Town of Wayne
Yard Sale Ordinance

SECTION 1. INTENT AND PURPOSE.

The provisions contained in this Ordinance are intended to prohibit the infringement of any businesses in any area of the Town of Wayne by regulating the term and frequency of yard sales, so as not to disturb or disrupt the residential environment of the area.

SECTION 2. DEFINITIONS.

For the purpose of interpreting the provisions of this Ordinance the following terms shall have the meaning given herein:

A. **Personal Property:** shall mean and include property which is owned, utilized, and maintained by an individual or family and acquired in the normal course of living or maintaining a residence. Also, included homemade gifts, crafts, foods, and produce. "Personal property" does not include homemade gifts, locally made crafts, locally grown or prepared foods, and/or locally grown produce. It does not include merchandise which was purchased for resale.

B. **Yard Sale:** shall mean and include all general sales, open to the public, conducted from or on any lot within town for the purpose of disposing of personal property including but not limited to all sales entitled "tag","garage", "lawn","attic","porch","barn", and "rummage sale".

C. **Commercial Outdoor Market:** shall mean a regularly scheduled, repetitive outdoor market open more than three consecutive days and twice a year, and include all general sales, open to the public, for the purpose of a vendor (commercial) disposing of personal property, including, but not limited to all sales entitled "farm stand", "flea market", "farmers market", "artisan market"

D. **Donated Personal Property:** shall mean the personal property of persons other than those residing on or owning the premises where the sale is to take place, such personal property being donated to, or being donated to, or being conducted by, a tax exempt religious, charitable, or civic organization, and the entire proceeds of the sale being donated to, or retained by, the sponsoring religious, charitable or civic organization.

E. **Commercial:** An activity, other than a "Home Occupation" elsewhere defined, the intent and/or result of which activity, is the production of income from the buying and selling of goods and/or services. Rental of residential buildings and/or dwelling units is excluded.

F. **Lot:** A parcel of land described by metes and bounds.

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G. **Conditional Use:** A use permitted only after review and approval of the Planning Board. A Special-Exception Conditional_Use is a use which would not be appropriate without restriction, but which if controlled under the provisions of the Wayne Zoning Ordinance, would promote the purposes of the Wayne Zoning Ordinance. Such uses may be permitted if specific provision for each Special Exception Conditional_Use is made in the Wayne Zoning Ordinance.

A. SECTION 3. PERMITTED SALES. Yard Sales - Residential, Non-Profit (Religious, Charitable, or Civic Organization), and Governmental:

No person shall sell or offer for sale personal property from any lot within town, as defined herein, except as permitted by this subsection. Only the sale of donated personal property or personal property, as defined herein, shall be permitted to be sold from lot within town, and only after issuance to the seller of a permit for such purposes, as follows:

(1). A permit shall be issued by the Code Enforcement Officer, or Town Office personnel designated by the Selectmen, upon application by the owner of the premises on which the sale is to take place at the Wayne Town Office or other location designated by the Selectmen. Said application shall be made prior to the date of the sale, and show the date(s) of the sale, location, and person (s) conducting the sale. A fee of $1.00 shall be paid upon application. The permit must be available for inspection by the Code Enforcement Officer during the sale. The seller or owner of the premises on which the sale is to be conducted may include personal property owned by others in the sale.

(2). No permit shall be issued for sales of personal property upon lot within town for a period of more than three (3) consecutive days, and no more than two (2) permits shall be issued for such sales upon a residential premises in any one calendar year. Unsold articles shall be removed from public view within six (6) hours following the sale.

(3) Sales of homemade gifts, locally made crafts, locally grown or prepared foods, and/or locally grown produce are allowed in Wayne and will not require a permit under this ordinance.

B. Commercial Outdoor Market:
Prior to opening of a commercial outdoor market, as defined therein, owner/ operator of the commercial outdoor market shall obtain a Special-Exception Conditional Use Permit issued by the Planning Board. The Planning Board will ensure said commercial outdoor market is in full compliance with provisions outlined in Wayne Zoning Ordinance containing Conditional Use Permit.

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SECTION 4. SIGNS.

One two faced sign of not more than four (4) square feet may be placed at the location of the sale for the duration of the sale only. Any directional signs placed to direct traffic to the sale will be removed immediately at the close of the sale.

SECTION 5. EXCEPTIONS.

Occasional exposure for sale of not more than three (3) items of personal property is exempt from the permit requirements of this Ordinance unless such exposure for sale shall be considered to be intending to avoid the provisions of this or the Wayne Zoning Ordinance, Such exposure shall be considered to be intending to avoid the provisions of the Ordinance if the exposure is frequent and/ or continuous and involves changing items, or items not owned by the person on whose property they are exposed for sale. The burden shall be on the property owner on whose property the items are exposed for sale to provide, if requested by the Code Enforcement Officer, information which clearly substantiates that no intention to avoid the provisions of the Ordinance exists. Failure to do so shall cause the requirements of this Ordinance to apply and the items removed per the provisions of Section 6.

SECTION 6. VIOLATIONS AND ENFORCEMENT.

Property owners conducting or permitting sales of personal property regulated by this Ordinance on their property without the necessary permits shall be in violation of the Ordinance. Such person (s) shall be notified by the Code Enforcement Officer in writing to remove from public view all signs and articles for sale, and to cease sale activities at the premises within six (6) hours of notification. Persons so notified and failing to do so shall be subject to a fine of not more than $100.00.

SECTION 7. Existing Nonconforming Uses.

Any use or structure lawfully existing at the time of enactment of this Ordinance, but which use or structure is not in compliance with this Ordinance as it applies to new uses or structures or parts thereof, is a nonconforming use or structure and may continue as it is, and may be repaired and maintained. However, it may not, except as provided for herein, be:

1. Changed to another nonconforming use.
2. Reestablished after discontinuance for one (1) year.
3. Expanded, except as provided for in Section C below. Expansion includes:
    a) An increase in density of use as measured by the volume and/or type of traffic, size of the building or structure, number of bedrooms, increase in volume of waste water, or similar measures of intensity of use;
    b) Any addition to a nonconforming structure.

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ARTICLE 8. SEVERABILITY

Any provision in this Ordinance or the application thereof to any person or circumstances determined by a court of law to be unenforceable or invalid shall not affect the application or validity of any other provision of this Ordinance.

ARTICLE 9. ADOPTION/ AMENDMENT

This ordinance shall be amended by vote of the Town of Wayne's legislative body at Annual Town Meeting or Special Town Meeting.

Adopted at Annual Town Meeting on 13th day June, 2018.