

**An Ordinance to Amend Chapter 145 (Land Use) of the Code of the Town of Wells
to Revise the Reviewing Authority Process**

NOTE: Proposed additions to existing Code sections are underlined.
Proposed deletions of existing Code sections are ~~crossed out~~.
Other sections of the Ordinance are unchanged.

The Town of Wells hereby ordains and enacts “An Ordinance to Amend Chapter 145 (Land Use) of the Code of the Town of Wells to Revise the Reviewing Authority Process” to read as follows:

Part 1: Chapter 145 (Land Use), Attachment 1, entitled “Reviewing Authority Chart” is hereby amended as follows:

LAND USE

145 Attachment 1

Town of Wells

Reviewing Authority Chart

[Amended 11-2-2004]

	<u>SCOPE</u>	<u>REVIEWING AUTHORITY</u>		
		<u>I</u>	<u>II</u>	<u>III</u>
	Use or Structure	Code Enforcement Officer <u>And Planner</u>	Staff Review Committee	Planning Board
<u>A.</u>	New use requiring site plan approval ² Or Change to a use requiring site plan approval with increased gross floor area, or land area Or Resumption of an existing use requiring site plan approval ²	No	Up to 6,000 sq. ft. gross floor area and/or lot coverage <u>land area</u> ³ Or Fewer than <u>Up to 25 new or additional parking spaces</u> ³ required under §145-39 And The property is not subject to a prior site plan approval by a higher reviewing authority, or	Over 6,000 sq. ft gross floor area And/or lot coverage <u>land area</u> ³ Or Over 25 <u>new or additional</u> parking spaces required under §145-39 Or Any telecommunication towers; <u>or</u> utility transmission lines or public utility facilities

			the former Site Review Board except as provided in Note 4 below:	
<u>B.</u>	Expansion of, <u>change to, or amendment to</u> an existing use requiring site plan review (except as provided in Section C below)	<p>Enlargement by Alteration of less than 1,000 sq. ft. gross floor area and/or lot coverage ³ and area³</p> <p>And</p> <p>5 or fewer additional parking spaces required under §145-39</p> <p>And</p> <p>The property is not subject to a prior site plan approval by a higher reviewing authority, or the former Site Review Board</p>	<p>Enlargement by Alteration of 1,000 to 6,000 sq. ft and or lot coverage ³ and area³</p> <p>Or</p> <p>More than 5 and up to 25 additional parking spaces required under §145-39</p> <p>And</p> <p>The property is not subject to a prior site plan approval by a higher reviewing authority, or the former Site Review Board except as provided in Note 4 below.</p>	<p>Enlargement by Alteration of over 6,000 sq. ft. gross floor area and/or lot coverage and area³</p> <p>Or</p> <p>Over 25 additional parking spaces required under §145-39</p>
<u>C.</u>	<u>Amendment to an approved site plan involving minor alterations ⁵</u>	<p><u>Alteration of less than 300 sq. ft. gross floor area or lot coverage ³</u></p> <p>Or</p> <p><u>Less than 5 additional or relocated parking spaces ³</u></p>	<p><u>Alteration of 300 sq. ft. to 2,000 sq. ft. and or lot coverage ³</u></p> <p>Or</p> <p><u>More than 5 and up to 25 additional parking spaces ³</u></p>	<p><u>Alteration of over 2,000 sq. ft. gross floor area and/or lot coverage area</u></p> <p>Or</p> <p><u>Over 25 additional parking spaces</u></p>
<u>D.</u>	<u>Amendment to an approved site plan involving an increase in vegetated lot area currently not proposed to be developed</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>E.</u>	Amendment to an approved site plan involving only a change of use with no other proposed changes to the approved site plan ¹	Yes	No	No

E.	Amendments to an approved site plan involving changes only to uses or structures not ordinarily requiring site plan approval ¹	Any such changes shall be designated on a copy of the approved site plan by the applicant, and the plan shall be submitted to the Code Enforcement Officer for filing in the Office of Planning and Development. Such changes do not require site plan approval as set forth in Article X unless the Code Enforcement Officer finds that such changes may create a significant impact on the other uses on the site for which site plan review was required.
G.	Amendments to an approved site plan involving field changes to an approved site plan during construction period.	See §145-74G(4)

NOTES:

- 1 A change of use from a use having site plan approval to another use requiring site plan approval shall be processed as a site plan amendment. ~~Any other changes of use shall be processed as a new site plan application. Changes involving uses listed in Article V as a permitted use not requiring site plan approval shall not be processed as a site plan amendment.~~
- 2 ~~Site Plan approval shall expire if a use has been established and then discontinued for five years or more per 145-74F(3). Uses discontinued for more than one year but for less than two years may be resumed upon obtaining a use permit. A use that has lapsed for less than one year shall not be considered to be discontinued, and a new use permit shall not be required.~~
- 3 ~~Accumulated alterations within~~ Within any five-year period, ~~and not including parking areas required by §145-39~~
- 4 Properties subject to a prior site plan approval by the Planning Board or the former Site Review Board shall be reviewed by the Planning Board, except that the Staff Review Committee may review and approve amendments to such site plans in the following circumstances: a) the change does not involve an increase in gross floor area of greater than 2,000 square feet ~~within a 5 year period~~, and b) ~~does not involve an increase of lot coverage area greater than 4,000 square feet within a 5 year period~~, the change does not involve an increase in gross floor area of greater than 10% of the existing total gross floor area of structures on the property, and (c) the change does not involve the proposed change of any condition or restriction placed on the prior approval. ~~The Staff Review Committee may, for whatever reason, refer any such proposed site plan amendment to the Planning Board for review.~~
- 5 ~~Minor Alterations include the following: (1) changes to the approved location of a structure footprint, dumpster, lighting and sign up to 5 feet horizontally; (2) changes to utilities such as water, sewer, or electrical placement due to WSD, KK&VWWD, Power Company, or Town Engineer recommendations; (3) structural alterations/additions to accommodate sheds, bulkheads, decks, stairs and other minor structural alterations/ additions; (4) alternations in drainage that have an insignificant effect on stormwater management or erosion control plans; (5) minor landscaping, parking reconfigurations, and planting changes.~~
- 6 ~~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 (§145-74G(1)(b)) or the Planning Board.~~

Part 2: Chapter 145 (Land Use), § 145-74, entitled “Review and approval processes” is hereby amended as follows:

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.[Amended 11-7-2000]

(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.

F. Expiration. [Amended 6-12-2012]

(3) Site plan approval shall expire if a use has been established and then discontinued for ~~two~~ 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~~ is expressly authorized to approve the amendment according to the table in § 145-71. If the scope of the proposed amendment would ordinarily require a higher reviewing authority, the site plan amendment application shall be submitted to the higher reviewing authority for consideration. The new, revised site plan shall be accompanied by an amendment application form provided by the Office of Planning and Development. **[Amended 4-18-1998; 11-6-2012]**

(a) If the site plan has been approved by a reviewing authority that no longer exists, the Planning Board shall be the reviewing authority for any amendments unless allowed as an exemption by the Reviewing Authority Chart.

(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.

Part 3: Chapter 145 (Land Use), § 145-78, entitled “Appeals” is hereby amended as follows:

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.

(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)**.

Part 4: Effective Date.

This Ordinance shall take effect upon adoption by the Town Meeting.

Given under our hands this ____ day of _____, 2016.

BOARD OF SELECTMEN OF THE TOWN OF WELLS:

Karl Ekstedt

Christopher Chase

Richard Clark

Kathy Chase

Timothy Roche