

**An Ordinance to Amend Chapter 145 (Land Use) of the Town of Wells
Relating to Residential Cluster Development**

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 Town of Wells Relating to Residential Cluster Development” to read as follows:

Part 1: Article VII (Performance Standards), § 145-49, entitled “Residential cluster development” is hereby amended as follows:

§ 145-49. Residential cluster development.

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.

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) 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~~ other infrastructure such as stormwater facilities, parking and common utilities.

(2) A cluster development layout shall be submitted indicating a minimum of ~~35~~ 50% open space and shall depict significant natural and historical features.

C. Dimensional requirements.

(1) The minimum lot sizes may be reduced to the following dimensions depending on whether or not served by public sewer:

Served by Public Sewer	
Type of Dwelling	RA, GB and RC Districts (square feet)
One-family dwelling	10,000

Served by Public Sewer	
Two-family dwelling	15,000
Type of Dwelling	Rural District (square feet)
One-family dwelling	20,000
Not Served by Public Sewer	
Type of Dwelling	Rural District (square feet)
One-family dwelling	40,000 43,560
Type of Dwelling	RA and RC Districts (square feet)
One-family dwelling	30,000

(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.~~ shall be the same as required in Article V District Regulations.

(3) The required street frontage on a proposed private street may be reduced to no less than ~~50~~ 75 feet. The required street frontage on a Town way may not be reduced, except lots within the Rural District may reduce street frontage on a Town way to no less than 150 feet.

(4) ~~When a lot in a cluster subdivision abuts a nonclustered residential lot, the setback in the cluster subdivision lot~~ A buffer strip owned in fee by the homeowners association shall be required along any adjacent property line. The buffer strip shall be a no cut buffer except at driveway locations and shall consist of natural vegetation, or the Planning Board shall require natural evergreen plantings to establish a visual screen. The buffer strip width shall be twice the required ~~nonclustered~~ 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) When a cluster ~~lot~~ subdivision abuts a Town way, ~~the setback~~ a 200 foot wide buffer strip owned in fee by the homeowners association shall be required from the street ~~shall be right-of-way limit~~ the required noncluster setback of the district. The ~~setback area~~ buffer strip shall be a no cut buffer except at driveway locations and shall consist of natural vegetation, or the Planning Board shall require natural evergreen plantings to establish a visual screen, except at driveway locations. Utility and driveway locations shall be combined as one location.

(6) The open space shall consist of no more than 50% coastal wetland or freshwater wetland as defined in § 145-10 except freshwater wetlands shall also include wetlands dominated by trees or woody vegetation of any height in any District.

D. Innovative open space bonus. At least ~~35~~ 50% 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~~ 10% 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%.~~

~~(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%.~~

~~(5~~ 1) 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~~ 2) 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 applied to the portion of the lot located in the Rural District, provided that:~~

- (1) All land within the Aquifer Protection District shall be included within the common land or open space;
- (2) All stormwater facilities and development shall be located outside the Aquifer Protection District. Stormwater undisturbed natural buffers may be located in the Aquifer Protection District.

Part 2: Effective Date.

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

Given under our hands this ____ day of _____, 2024.

THE SELECT BOARD OF THE TOWN OF WELLS:

John MacLeod III

Scott DeFelice

Kathleen Chase

Timothy Roche

James N. Smith