

## ZONING ORDINANCE TOWN OF WAYNE, MAINE

impairment of water quality or of fish and aquatic life.

5. Commercial uses, which uses include rental of docking facilities, rental of launching facilities, or rental of shoreland access except to an owner's residential lessee, except such uses are provided for by Conditional use.

6. Any commercial or home occupation use as follows:

- a. Auto washing facilities
- b. Vehicle service and/or repair facilities
- c. Chemical and bacteriological laboratories
- d. Storage of chemicals, including pesticides or fertilizers other than amounts normally associated with individual households or farms
- e. Commercial painting, wood preserving, and furniture stripping
- f. Dry cleaning establishments
- g. Electronic circuit assembly
- h. Laundromats
- i. Metal plating, finishing, or polishing
- j. Photographic processing
- k. Printing
- l. Beauty parlors
- m. Any use which involves a hazardous activity as defined by Title 38 M.R.S.A., Section 482 (2-C).

### F. Uses Permitted with Additional Regulation

1. Piers, docks, floats, and similar installations are permitted provided that:

- a. Each must be capable of easy disconnection and seasonal removal.
- b. Each shall be no larger in dimension than that consistent with the servicing of watercraft in number and size customarily associated with single family residential use or swimming float facilities customarily associated with such use. Said piers and docks shall not extend further than 40 feet from the shoreline and shall not consist of more than two (2) slips. Unattached swimming floats shall be no more than 100 feet from the shoreline.
- c. They shall be located so as not to interfere with navigation, navigational aids, beach areas, or other permitted uses.
- d. They shall not interfere with fish habitats.
- e. Their installation is not across wetlands, marshes, bogs, or swamps.
- f. There shall be no more than one pier or dock per 250 feet of shore frontage or fraction thereof on existing lots less than 250 feet, and no more than one unattached float per lot.

2. Timber Harvesting and Related Activities:

The Maine Forest Service, Bureau of Forestry rules, Chapter 21, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, and any amendments thereto by the State from time to time, are hereby adopted to govern timber harvesting and related activities in the Shoreland zone in the Town of Wayne, and are incorporated herein by reference. Copies of the Statewide Standards are available at the town office and on the Maine Forest Service website. ~~However, within the Shoreland Area also zoned for Resource Protection, there shall be no cutting of vegetation within the Buffer Strip, defined in F. 3 below, except to remove safety hazards. The Town of Wayne is responsible for monitoring and enforcement of this no cut provision in the Shoreland Area also zoned for Resource Protection.~~ The Maine Forest Service is responsible for the monitoring and enforcement of ~~the~~ the Chapter 21 Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas.

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## 3 Clearing or Removal of Vegetation Other Than Timber Harvesting and Related Activities

a. If within the Buffer Strip (defined as follows) adjacent to the normal high water mark: The Buffer Strip is a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high water mark of a great pond, defined pond or lake, defined stream, tributary stream, or river, or upland edge of a fresh water wetland; and shall be preserved as follows:

- 1) There shall be no cleared opening in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted per shorefront lot or every 250 feet of shore frontage, provided that a clear line of sight to the water through the 100 foot buffer strip is not created.
- 2) Selective cutting of trees within the Buffer Strip is permitted, provided that a well distributed stand of trees and other vegetation is maintained. ~~However, within the Shoreland Area also zoned for Resource Protection, there shall be no cutting of vegetation within the Buffer Strip, except to remove safety hazards.~~ However, within the Shoreland Area also zoned for Resource Protection, there shall be no clearing or removal of vegetation within the Buffer Strip, except to remove safety hazards.

For purposes, of this section, a "well distributed stand of trees and other vegetation" shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square area as determined by the following rating system:

Diameter of Tree at 4 1/2 Feet Above Ground Level	Points
2-4 inches	1
4-12 inches	2
>12 inches	4

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above the ground level may be removed in any ten (10) year period.

3) Vegetation customarily classed as "underbrush" which under three (3) feet in height and other ground cover shall not be removed except to provide a footpath as described in paragraph 1 above.

4) Pruning of tree branches on the bottom third of the tree is permitted.

5) In order to maintain a buffer strip of vegetation where the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings greater than 250 square feet in the forest canopy, these openings shall be replaced with native tree species, unless existing new tree growth is present.

b. If within the Remainder of the Shoreland Zone:

- 1) Clearing for permitted buildings, structures, septic systems and associated fields, and driveways is allowed at distances greater than one hundred (100) feet horizontal distance, from a great pond, defined pond or lake, defined stream, tributary stream, river or upland edge of a freshwater wetland. However, clearings shall not extend more than twenty (20) feet in any direction, emanating from the perimeter of said buildings, structures, septic systems and associated fields and driveways, and shall not intrude into the 100 foot buffer strip, and shall not be within ten (10) feet of a side lot line.

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In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways, and sewage disposal areas, exceed in the aggregate 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed.

2) Clearing or removal of vegetation other than as specified in ss. 23-b 1) above is permitted with the following restrictions:

a. A well distributed stand of trees shall be maintained within the zone, and harvesting shall not create a single opening greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet: they shall be at least one hundred (100) feet apart and at least fifty (50) feet from a side lot line. In the absence of existing new growth, reforestation shall be accomplished to reestablish the uniformity and pattern of tree growth existing at the site.

b. Clearing shall not remove more than 40% of the volume of the trees four (4) inches or more in diameter measured at 4 1/2 feet above ground in any ten (10) year period.

c. Road construction for the purpose of clearing or removal of vegetation under any provision of Section F is not permitted. Skid trails are subject to the provisions of ss.4, Erosion and Sedimentation Control Requirements following.

d. Slash may be laid on the ground, but no part thereof may extend more than four (4) feet above the ground.

e. Cleared openings, legally in existence on the effective date of this Ordinance, may be maintained but shall not be enlarged, and may be required to be revegetated according to the provisions of Article VIII Section E. Fields, which have reverted to primarily shrubs, trees or other woody vegetation, shall be regulated under the provisions of this Section.

f. Replanting when in violation: In addition to any other penalty that may be imposed under this Ordinance, violators of Section F(23)(a-b), shall be required to restore the area in violation by the planting of trees of similar, or fast growing and suitable species, to those removed in violation.

Replacement trees shall be at least five (5) feet in height. Said replanting shall be in sufficient number to meet the requirements of restoring the area in violation to its former uniformity of stand and pattern of vegetative cover, and shall be according to a plan directed by a ~~State Service forester or private professional forester, registered in the State of Maine, and acceptable to the Selectmen.~~ licensed by the State

Any of Maine. Any fees incurred for the development of said plan shall be the responsibility of the violator. A copy of the plan shall be filed and approved by the Selectmen. Additionally, areas of disturbed or exposed mineral soil with the potential of causing erosion shall be stabilized by reseeded.

#### 4. Erosion and Sedimentation Control Requirements:

a. All activities which involve filling, grading, excavation or other similar activities which result in unstable soil conditions, and which require a permit, shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provision for:

1) Mulching and revegetation of disturbed soil.

2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

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### ARTICLE VI: RESOURCE PROTECTION ZONE - "R-5"

**A. The resource protection zone shall be a zone of the most vulnerable Shoreland, wetlands, or other geologically sensitive areas in which development could have an undue adverse effect on water quality of ponds, lakes, streams or rivers, ground water, significant wildlife habitats, or biological systems. Areas of freshwater wetlands regulated by State and Federal rules and identified in the National Wetland Inventory as shown in "Beginning with Habitat" maps are included in the R-5, Resource Protection Zone. It should be noted that any areas listed on these maps are approximate and only show potential areas of ecological significance. Before any work or development is proposed in or near a Resource Protection Zone, the areas in question must be field verified by a qualified person with knowledge to determine if these areas meet the criteria in this Article.**

It shall include:

1. Freshwater wetlands and forested wetlands.
  - a. Where a freshwater wetland is contiguous with the normal high water mark of a defined pond, lake, river or stream, the wetland area shall extend from the normal high water mark to the area of observable demarcation between a regular pattern of wetland vegetation and open water. Areas within 100 feet, horizontal distance, of the upland edge of freshwater wetland contiguous with the normal high water mark of a defined pond, lake, river or stream are included in the R-5, Resource Protections Zone. Excluded are small and intermittent outcroppings of wetland vegetation which can be customarily found at or near the shoreline of ponds, lakes, rivers, or streams.
2. Significant plant, fish and wildlife habitats, natural heritage occurrences and focus areas of statewide ecological significance shown on current "Beginning with Habitat" maps or any subsequent modifications. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, which are shown as Inland Waterfowl/Wading Bird habitat as shown on "Beginning with Habitat" maps and shown on the Wayne Zoning Map are included in the R-5, Resource Protection Zone.
3. The marshes of the shoreline of Pickerel Pond, Berry Pond, Jennings Stream, the land area and marshes of the delta outlet area known as "The Cape" on Androscoggin Lake, and the land areas and marshes within 250 feet of Dead River.
4. Land areas which can be shown by independent and qualified authority to be particularly vulnerable to harm such as significant sand and gravel aquifers and/or primary ground water recharge areas identified by the Maine Geological Survey, and/or shoreland areas which have a high erosion potential because of soil type or slope, and all shoreland areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.
5. The islands in Androscoggin Lake.
6. Archaeological and/or historic sites deserving of long-term protection as determined by the Planning Board after consultation with the Maine Historic Preservation Commission.

#### **B. Uses Permitted:**

1. The harvesting of any wild crop such as hay, ferns, moss, wild rice, berries, tree fruits, tree seeds, and flowers.
2. Non-intensive recreational uses not requiring structures, such as hunting, fishing, picnicking, and swimming.
3. Wildlife management activities.
4. Activities conducted for protection of ground water quality or prevention of pollution from any source, when conducted by a public agency for the public health, safety, and welfare.
5. Clearing or removal of vegetation based on a plan by a ~~licensed~~-forester licensed by the State of Maine, and in accordance with shoreland clearing or removal of vegetation standards in Article V, Section F.23. of this Ordinance.

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6. Timber Harvesting and Related Activities based on a plan by a ~~licensed forester~~ licensed by the State of Maine, and in accordance with Maine Forest Service, Bureau of Forestry rules, Chapter 21, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, and any amendments thereto by the State from time to time, which are incorporated herein by reference. ~~However, within the Shoreland Area also zoned for Resource Protection, there shall be no cutting of vegetation within the Buffer Strip, defined in Article V, F. 3, except to remove safety hazards. The Town of Wayne is responsible for monitoring and enforcement of this no-cut provision in the Shoreland Area also zoned for Resource Protection.~~ The Maine Forest Service is responsible for the monitoring and enforcement of the Chapter 21 Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas.

7. Residential dwelling units located over aquifers.

### **C. Uses Permitted as Conditional uses:**

1. One residence containing one (1) dwelling unit and structures accessory to a residence per minimum lot on the islands in Androscoggin Lake known as Norris Island and Androscoggin Island provided that:

- a. Minimum lot size shall be four (4) acres.
- b. Minimum shore frontage and width shall be 400 feet.
- c. Minimum depth shall be 300 feet.

2. Piers or docks across a wetland, which wetland is contiguous with the shoreline of a pond, lake, river, or stream provide that:

- a. Installation shall not alter any wetland vegetation or cross a significant wildlife or fish habitat.
- b. Regarding piers and docks, installation meets the requirements of Article V. Section F.

**D. New roads and driveways** are prohibited in the resource protection zone, except to provide access to permitted uses within the zone, or as approved by the Planning Board, upon a finding that no reasonable alternative route or location is available outside the zone, in which case the road and/or driveway shall be set back as far as practical from the normal high water mark of a water body, tributary stream, or upland edge of a wetland.

**E. Conversion of seasonal residences to year-round residences** is prohibited in the Resource Protection Zone.

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for coniferous species and no less than six (6) feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted, unless otherwise approved by the Planning Board or its designee, based on adjacent stand comparison. All aspects, of the implemented plan, must be maintained by the applicant and future owners. The Code Enforcement Officer or the Planning Board may consult with the appropriate agencies for a determination that the re-vegetation plan complies with the provisions of paragraph (b), above.

d). Filing and reporting requirements. Written plans required pursuant to this section must be filed with the registry of deeds of the county in which the property is located, a copy of all permits issued pursuant to this section must be forwarded by the municipality to the department within 14 days of the issuance of the permit.

e). In addition to complying with all of the above requirements as applicable, additional re-vegetation, in accordance with paragraphs (b) and (c) above, shall be required so that clearings shall not extend more than twenty (20) feet in any direction emanating from the perimeter of buildings, structures, septic systems, and associated fields and driveways, and shall not be within ten (10) feet of a side lot line within one hundred (100) feet of the normal high water line or upland edge of a wetland. In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways, and sewage disposal areas exceed in the aggregate twenty-five (25) percent of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. When the Special Expansion Allowance is applied, clearings shall not extend into the fifty foot (50') buffer.

### D. Relocation:

1. A nonconforming structure may be relocated on a lot of record provided that the new location meets all the setbacks of the zone except that in the R-4, Shoreland Zone, the setback from the normal high water mark shall be met to the greatest practical extent possible without violating any other setback, and;

2. In approving the new location, the Planning Board shall only approve a location which meets setbacks as provide for above, and which meets the following criteria. In determining whether the building relocation meets the setback to the greatest practical extent possible, the Code Enforcement Officer shall consider the size of the lot, slopes of the land, location of other structures on the property and adjacent property, and the increase in distance from the normal high water mark achieved. In addition, if the new location fails to meet any of the following criteria, the permit shall be denied.

a. The applicant must provide evidence, if the use of the proposed location requires, that the present subsurface sewage disposal system meets the requirements of the State Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with said rules.

Using the limitations of location imposed by a. above:

b. The new location must meet the requirements for ~~tree harvesting, clearing for development and vegetation removal~~ Clearing or Removal of Vegetation Other Than Timber Harvesting and Related Activities, and lot coverage requirements contained in Part I, Article V, of this Ordinance.

The applicant shall be required to revegetate the area where the relocated structure was moved from. If the previous area cleared and areas to be cleared for the relocated structure and other approved development exceed the cleared opening provisions of Article V. F. (23),

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then the applicant shall be required to revegetate cleared areas to conform with the cleared openings provisions.

If the area between the relocated structure and the normal high water mark is a cleared opening, then the applicant shall be required to revegetate to create a minimum natural buffer of 25 feet between the structure and the normal high water mark.

Revegetation for the purposes of this section means:

- 1) the planting of trees native to our shoreland area which are at least five feet in height at the time of planting, in sufficient number to provide a "well distributed stand of trees" as described in Article V. F (23),
- 2) and the planting of shrubs and/or seed mixtures such as reed canary grass or redtop around the trees, which growth is intended to remain un-mowed to re-establish a woodland vegetation.

The new location shall not increase the potential for or cause soil erosion or harmful runoff.

### **E. Reconstruction or Replacement:**

1. Except in the Shoreland Zone, any nonconforming structure, which is damaged or destroyed by fire or other casualty may be replaced or reconstructed within one (1) year in its exact dimension, placement on the lot and use as the original building or structure. Relocation may be accomplished under the provisions of D. above.

Within the Shoreland Zone, in place reconstruction or replacement may be accomplished only if the damage is 50% or less of the market value of the structure before the casualty. Otherwise, the structure must be relocated under the provisions of D. above

2. Voluntary, reconstruction or replacement of a nonconforming structure, which reconstruction or replacement exceeds 50% of the market value of the structure before reconstruction or replacement, requires relocation on the lot under the provisions of D. above, except that conformity to the greatest possible extent practical to the normal high water set-back shall be required without violating any other setback. If the area between the structure being replaced or reconstructed is a cleared opening, then the applicant shall be required to revegetate to create a minimum natural buffer of 25 feet between the structure and the normal high water mark as described in Section D. (2) (b) above.
3. The placement of a foundation under a structure, which is less than the required setback from the normal high water mark requires relocation of the structure on the lot under the provisions of section D. above.

### **F. Changes in nonconforming use of existing buildings in the Village Shoreland Zone, R-6**

1. Changes permitted: Existing buildings are defined, for the purposes of this section, as those in lawful existence in commercial use, which use includes meeting halls for fraternal or religious purposes and municipal or governmental services. Buildings whose last active use was as above may be included, provided that any subsequent use has been vacancy, or storage.

Nonconforming uses of existing buildings on the date of the passage of this ordinance may be change to another nonconforming use provided that: