (c) Where one office carries the power of removal of the other; or
- (d) Where the occupancy of both offices is otherwise prohibited by law.

## § 230-4. Violations and penalties.

In addition to any other penalties or remedies as may be provided by law, violation of this code shall constitute cause for censure, after notice and hearing conducted by the Selectmen. A majority of the Wells' Selectmen shall conduct such proceedings.

## § 230-5. Severability.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this code.

## Chapter 260. (Reserved)

Former Ch. 260, Subdivision of Land, was renumbered and recodified as Ch. 202, Subdivision of Land, 4-16-2004. See Ch. 202, Subdivision of Land for current provisions.

## Appendix

### Chapter A276. Special Acts

#### § A276-1. Special Acts

The following is a listing of subjects found in Title 30-A of the Maine Revised Statutes Annotated which are of special interest to the Town of Wells:

#### Reference

Ch. 101, §§ 2001-2005  
 Ch. 111, §§ 2101-2109  
 Ch. 121, §§ 2501-2556  
 Ch. 123, §§ 2601-2705  
 Ch. 123, Subchapter II, §§ 2631-2639  
 Ch. 123, Subchapter III, §§ 2651-2654  
 Ch. 123, Subchapter IV, §§ 2361-2364  
 Ch. 123, Subchapter V, § 2691  
 Ch. 123, Subchapter VI, §§ 2701-2705  
 Ch. 125, §§ 2751-2757  
 Ch. 127, §§ 2801-2802

#### Subject

General provisions  
 Home rule  
 Meetings and elections  
 Municipal officials  
 Town Manager Plan  
 Municipal Clerks  
 Law enforcement officers  
 Board of Appeals  
 Municipal employment  
 Municipal records  
 Municipal reports

**Reference**

Ch. 141, §§ 3001-3012  
 Ch. 183, Subchapter I, §§ 3751-3760  
 Ch. 183, Subchapter II, §§ 3781-3784  
 Ch. 183, Subchapter III, §§ 3801-3872  
  
 Ch. 183, Subchapter IV, § 3901  
 Ch. 183, Subchapter V, §§ 3101 and 3931  
 Ch. 187, §§ 4301-4457  
 Ch. 215, Subchapter V, Art. 2, §§ 2752-2757  
 Ch. 215, Subchapter VI, §§ 3960-3964-A  
 Ch. 221, §§ 5601-5604  
 Ch. 221, Subchapter VIII, §§ 5821-5826  
 Ch. 229, Subchapter II, §§ ~~3851-3854~~  
 Ch. ~~230~~, §§ 4061-A - 4067

**Subject**

Ordinances  
 Junkyards and automobile graveyards  
 Closing-out sales  
 Innkeepers, victualers and lodging houses  
 Junk dealers  
 Lunch wagons  
 Planning and land use regulations  
 Licenses  
 Pawnbrokers  
 Town Treasurer  
 Accounts and audits  
 Conservation Commissioners  
 Mobile home parks

## Disposition List

### Chapter DL. Disposition List

The following is a chronological listing of legislation of the Town of Wells adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was adopted at the November 7, 2000, election.

### § DL-1. Disposition of legislation.

<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
4-7-2001	Animals amendment	Ch. <b>80</b>
4-7-2001	Beaches: general restrictions amendment	Ch. <b>86</b> , Art. I
4-7-2001	Building construction: adoption of building code amendment	Ch. <b>91</b> , Art. II
4-7-2001	Cemeteries amendment	Ch. <b>100</b>
4-7-2001	Harbor amendment	Ch. <b>124</b>
4-7-2001	Land use amendment	Ch. <b>145</b>
4-7-2001	Shellfish conservation program amendment	Ch. <b>190</b>
8-14-2001	Animals: deer feeding and baiting	Ch. <b>80</b> , Art. II
10-30-2001	General Assistance Program amendment	See Ch. <b>120</b>
11-6-2001	Groundwater protection: Burnt Mill Road Soil Vault and Groundwater Protection Area	Ch. <b>122</b> , Art. I
11-6-2001	Land use amendment	Ch. <b>145</b>
11-6-2001	Land use amendment	Ch. <b>145</b>
11-6-2001	Land use amendment	Ch. <b>145</b>
11-6-2001	Land use amendment	Ch. <b>145</b>

<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
11-6-2001	Streets and sidewalks: general provisions amendment; specifications amendment	Ch. 201, Arts. II and III
11-6-2001	Streets and sidewalks: general provisions amendment	Ch. 201, Art. II
11-6-2001	Streets and sidewalks: general provisions amendment	Ch. 201, Art. II
1-22-2002	Personnel policies amendment	Ch. 49
1-28-2002	Subdivision of land amendment	Ch. 260
3-11-2002	Subdivision of land amendment	Ch. 260
4-13-2002	Land use amendment	Ch. 145
7-3-2002	Towing amendment; vehicles and traffic amendment	Ch. 207, Art. I; Ch. 212
7-9-2002	Subdivision of land amendment	Ch. 260
7-23-2002	Subdivision of land amendment	Ch. 260
8-20-2002	Vehicles and traffic amendment	Ch. 212
8-20-2002	Taxicab operators and taxicab companies	Ch. 150, Art. XII
8-20-2002	Vehicles and traffic amendment	Ch. 212
9-3-2002	Vehicles and traffic amendment	Ch. 212
10-29-2002	General Assistance Program amendment	See Ch. 120
9-17-2002	Vehicles and traffic amendment	Ch. 212
11-5-2002	Licenses and permits amendment	Ch. 150
11-5-2002	Land use amendment	Ch. 145
11-5-2002	Land use amendment	Ch. 145
11-5-2002	Land use amendment	Ch. 145
11-5-2002	Land use amendment	Ch. 145
11-5-2002	Floodplain management	Ch. 115 (reference only); Ch. 116
11-5-2002	Land use amendment	Ch. 145
12-3-2002	Licenses and permits amendment	Ch. 150
4-11-2003	Residential growth management amendment	Ch. 175
4-12-2003	Designation of Town property	Ch. 66
4-12-2003	Land use amendment	Ch. 145
4-12-2003	Residential growth management	Ch. 175
4-12-2003	Land use amendment	Ch. 145
4-12-2003	Land use amendment	Ch. 145
4-12-2003	Streets and sidewalks: sidewalk specifications	Ch. 201, Arts. III and IV
4-12-2003	Shellfish conservation program amendment	Ch. 190
4-12-2003	Floodplain management amendment	Ch. 116
4-12-2003	Land use amendment	Ch. 145
5-20-2003	Land use amendment	Ch. 145
8-5-2003	Vehicles and traffic amendment	Ch. 212
9-2-2003	Vehicles and traffic amendment	Ch. 212
10-7-2003	Town history amendment	Preface
10-21-2003	General Assistance Program amendment	See Ch. 120

<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
11-4-2003	Vehicles and traffic amendment	Ch. <b>212</b>
4-16-2004	Shellfish conservation program amendment	Ch. <b>190</b>
4-16-2004	Subdivision of land amendment	Ch. <b>202</b> ; Ch. 260 (reference only)
4-16-2004	Personnel policies amendment	Ch. <b>49</b>
4-16-2004	Land use amendment	Ch. <b>145</b>
4-16-2004	Land use amendment	Ch. <b>145</b>
4-16-2004	Residential growth management amendment	Ch. 175
4-17-2004	Residential growth management amendment	Ch. 175
6-8-2004	Solid waste amendment	Chs. <b>150</b> ; 196
6-15-2004	Groundwater protection amendment	Ch. <b>122</b>
11-2-2004	Administrative procedures	Ch. <b>3</b>
11-2-2004	Residential growth management amendment	Ch. 175
11-2-2004	Lodging facilities licenses and permits amendment	Ch. <b>150</b>
11-2-2004	Lodging facilities licenses and permits amendment	Ch. <b>150</b>
11-2-004	Land use amendment	Ch. <b>145</b>
11-16-2004	Street name change	Ch. <b>212</b>
1-4-2005	General Assistance Program amendment	See Ch. <b>120</b>
4-29-2005	Land use amendment	Ch. <b>145</b>
4-29-2005	Zoning Map amendment	Ch. <b>145</b> , Editor's Note only
4-29-2005	Streets and sidewalks: general provisions amendment; specifications amendment	Ch. <b>201</b> , Arts. II and III
4-29-2005	Streets and sidewalks: general provisions amendment	Ch. <b>201</b> , Art. II
4-29-2005	Residential growth management amendment	Ch. 175
4-29-2005	Streets and sidewalks: general provisions amendment	Ch. <b>201</b> , Art. II
6-7-2005	Building construction amendment	Ch. <b>91</b>
10-18-2005	General Assistance Program amendment	See Ch. <b>120</b>
11-8-2005	Assessments amendment	Ch. <b>5</b>
11-8-2005	Procedure for closing of beaches	Ch. <b>86</b> , Art. VI
4-28-2006	Drug-free zones	Ch. <b>104</b>
4-28-2006	Emergency management amendment	Ch. <b>14</b>
4-28-2006	Personnel policies amendment	Ch. <b>49</b>
4-28-2006	Licenses and permits amendment	Ch. <b>150</b>
4-28-2006	Procedure for closing of beaches amendment	Ch. <b>86</b> , Art. VI
6-13-2006	Land use amendment	Ch. <b>145</b>
6-13-2006	Adoption of Building Code amendment	Ch. <b>91</b> , Art. II
6-13-2006	Adoption of Building Code amendment	Ch. <b>91</b> , Art. II
6-13-2006	Residential growth management amendment	Ch. 175
11-7-2006	Residential growth management amendment	Ch. 175
11-7-2006	Residential growth management amendment	Ch. 175

<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
11-7-2006	Land use amendment	Ch. 145
11-7-2006	Land use amendment	Ch. 145
11-7-2006	Land use amendment	Ch. 145
11-7-2006	Wells Residential Code	Ch. 91, Art. II
12-6-2006	General Assistance Program amendment	See Ch. 120
3-20-2007	Lunch wagon license fee amendment	Ch. 150 (Table 1)
4-27-2007	Special Town Meetings amendment	Ch. 65, Art. II
4-27-2007	Impact fees	Ch. 174
4-27-2007	Subdivision of land amendment	Ch. 202
4-27-2007	Land use amendment	Ch. 145
4-27-2007	Land use amendment; licenses and permits amendment	Chs. 145 and 150
4-27-2007	Budget Committee amendment	Ch. 10
4-27-2007	Personnel policies amendment	Ch. 49
11-6-2007	General Assistance Program amendment	See Ch. 120
11-6-2007	Land use amendment	Ch. 145
11-6-2007	Land use amendment	Ch. 145
11-6-2007	Taxation: time-share estates amendment	Ch. 204, Art. I
4-25-2008	Shellfish conservation program amendment	Ch. 190
4-25-2008	Zoning Map amendment	Ch. 145, Editor's Note only
4-25-2008	Zoning Map amendment	Ch. 145, Editor's Note only
10-7-2008	General Assistance Program amendment	See Ch. 120
11-4-2008	Charter	Charter
11-4-2008	Shellfish conservation program amendment	Ch. 190
3-17-2009	General Assistance Program amendment	See Ch. 120
6-13-2009	Administrative procedures amendment	Ch. 3
9-15-2009	Licenses and permits amendment (tattoo and body piercing establishments)	Ch. 150
11-3-2009	Land use amendment	Ch. 145
6-1-2010	Vehicles and traffic amendment	Ch. 212
6-8-2010	Land use amendment	Ch. 145
6-8-2010	Land use amendment	Ch. 145
6-8-2010	Land use amendment	Ch. 145
6-8-2010	Land use amendment	Ch. 145
6-8-2010	Land use amendment	Ch. 145
6-8-2010	Land use amendment	Ch. 145
9-7-2010	Shellfish conservation program amendment	Ch. 190
11-2-2010	Zoning Map amendment	Ch. 145, Editor's Note only
11-2-2010	Land use amendment	Ch. 145
11-2-2010	Land use amendment	Ch. 145
6-14-2011	Land use amendment	Ch. 145

<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
6-14-2011	Land use amendment	Ch. <b>145</b>
6-14-2011	Land use amendment; licenses and permits amendment	Chs. <b>145</b> ; 150
6-14-2011	Property tax deferral for senior citizens	Ch. <b>203</b>
8-2-2011	Harbor amendment	Ch. <b>124</b>
11-15-2011	Property assessed clean energy	Ch. <b>171</b>
12-20-2011	Consumer fireworks	Ch. <b>115</b>
1-17-2012	Beaches: parking fees amendment	Repealed 2-5-2013
2-7-2012	Administrative procedures amendment	Ch. <b>3</b>
6-5-2012	Licenses and permits amendment	Ch. <b>150</b>
6-12-2012	Land use amendments (7)	Ch. <b>145</b>
7-3-2012	Harbor amendment	Ch. <b>124</b>
11-6-2012	Charter amendment	Sec. 2.13
11-6-2012	Land use amendments (4)	Ch. <b>145</b>
11-6-2012	Zoning Map amendment	Ch. <b>145</b> , Editor's Note only
2-5-2013	Enterprise funds; beaches: parking fees amendment	Chs. <b>67</b> ; 86, Art. III
3-5-2013	Vehicles and traffic amendment	Ch. <b>212</b>
6-11-2013	Land use amendment; subdivision of land amendment	Chs. <b>145</b> ; 202
6-11-2013	Land use amendments (2)	Ch. <b>145</b>
11-5-2013	Land use amendments (3)	Ch. <b>145</b>
6-10-2014	Land use amendments (4)	Ch. <b>145</b>
8-19-2014	Shellfish conservation program amendment	Ch. <b>190</b>
2-3-2015	Personnel policies amendment	Ch. <b>49</b>
6-9-2015	Land use amendments (2)	Ch. <b>145</b>
9-1-2015	Personnel policies amendment	Ch. <b>49</b>
6-14-2016	Land use amendments (3)	Ch. <b>145</b>
6-14-2016	Adoption of Code amendment; land use amendment	Ch. <b>1</b> , Art. I; Ch. <b>145</b>
7-19-2016	Vehicles and traffic amendment	Ch. <b>212</b>
8-16-2016	Shellfish conservation program amendment	Ch. <b>190</b>
9-20-2016	Beaches: general restrictions amendment	Ch. <b>86</b> , Art. I
9-20-2016	Shellfish conservation program amendment	Ch. <b>190</b>
10-18-2016	Beaches: general restrictions amendment	Ch. <b>86</b> , Art. I
12-20-2016	Personnel policies amendment	Ch. <b>49</b>
1-17-2017	Budget Committee amendment	Ch. <b>10</b>
2-21-2017	Harbor amendment	Ch. <b>124</b>
2-27-2017	Land use amendment	Ch. <b>145</b>
5-16-2017	Taxation: active duty military excise tax exemption	Ch. <b>204</b> , Art. I
6-13-2017	Land use amendments (4)	Ch. <b>145</b>
1-2-2018	Personnel policies amendment	Ch. <b>49</b>

Adoption Date	Subject	Disposition
1-16-2018	Licenses and permits amendment; vehicles and traffic amendment	Ch. 150; Ch. 212
1-16-2018	Vehicles and traffic amendment	Ch. 212