

TOWN OF WAYNE, MAINE  
ZONING ORDINANCE

Adopted: June 18, 1992  
Amended: June 15, 2005  
June 10, 2010  
June 15, 2016  
June 13, 2018  
June 12, 2019  
February 18, 2020  
June 8, 2021  
June 15, 2022

PREAMBLE

This Zoning Ordinance is adopted pursuant to the home rule power granted to all municipalities under the State of Maine Constitution, Article VIII, Part 2, Section I of Title 30-A M.R.S.A. Section 3001 for the purpose of promoting the health, safety and general welfare as well as efficiency and economy in the process of development of the incorporated Town of Wayne, Maine, by securing safety from fire, panic and other dangers, providing areas between buildings and various rights-of-way, by preserving the rural character now attached to our town, the promotion of good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provisions of public utilities and other public requirements, and by other means; now, therefore, the following Ordinance is hereby enacted by the voters of the Town of Wayne, Maine, in this official meeting convened.

**ATTEST:** I hereby certify that this is a true copy of an Ordinance entitled "Town of Wayne Zoning Ordinance", which was approved at a Town Meeting on the 15th day of June, 2022.

Signature: \_\_\_\_\_  
Wayne Town Clerk

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# ZONING ORDINANCE TOWN OF WAYNE, MAINE

## ARTICLE I:

The Town of Wayne, Maine, is divided into the following zones:

- R-1: VILLAGE RESIDENTIAL ZONE
- R-2: LOW-DENSITY RESIDENTIAL ZONE
- R-3: RURAL RESIDENTIAL AND FARMING ZONE
- R-4: SHORELAND ZONE
- R-5: RESOURCE PROTECTION ZONE
- R-6: VILLAGE SHORELAND ZONE

The location of these zones is shown on the official Zoning Map, which is on file with the Town Clerk and is dated June 13, 2018, with subsequent amendments. Where uncertainty exists with respect to the location of the boundaries of the various zones as shown on the Zoning Map, the following criteria shall be used to determine the boundary locations:

- A. Boundaries indicated as approximately following the center line of streets, highways or alleys shall be construed as following such center lines;
- B. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;
- C. Boundaries indicated, as approximately following municipal limit, shall be construed as following municipal limits;
- D. Boundaries indicated, as following shorelines, shall be construed to follow the normal high-water mark or line;
- E.1. (Approved at Town Meeting, May 20, 1978) The eastern boundary of the Village Residential “R-1” Zone, as it pertains to the “Wayne Village” section of the zone, shall be defined as follows: Starting at the zone’s intersection with the westerly side of Gott Road, northerly along such side of Gott Road to its intersection with Old Winthrop Road, then northerly in a direct line to the corner of the stone wall on Route 133 located at the southwestern corner of the property now or formerly of W. S. Libbey, then northerly along the wall to the intersection of the wall and Pocasset Lake near the Libbey pier.
- E.2. (Approved at Town Meeting, May 20, 1978) The western boundary of the Village Residential “R-1” zone as it pertains to the “Wayne Village” section of the zone, shall be the western perimeter of a 500-foot-deep strip, measured at the perpendicular, northerly of Route 133 from the boundary of the wetland zone of Muddy Pond to the intersection of Pond Road and westerly of Pond Road from such intersection to the northern boundary of the Wayne Elementary School.
- E.3. (Approved at Town Meeting, May 20 1978) The western boundary of the Village Residential “R-1” zone, as it pertains to the “North Wayne Village”, section of the zone, shall be the western perimeter of a 500 foot deep strip, measured at the perpendicular, northerly of North Pond Road (renamed Walton Road) from the zone’s intersection with such road to the intersection of Lovejoy Pond Road and westerly of Lovejoy Pond Road from such intersection to the zone’s intersection with Lovejoy Pond Road.
- F. Boundaries, of the R-4 Shoreland Zone, are determined by actual measurement of 250 feet, horizontal distance, from the normal high-water mark, defined in this Ordinance, of any great pond, lake, river, stream, and upland edge of a freshwater wetland;
- G. Boundaries of the R-5 Resource Protection Zone are determined by actual observation of the wetlands, marshes and other vulnerable areas described in Article VI, Section A of this Ordinance;
- H.1. (Approved at Town Meeting, November 17, 1987) Village Shoreland Zone “R-6”. In Wayne Village, beginning at the centerline of the intersection of Route 133 with Back Street (renamed Memorial Park Lane); thence running southerly along the westerly side of Route 133 to the southeasterly corner of Lot 56, Map12; thence westerly along the southerly boundary of Lot 56, Map 12 to its intersection with the normal high water mark of the Wayne Village Mill Stream;

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thence, running across said stream, in a straight line, to the point of intersection with the normal high water mark of said stream and the southerly boundary of Lot 11, Map 12; thence, along the southerly boundary of Lot 11, Map 12 a distance of 250 feet; thence northerly and then easterly following a line, any point on which is 250 feet from the normal high water mark of the Wayne Village Mill Stream or Wayne Village Mill Pond, to its point of intersection with the westerly side of Route 133; thence, southerly on the westerly side of Route 133 to the point of beginning.

H.2. (Approved at Town Meeting, November 17, 1987) Village Shoreland Zone "R-6". In North Wayne village, beginning at the southeasterly corner of Lot 14, Map 17; thence, running along the northwesterly side of Church Street to the northeasterly corner of Lot 16, Map 17 at its intersection with Church Street; thence, running northwesterly along the northerly boundary of Lot 16, Map 17 in a straight line, across Lovejoy Stream, to the northwesterly corner of Lot 4, Map 17; thence, running southwestly to the southwestly corner of Lot 2, Map 17; thence, running easterly along the northerly side of North Pond Road (renamed Walton Road) to the point of beginning.

I. Boundaries indicated, as being parallel to or extensions of features indicated in paragraphs A-D above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Any conflict between the Zoning Map and a description of metes and bounds in a deed shall be resolved in favor of the metes and bounds;

Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or if any other uncertainty remains regarding the items covered in paragraphs A-G, the Board Appeals shall determine the zone boundaries.

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**ARTICLE II: ALLOWED USES AND PERMIT REQUIREMENTS IN ALL ZONES:**

Please refer to Article IV for specific requirements to be met for uses in R-1, R-2 and R-3. Refer to Article V for specific requirements for uses in R-4. Refer to Article VI for specific requirements for uses in R-5. Refer to Article VII for specific requirements for uses in R-6. Land uses permitted are shown on this table by the type of review required or not required within each land use zone under this ordinance. Required permit review shall be secured prior to obtaining appropriate building, plumbing or other applicable permits in accordance with the procedures and processes described in the applicable town ordinances

"NO" means the activity is not allowed in the zone as a new or expanded use.

"CU" means the activity may be allowed through conditional use permit from the planning board.

"YES" means the activity is allowed in the zone with no permit, but must comply with all applicable State, Federal and local standards and regulations, including but not limited to this ordinance.

"CEO" means the use requires review and permit from the CEO or Local Plumbing Inspector (LPI).

"NA" means not applicable.

**WAYNE LAND USE TABLE, ALL ZONES**

ACTIVITY	R-1	R-2	R-3	R-4	R-5 Islands: See C.1.) Shore- front See Art. VI	R-5 (Aquifer : R-2 or R-3 See Art. VI, B.7.) See Zoning Map	R-6( See Art. VII and Art VIII. F)
<b>For uses below see Article V</b>							
Chemical and bacteriological labs	NO	NO	CU	NO	NO	NO	NO
Storage of chemicals, including pesticides or fertilizers other than amounts normally associated with individual households or farms	NO	CU	CU	NO	NO	NO	NO
Commercial painting, wood preserving, and furniture stripping	NO	NO	CU	NO	NO	NO	NO
Dry cleaning establishments	NO	CU	CU	NO	NO	NO	NO
Electronic circuit assembly	NO	CU	CU	NO	NO	NO	NO
Laundromats	NO	CU	CU	NO	NO	NO	NO
Metal plating, finishing or polishing	NO	CU	CU	NO	NO	NO	NO
Photographic processing	NO	CU	CU	NO	NO	NO	NO
Printing	NO	CU	CU	NO	NO	NO	NO

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Beauty parlors	CU	CU	CU	NO	NO	NO	NO
Any use which involves a hazardous activity as defined by Title 38 M.R.S.A., Section 482 (2-C) and subsequent amendments	NO	NO	CU	NO	NO	NO	NO
Installation of underground petroleum storage tanks	NO	CU	CU	NO	NO	NO	NO
Housing, corralling or grazing of livestock	NO	CU	CU	NO	NO	CU	NO
Removal of sand or gravel from natural beaches	NA	NA	NA	NO	NO	NO	NO
Earth cuts, fills, grading, lagooning, dredging or altering existing patterns of water flow which would result in erosion or in detriment to water bodies, fish or aquatic life.	NO	NO	NO	NO	NO	NO	NO
<b>For requirements of uses below see Art. V. F.</b>							
Piers, docks, floats and similar installations, seasonal	NA	NA	NA	CEO	CU	CU	CEO
Timber Harvesting and Related Activities (Oversite by the Maine Forest Service, Bureau of Forestry, Chap. 21)	NA	NA	NA	YES	YES	YES	YES
Clearing or Removal of Vegetation Other than Timber Harvesting and Related Activities	NA	NA	NA	CEO	CEO	CEO	CEO
Erosion and Sedimentation Control Requirements (See Art. V.F)	CEO	CEO	CEO	CU	CEO	CEO	CU
Agriculture involving the tillage of soil for field crops only	CU	YES	YES	CU	NO	CU	CU
Individual Private Campsites	CEO	CEO	CEO	CEO	CEO	CEO	CEO
<b>Uses permitted as conditional uses. See Art. V. G and Part II Art. II. D</b>							
Marinas	NO	CU	CU	CU	NO	NO	NO
Campgrounds and RV parks (See Mobile Home Park, Recreational Park and Campground Ordinance	NO	NO	CU	CU	NO	NO	NO
Parks and Recreational Areas	CU	CU	CU	CU	NO	CU	NO



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Excavation, earth moving, filling, grading, and drilling within 100 feet from the normal high water mark (Also see Art. V,F.4)	NA	NA	NA	CU	CU	CU	CU
Shoreland common areas	NA	NA	NA	CU	CU	CU	
<b>Residential (including driveways)</b>							
Accessory Structure (to allowed uses)	CEO	CEO	CEO	CEO	CU	CEO	CEO
Single Family Dwelling	CEO	CEO	CEO	CEO	CU	CEO	CEO
Two Family Dwelling	CU	CEO	CEO	NO	NO	CEO	CU
Three Unit Dwelling	NO	CU	CU	NO	NO	NO	CU
Mobile homes	NO	CEO	CEO	NO	NO	CEO	NO
Subdivisions	NO	CU	CU	CU	CU	CU	NO
Conversion of Seasonal Homes	CEO	CEO	CEO	CEO	NO	CEO	CEO
<b>Commercial</b>							
Abattoir	NO	NO	CU	NO	NO	NO	NO
Congregate housing (4 or more units)	NO	CU	CU				
Poultry processing	NO	NO	CU	NO	NO	NO	NO
Principal and Accessory Structures	CU	CU	CU	CU	NO	NO	CU
Restaurants/Bars	CU	CU	CU	CU	NO	NO	CU
Recreation				CU		YES	
Auto Sales/Repair Body Shop	CU	CU	CU	NO	NO	NO	NO
Bed and Breakfast	CU	CU	CU	CU	NO	NO	CU
Car Wash	NO	CU	CU	NO	NO	NO	NO
Fish processing	NO	NO	CU	NO	NO	NO	NO
Gasoline Service Station	NO	CU	CU	NO	NO	NO	NO
Office: Business Professional/Medical	YES	YES	YES	CU	NO	NO	CU
Printing/Photography	CU	CU	CU	NO	NO	NO	NO
Bottle Redemption Centers	CU	CU	CU	NO	NO	NO	NO
Retail Business	CU	CU	CU	CU	NO	NO	CU
Service Business	CU	CU	CU	CU	NO	NO	CU
Junkyard/Automobile	NO	NO	CU	NO	NO	NO	NO
Graveyard/Automobile Recycling							
General merchandise	CU	CU	CU	CU	NO	NO	CU
Grocery store	CU	CU	CU	CU	NO	NO	CU
Hotel/Motel/Inn	CU	CU	CU	NO	NO	NO	NO

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Home Occupation	YES	YES	YES	YES	CU	CU	CU
Light industry	NO	NO	CU	CU	NO	NO	CU
Vehicle service and/or repair facilities	NO	CU	CU	NO	NO	NO	NO
Wood processing	NO	NO	CU	NO	NO	NO	NO
Warehousing	NO	NO	CU	NO	NO	NO	NO
Waste Disposal Facility (See Wayne Waste Disposal Facility Licensing Ordinance)	NO	NO	CU	NO	NO	NO	NO
<b>Industrial</b>							
Accessory Structure	CU	CU	CU	NO	NO	NO	NO
Light Industry	NO	NO	CU	NO	NO	NO	NO
Heavy Industry	NO	NO	NO	NO	NO	NO	NO
Recycling operation	NO	CU	CU	NO	NO	NO	NO
Sludge Spreading	NO	NO	NO	NO	NO	NO	NO
<b>Institutional</b>							
Accessory Structure	CEO	CEO	CEO	NO	NO	NO	NO
Community Centers/Clubs	CU	CU	CU	CU	NO	NO	CU
Congregate Housing	NO	CU	CU				
Day Care Facilities	CU	CU	CU	CU	NO		CU
Nursing Home	CU	CU	CU	NO	NO		NO
Government Uses	CU	CU	CU	CU	NO		CU
Museum/Library	CU	CU	CU	CU	NO		CU
Public/Private School	CU	CU	CU	CU	NO		CU
<b>Outdoor, Resource-based uses</b>							
Agriculture	NO	YES	YES	CU	NO	YES	CU
Conditional Use Agriculture	NO	NO	CU	CU	NO	NO	NO
Individual Campsites	CEO	CEO	CEO	CU	CU	CU	CU
Dog Kennels	CU	CU	CU	CU	CU	NO	CU
Piers and Docks							
Temporary	NA	NA	NA	CEO	CU	CEO	YES
Permanent	NA	NA	NA	NO	NO	NO	NO
Common Areas, Shoreland	NA	NA	NA	CU	CU	NA	CU
Mining and Mineral Extracting including gravel pits	NO	NO	CU	NO	NO	NO	NO

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<b>Infrastrucure</b>							
Parking Areas	CEO	CEO	CEO	CU	NO	CEO	CU
Roads, Public and Private (See Road Ordinance)	CU	CU	CU	CU	NO	CU	CU
Culverts (see Culvert Installation Policy)	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Signs, Commercial (See Art. IX. D)	CU	CU	CU	CU	CU	NA	CU
Signs, Residential (See Art. IX. E)	YES	YES	YES	YES	YES	YES	YES

For new or expanded uses not listed in this chart, the Code Enforcement Officer will decide if the use is allowed in the zone and which type of permit or procedure is required, if any. This decision shall be based on an assessment of the similarity of the use to other uses listed in this chart. The Code Enforcement Officer's decision may be appealed to the town's Zoning Board of Appeals.

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**ARTICLE III: LOT SIZE, SETBACK AND SPACING REQUIREMENTS FOR USES IN ALL ZONES\***

ZONE	R-1 (See Art.IV.)	R-2 (See Art. IV) See Art. IX. Sec.K for additional size and setback requirements	R-3 See Art. IX. Sec.K for additional size and setback requirements	R-4 See Art. IX. Sec.K for additional size and setback requirements	R-5 Islands: See C.1.)	R-5 (Aquifer: R-2 or R-3 See ART. VI, B.7.) See Zoning Map	R-6 (See Art. VII)	Fences All Zones**
Minimum lot size	40,000 sq. ft.	2 ac.	3 ac.	2 ac.	4 ac.		2 ac.	
Frontage	150 feet	250 feet	300 feet	250 feet	400 feet			
Front setback	35 feet	50 feet	50 feet	30 feet			30 feet	10 feet
Side setback	15 feet	30 feet	30 feet	30 feet			30 feet	2feet
Rear setback	10 feet	15 feet	30 feet	15 feet			15 feet	2feet
Front lot width	150 feet	250 feet	300 feet	250 feet	400 feet			
Front lot depth	150 feet	200 feet	200 feet	200 feet	300 feet		200 feet	
Right of Way to rear lot	50 feet	50 feet	50 feet					
Rear lot width	150 feet	250 feet	300 feet					
Rear lot depth	150 feet	200 feet	200 feet					
Shore Frontage				250 feet	400 feet		250 feet	
Waterbody Setback				100 feet	100 feet	100 feet	100 feet	25 feet
Wetland and Tributary Stream	75 feet	75 feet	75 feet	75 feet	75 feet	75 feet		
Height to Roof Peak or fence top	30/22* feet	30/22* feet	30/22* feet	30/22* feet			30/22* feet	6 feet Residential

\* Also subject to other provisions or relaxations of standards allowed in other portions of this ordinance

\*\* . All fences are limited in height to six feet or less except for the following. Any fence over six feet will be treated as a structure and will have to meet the setbacks in respective zones, except that for agricultural uses, farm, farm operations and agricultural composting operations, fence height and setbacks are exempt if the uses meet best management practices as noted in MRSA 7 Section 153-155. The Planning Board may require screening or fencing over six feet in height for certain uses through its conditional

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use review process.

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### ARTICLE IV:

### STANDARDS FOR SPECIFIC USES IN ZONES R-1, R-2, and R-3

1. There shall be no more than one dwelling unit per minimum lot.
  2. Uses permitted as Conditional uses shall require a minimum lot.
  3. Height: No new principal structure or additions to existing principal structures shall be higher at the
- roof peak than 30 feet above the highest point in the natural grade at the perimeter of the building or addition. Height of accessory buildings by similar measure shall be no more than 22 feet. Structures in agricultural use in R-2 and R-3 are exempt from height requirements. In zones R-2 and R-3, the planning Board, as part of its review under Conditional use, may waive these height requirements by no more than six (6) feet, for commercial buildings that reasonably require such adjustment for the particular use.
4. For residences, excluding mobile homes, of up to 3 dwelling units in zone R-1, the minimum lot size shall be increased by 10,000 square feet for each dwelling unit over one.
  5. For professional offices: In zone R-1 only: not more than two (2) persons may be employed full time in addition to one professional.

For professional offices in zones R-1, R-2, and R-3: Off street parking spaces shall be provided as follows:

- a. One space per employee and one space for each professional.
- b. Parking spaces for patrons of the professional shall be as follows:
  - 1). A minimum of two shall be provided. On street parking otherwise permitted may provide two (2) spaces, provided they are within 100 feet of the premises of the professional. If on street parking is not available as above, two (2) off street parking spaces shall be provided on the premises.
  - 2). Additional off-street parking shall be provided as follows:
    - a. Physicians' Offices - 4 spaces per physician
    - b. Dentists' Offices - 2 spaces per dentist

6. For home occupations in zone R-1:

If the nature of the home occupation is such that customers come to the business location to transact business, a minimum of two parking spaces shall be provided. On-street parking, otherwise permitted, may provide those two (2) spaces, provided they are within 100 feet of the premises. If on street parking is not available as above, two (2) off street parking spaces shall be provided on the premises.

7. For hotels, motels, and inns, the minimum lot size shall be five (5) acres, and the minimum lot width shall be 500 feet.
8. Waste disposal facilities are allowed as conditional use in Zone R-3, as defined in the Waste Disposal Facility Licensing Ordinance, June 24, 1987, as amended, provided that:
  - a. The applicant shall meet the licensing and review requirements of the Licensing Ordinance. Review shall proceed first under the provisions of the Licensing Ordinance and the under Part II, Article II, Section D of this Ordinance.
  - b. Minimum lot size shall be twenty-five (25) acres.
  - c. Minimum Road frontage shall be 750 feet.
  - d. Minimum setbacks for disposal areas and structures shall be 250 feet from all lot lines. Disposal areas and structures shall be screened with evergreen vegetation and/or natural wood fencing, so as not to be visible from abutting properties roads or streets, during any season.
9. Mining, quarrying, and wood processing are allowed in R-3 provided that:
  - a. Minimum setback for structures, excavation areas, or wood yards shall be 100 feet from



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abutting property lines, except for gravel pits which shall be set back 200 feet from side of rear lot lines.

b. Such uses are in accordance with the provisions of Article IX, Section J.

### 10. For light industry and warehousing:

a. Minimum setbacks for any structure and/or parking and storage area shall be 100 feet from all lot lines. Storage of materials associated with the use shall be inside and/or rear yard areas only. Outside storage areas shall be screened with evergreen vegetation and/or natural wood fencing so as not to be visible from abutting properties, roads or streets during any season.

b. Minimum lot width shall be 400 feet.

### 11. For mobile home parks, RV parks, and campgrounds as defined in the Town of Wayne Mobile Home Park and Recreational Vehicle Park Ordinance, March 13, 1971, as amended or superseded,

a. The application shall comply with the requirements of said Ordinance and all applicable State statutes and regulations.

b. The use shall be considered a subdivision for the purpose of review and shall meet the review standards of a subdivision under the Town of Wayne Subdivision Regulations.

### 12. For meat (including abattoirs), poultry, and fish processing plants:

a. Minimum lot size shall be six (6) acres.

b. Minimum lot width shall be 500 feet.

c. Minimum setbacks for structures and animal storage area shall be 150 feet from all lot lines.

d. The Applicant shall submit a plan detailing the method of organic waste storage and disposal to be employed. The plan should not rely on the use of municipal landfill areas for the disposal of solid wastes. Organic waste storage areas will be inside a structure and in covered containers. Said waste shall be removed from the premises sufficiently often to prevent the putrefaction and odor.

e. The applicant shall submit a plan to control any or all noxious or offensive emissions or odors from the facility, which plan must provide for the limitation of such emission or odors so that they are undetectable by abutting property owners.

f. The Applicant shall provide evidence of financial capability to meet the requirements and conditions of the permit for such use. The board may also require a performance bond.

g. Nothing in this section shall prevent the occasional slaughtering of livestock incidental to residential use.

### 13. For Junk Yards:

a. Minimum setbacks for structures and any junk storage shall be:

1. Front: 150 feet

2. Side: 150 feet

3. Rear: 150 feet

4. Natural Watercourses: 300 feet

Storage areas shall be screened with evergreen vegetation and/or natural wood fencing so as not to be visible from abutting roads, streets or properties during any season.

b. Minimum lot size shall be twenty (20) acres.

c. Minimum lot width and street frontage shall be 500 feet.

d. Petroleum products shall not be stored in any areas which junk articles are stored.

e. For fire protection, storage areas shall be within 50 feet of a year-round water source, said source being capable of delivering a minimum of 500 gallons per minutes for three (3) hours.

f. No more than 150 tires shall be stored in a junk storage area.

### 14. For Conditional use agriculture:

a. Minimum lot size shall be ten (10) acres.

b. Minimum lot width and street frontage shall be 400 feet.

c. Minimum setbacks for any new buildings or structures, manure storage facilities, or animal

## ZONING ORDINANCE TOWN OF WAYNE, MAINE

storage areas supporting the activity shall be:

1. Front: 100 feet
2. Side: 100 feet
3. Rear: 100 feet

Structures, manure storage facilities or animal storage areas, which were designed and used for conditional use agriculture, and which existed on the effective date of passage of this provision of the Ordinance, are not required to meet these setbacks even if the conditional use agriculture use has been discontinued for more than one year. An addition to an existing structure, manure storage facility, or animal storage area is an allowed expansion if it does not increase the nonconformity of the existing buildings with respect to setbacks from all lot lines, roads and streets, and rights-of-way.

d. The applicant shall provide a detailed plan for the storage and disposal of manure, according to the guidelines published in Report 142, July 1972, Maine Soil and state Conservation Commission, or equivalent more recent report violation of the provision, of the plan shall be a violation of this Ordinance.

15. Congregate Housing, as defined, is allowed in Wayne provided that:
  - a. Dwelling units can be no larger than 2 bedrooms each;
  - b. The common area may be located either in the same buildings that the dwelling units are in or it may be located in a detached building;
  - c. The proposal for congregate housing must comply with the provisions of Part I, Article IX, Section K- Multiple Dwelling Unit Development and Certain Divisions of Land.
  - d. Off-street parking requirements shall comply with Part I. Article IX. Section L.
  - e. The proposal for congregate housing shall comply with applicable provisions of Part I. Article IX.
16. Regulation of tiny homes: Tiny homes shall be permitted to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable Wayne land use requirements.

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### **ARTICLE V: SHORELAND ZONE - "R-4"**

The Shoreland zone includes all land areas within 250 feet of the normal high water mark of any great pond, defined pond, or lake, river, or upland edge of a freshwater wetland and within 75 feet of the normal high water mark of a stream; or tributary stream and shall include any structure built on, over, or abutting a dock, wharf, pier or other structure extending beyond the normal high water mark, including floats. Shoreland zoning under this Ordinance is pursuant to 30-A M.R.S.A., Section 3001, and 38 M.R.S.A., Section 435, et. seq. The intent of this Shoreland zoning is to maintain safe and healthy conditions; to prevent and control water pollution; to preserve and enhance water quality; to protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; to control building site placement of structures and land uses; to preserve and enhance the aesthetics of water bodies and views therefrom; to protect shoreland areas from erosion; to avoid problems associated with floodplain development and use; and to conserve and sustain shore cover's natural beauty, and points of access (both visual and actual) to water bodies.

**A: The Shoreland zone shall be a zone of year-round and seasonal residences and certain qualifying uses.** All land use activities within this zone shall conform to the following provisions of sections B-L below.

#### **B: Minimum Lot Size and Density:**

1. Lots abutting any great pond, defined pond or lake, stream, tributary stream, river, or upland edge of a wetland shall meet the following minimum standards:
  - a. Shore Frontage and width: 250 feet
  - b. Depth: 200 feet
  - c. Area: 2 acres
2. Density: There shall be no more than one residence of one dwelling unit per minimum lot. Uses permitted as a Conditional use shall require at least a minimum lot.

#### **C: Setbacks and Height Requirements:**

1. Setback: New structures and additions to existing structures, shall meet the following minimum setbacks:
  - a. Normal high water mark: 100 feet.
  - b. Side: 30 feet.
  - c. Right of way line of streets and roads: 30 feet
  - d. Rear: 15 feet.
  - e. Upland edge of a freshwater wetland, stream or tributary stream: 75 feet.

Setback: Fences shall meet the minimum setbacks listed in Article III, LOT SIZE AND SPACING REQUIREMENTS FOR USES IN ALL ZONES

If more than one applies to the same setback, the larger setback controls.

2. Height: No new principal structure or additions to existing principal structures shall be higher at the roof peak than 30 feet above the highest point in the natural grade at the perimeter of the building or addition. Accessory structures by the same measure shall be no more than 22 feet.

#### **D: Permitted Uses:**

1. A residence (excluding Mobile Homes) of one (1) dwelling unit.
2. Home Occupations, provided that parking requirements of Article II, Section D, ss. 2 are met.

#### **E: Prohibited Uses:**

1. Installation of underground petroleum storage tanks.

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2. Housing, corralling or grazing of livestock.
3. Removal of sand or gravel from natural beaches.
4. Earth Cuts, fills, grading, lagooning, dredging or altering existing patterns of natural water flow which would result in erosion or in detriment to water bodies by reason of erosion, sedimentation, 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 that 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. The Maine Forest Service is responsible for the monitoring and enforcement of the Chapter 21

# ZONING ORDINANCE TOWN OF WAYNE, MAINE

## Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas.

### 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 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	
<u>Above Ground Level</u>	<u>Points</u>
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, dead or hazard 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

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not intrude into the 100 foot buffer strip, and shall not be within ten (10) feet of a side lot line.

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. 3-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(3)(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 forester licensed by the State 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 reseeding.

#### 4. Exemptions to Clearing and Vegetation Removal Requirements

- a. The following activities are exempt from the clearing and vegetation removal standards set forth in Article V, Section F 3, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

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- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Article V Section F 3 apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Article V Section C are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Article V Section F 8 are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site approved by the Commissioner of the Department of Environmental Protection that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - (a) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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**NOTE:** An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:  
[http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

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- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

### 5. Revegetation Requirements

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a. When revegetation is required in response to violations of the vegetation standards set forth in Article V Section F 3, to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

(1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

(2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

(3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

(4) Revegetation activities must meet the following requirements for trees and saplings:

(a) All trees and saplings removed must be replaced with native noninvasive species;

(b) Replacement vegetation must at a minimum consist of saplings;

(c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

(d) No one species shall make up 50% or more of the number of trees and saplings planted;

(e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

(f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

(5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

(a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

(b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;



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- (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  - c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.
6. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal
- a. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
    - (1) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
    - (2) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
    - (3) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the

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growing season.

(4) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(5) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

b. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(1) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

(ii) Stumps from the storm-damaged trees may not be removed;

(iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

(iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

(2) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

### 7. 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.

3) Permanent stabilization structures such as retaining walls or riprap.

b. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be allowed as closely as possible.

c. Erosion and sedimentation control measure shall apply to all aspects of the proposed

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project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

d. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked by use of riprap, sod, seed, and mulch, or other effective measure. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:

1) Where mulch is used, it shall be applied at a rate of at least one bale per five hundred square feet and shall be maintained until a catch of vegetation is established.

2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

e. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

f. Tree cutting and clearing of vegetation shall be conducted in such a manner and at such a time that minimal soil disturbance results. When necessary, adequate provision shall be made to prevent soil erosion and sedimentation of surface waters such as sediment basins, settling basins, filter fences, hay bales and immediate reseeded of any area that has the potential of causing erosion or sedimentation.

### 8. Agriculture involving the tillage of soil for field crop only:

a. All spreading or disposal of manure shall be accomplished in conformance with the "Manure Utilization Guidelines" published by the former Maine Department of Agriculture on November 1, 2001, and the "Nutrient Management Law" (7M.R.S.A. sections 4201-4209) and any subsequent amendments. Nonconformance with the guidelines shall be a violation of this Ordinance.

b. Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of the normal high water mark of a great pond, lake, stream, tributary stream, or upland edge of wetland. Within five years of the effective date of this Ordinance, all manure storage areas within the Shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the "No Discharge" provision within the above 5 year period.

c. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading disposal or storage of manure within the Shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

d. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high water mark of a great pond, lake, stream, tributary stream, or upland edge of wetland. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

e. Where soil is tilled, such tillage will be carried out using practices, which prevent runoff, establishment of water courses, sedimentation or erosion. Soil tillage and/or establishment of farm or fire ponds shall be carried out in conformance with the provisions of a Conservation

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Plan which meets the standards of the State Soil and Water Conservation Commission and approved by the appropriate district. The number of the plan shall be filed with the Planning Board. Nonconformance with the provisions of the plan shall constitute a violation of this Ordinance.

f. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

### 9. Soils.

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

### 10. Water Quality.

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

### 11. Archaeological Site.

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

### 12. Individual Private Campsites:

Individual private campsites not associated with campgrounds are permitted provided the following conditions are met:

- a. One campsite per minimum lot within the Shoreland zone is permitted.
- b. Campsite placement on any lots including the area intended for a recreational vehicle or tent platform, shall meet all the setback requirements of the Shoreland zone.
- c. Recreational vehicles shall not be located on any type of permanent foundation and no structures except canopies shall be attached to the recreational vehicle.
- d. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local Plumbing

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Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

e. If the camping is for more than 14 consecutive days in any four-month period, requirements of Article IX-P must be met.

f. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

### **G. Uses permitted as Conditional uses: (See Part II Article II Section D, for Conditional use Standards).**

#### 1. Marinas provided that:

a. Minimum lot size shall be four (4) acres, to which minimum lot size shall be added the square footage of the parking area required.

b. Minimum shore frontage shall be 500 feet.

c. Petroleum products to be delivered to the user from piers, docks, or within 250 feet of normal high water, shall be piped above ground using non-corrosive materials from storage tanks outside the 250 foot zone. Delivery nozzles on hoses shall be unable to be locked in the "ON" position.

d. Installation of petroleum tanks serving the facility shall be above ground and of a non-corrosive material.

e. Storage buildings, sale, and/or service buildings, shall be set back a minimum of 150 feet from normal high water and 7 feet from side lot lines, and shall be screened by natural vegetation so as not to be visible from the water or from abutting properties.

f. Parking lots shall be set back a minimum of 200 feet from normal high water and 75 feet from side lot lines and shall be screened by natural vegetation so as not to be visible from the water, abutting properties, or roads and streets. Runoff from said areas will be controlled and dispersed so as to be absorbed by the ground and not flow directly into a water body.

g. One parking space shall be provided for each mooring slip and each dock, plus one (1) space per 200 square feet of service and/or sales space. One parking space shall be provided for the proprietor and one for each employee. Dwelling units, if any, shall have two (2) spaces per unit.

h. Setbacks of all buildings and parking lots from streets or roads at the rear lot line, the rear lot line being the one opposite the shore frontage and not a side lot line shall be fifty (50) feet.

i. Access roads within the lot shall be set back a minimum of 75 feet from, side lot lines.

j. Dredging for the purpose of accommodating docking or launching facilities shall not be allowed.

k. Mechanical equipment for the launching or retrieving of watercraft shall not be installed permanently.

l. Excavation or fill within 50 feet of normal high water requires a Conditional use permit in accordance with ss. 4 below of this Section.

m. The applicant shall be required to improve and maintain any and all access roads to the marina to the degree necessary to support the use, and to secure all necessary easements from others in order to accomplish such improvement and maintenance.

#### 2. Campgrounds and RV parks provided that:

a. The application also meets the requirements of the town of Wayne Mobile Home Park and Recreational Vehicle Park Ordinance as amended or superseded and applicable State statutes

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and licensing requirements.

b. Campground spaces for either tenting or recreational vehicles shall be a minimum of 5,000 square feet of land, not including roads and driveways, with a width of at least 7 feet abutting any access road to the space. Land supporting wetland vegetation, and land below the normal high water mark of a water body, shall not be included in calculating land area per site. c. Minimum setbacks of structures and campground spaces shall be:

1. Normal high water: 100 feet
2. Upland edge of wetland: 100 feet
3. Front: 100 feet
4. Side: 100 feet
5. Rear: 100 feet

d. Minimum lot size of campground or park shall be ten (10) acres.

e. Minimum width shall be 500 feet.

3. Parks and/or recreation areas (See definition) provided that:

a. Adequate off street parking is provided.

b. Setbacks of parking areas, picnic area, and structure shall be 100 feet from the normal high water mark or the upland edge of a wetland and 75 feet from side lot lines.

4. Excavation, earth moving, filling, grading, and drilling within 100 Feet of normal high water (see also regulations Section F-4) provided that:

a. Such activities will not cause erosion, sedimentation, or degradation of water bodies.

b. Temporary ground cover, such as mulch, will be used on disturbed or exposed area.

c. Diversion, silting basins, terraces, filter fences, staked hay bales or other methods to trap sediment shall be used as necessary.

d. No fill shall be placed within ten (10) feet of normal high water without compaction and stabilizing with seeding or other appropriate method.

e. No fill shall restrict a natural drain way, a floodway or interfere with the capacity of a flood plain.

f. Sides of channels or artificial watercourses shall be constructed to prevent slumping with side slope, of two (2) units horizontal distance to one (1) unit vertical distance or flatter, unless bulkheads or riprap are provided.

5. Shoreland common areas (See definition) provided that:

a. Minimum lot size shall be that of the Shoreland zone.

b. There shall be no more than five (5) lots granted access per 250 feet of shore frontage of the parcel. There shall be no more than one (1) lot granted access per fifty (50) feet of shore frontage over 250 feet.

c. There shall be no more than one (1) pier or dock and one swimming float per 250 feet of shore frontage, and they shall meet the requirements of Article V, Section F..

d. There shall be no structural development with the exception of picnic tables and toilet facilities.

e. There shall be no launching ramp for watercraft installed.

f. There shall be one (1) privy or other toilet facility for each sex installed on the parcel, which facility meets the RULES.

g. There shall be one thirty (30) gallon capacity refuse container on the site per five (5) lots which shall be covered and be animal proof. All solid wastes shall be removed weekly, at the minimum, or more often, if use warrants, thereby controlling litter and spillage.

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- h. There shall be one (1) parking space for each lot granted access, except that vehicular traffic to the common area is prohibited as a condition of granting access. Parking spaces shall be set back twenty (20) feet from a road right-of-way, thirty (30) feet from side lot lines, and 200 feet from the normal high water mark.
- i. Camping shall be limited to two (2) sites per minimum lot; recreational vehicles are excluded.
- j. There shall be a formal agreement of lot owners whose lots have been granted access for the shared maintenance of the common area.

### H. Roads and driveways:

The following standards shall apply to the construction of roads, driveways, drainage systems, culverts, and other related features.

1. Roads and driveways shall be set back. at least 100 feet from the normal high water mark of a great pond, lake, stream, tributary stream, or upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the 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, culvert, and turnouts, placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than 20 percent, the road and/or driveway setback shall be increased by 10 feet for each 5 percent increase in slope above 20 percent.

This paragraph shall neither apply to approaches to water crossings, approaches to water bodies for use by fire department vehicles, nor to roads or driveways that provide access to permitted structures and facilities located nearest to the shoreline due to an operational necessity.

- 2. Existing public roads may be expanded regardless of its setback from a water body.
- 3. Road banks shall be no steeper than a slope of 2 horizontal to 1 vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Article V, Section F, ss. 3.
- 4. Road grades shall be no greater than 10 percent except for short segments of less than 200 feet.
- 5. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty on to an unscarified buffer strip a least 50 feet, plus two times the average slope in width, between the outflow point of the ditch or culvert and the normal high water mark of a great pond, lake, stream tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified 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 in a manner effective in directing drainage onto unscarified buffer strips, before the flow in the road or ditch 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:

Road Grade Spacing	
(Percent)	(Feet)
0-2	250
3-5	200-135
6-10	100-80

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11-15	80-60
16-20	60-45
21+	40

b. Drainage dips may be used in place of ditch relief culverts only where the road grade is 10 percent or less.

c. On road sections having slopes greater than 10 percent, ditch relief culverts shall be placed across the road at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road.

d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective function and their inlet and outlet ends shall be stabilized with appropriate materials.

7. Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

### **I. Conversion of seasonal dwellings to year-round use:**

Before conversion of seasonal dwelling to year-round use, a permit must be obtained from the local plumbing inspector. The applicant must demonstrate, to the satisfaction of the plumbing inspector, and based upon a site evaluation by a licensed site evaluator subsequent to January 1, 1984, that the parcel will support the installation of a replacement system in the event of malfunction of the installed system.

### **J. Permits for new construction, reconstruction, additions, and expansions to structures in the shoreland zone shall be issued with the following conditions:**

1. Silt fences shall be installed between the area of construction and the water body or wetland prior to any soil disturbance and shall remain in place until the area of disturbance is stabilized by sod, seeding and mulching, or other comparable measures.
2. Where mulch is used it shall be applied at a rate of a least one bale per 500 square feet (1 1/2 to 2 tons per acre) and shall be maintained until a catch of vegetation is established over the entire disturbed area.
3. Disturbed soil shall be immediately stabilized upon activity completion, or if the area is not to be actively worked for more than one week.
4. In addition to placement of riprap, sod, erosion control blankets or mulch, additional steps shall be taken where necessary in order to prevent sedimentation of the water.
5. Crushed stone run off control trenches shall be installed on the eave sides of all structures. The trenches shall be a minimum of one foot deep and three feet wide and extend at least two feet out from the overhang of the eaves.

### **K. Storm Water Runoff**

1. All new construction, development, excavation, and filling projects shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

### **L. Non-vegetated surfaces**

The total area of all structures, parking lots, and other non-vegetated surfaces, within the Shoreland



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Zone shall not exceed twenty percent of the lot square footage or a portion thereof located within the Shoreland zone, including land area previously developed.

### **M. Septic Waste Disposal**

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

### **N. Septic Inspections Required at Time of Property Title Transfer.**

Prior to the title transfer of ownership of a lot containing a Subsurface Wastewater Disposal (SSWD) system or a structure connected to a SSWD system, a person certified by the state shall be hired, not at public expense and paid for by the property owner, to inspect the SSWD system. If the inspection finds that the SSWD system is malfunctioning, the system must be repaired or replaced within one year after transfer. The indications of a malfunctioning system are those specified in "system, malfunctioning" as provided in the definition section of 10-144, Chapter 241, the State of Maine Subsurface Wastewater Disposal Rules (Rules).

The following are the only exceptions allowed to the requirement of this paragraph:

- a. When a SSWD system has been installed pursuant to rules adopted under Title 22 M.R.S. section 42, and Title 30-A M.R.S. subsection 4211, within 3 years prior to the date of the transfer of property title.
  - b. When the current property owner has a written report from a person certified by the state for an inspection of the SSWD that was performed within 3 years prior to the date of transfer that certifies that the system was not found to be malfunctioning and the current property owner provides the inspection results to the purchaser.
  - c. When weather conditions preclude an inspection of the SSWD by a person certified by the state prior to the date of transfer the inspection must be performed within 9 months after the date of transfer. If the inspection finds the system to be malfunctioning the system must be replaced or repaired.
  - d. When the person acquiring title to the lot containing an SSWD system or a structure connected to a SSWD certifies to the Town Code Enforcement Officer (CEO) that the system will be replaced within one installed pursuant to Title 22 M.R.S. section 42, and Title 30-A M.R.S. subsection 4211, within one year from the date of transfer.
1. A full copy of the inspection results under section A, or statement of exemption under allowed exemptions, is required and shall be provided to the Code Officer prior to transfer closing. If the person certified by the state determines that a SSWD system is malfunctioning, then a structure connected to the SSWD system shall not be occupied until the system has been brought into conformance with the Rules.
  2. The present title holder may not transfer, sell or offer to transfer or sell any lot containing a SSWD system or structure connected to the SSWD system without advising the prospective new title holder of the requirements of this article.
  3. Noncompliance of this section will result in an assessed penalty of not less than \$100 up to a maximum of \$2,500 on a per-day basis to the prior or new title holder under Article II(E) of this Ordinance and 30-A M.R.S. § 4452. Assessment of penalties does not release the

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prior or new title holder from the requirements of this section.

4. In this section the term, "Transfer" shall include the following: any transfer of ownership whether by sale, gift, devise, transfer to an entity, and inheritance, including transfers to a trust for which the current owner is the beneficiary.

### **O. Regulation of tiny homes:**

Tiny homes shall be permitted to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable Wayne land use requirements.

## **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.

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### **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 forester licensed by the State of Maine, and in accordance with shoreland clearing or removal of vegetation standards in Article V, Section F.3. of this Ordinance.
6. Timber Harvesting and Related Activities 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. 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 (See Article III: LOT SIZE AND SPACING REQUIREMENTS FOR ALL ZONES.)

### **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.

### **F. Regulation of tiny homes:**

Tiny homes shall be permitted to be placed or erected on an individual house lot where single-family dwellings are allowed or as an accessory structure, subject to all applicable Wayne land use requirements.

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### **ARTICLE VII: VILLAGE SHORELAND ZONE - "R-6"**

The village Shoreland Zone shall be a zone of residences and certain qualifying uses.

**A. With respect to minimum lot size, density, setbacks, heights and prohibited uses, the regulations of Article V, Shoreland Zone R-4 shall apply except as provided for herein.**

**B. Permitted uses:**

1. Permitted uses of Article V.
2. Home occupations shall comply with the standards for home occupations outlined in Part I, Article III, and shall not be a use that is prohibited under Part I, Article V, ss. E.6.

**C. Uses permitted after review as Conditional use.**

1. Uses under Article VIII, Section F.
2. Conversions of residences existing as of the date of adoption of this Ordinance to multi-family residences of up to three (3) dwelling units provided that:
  - a. Minimum lot size shall be increased 40,000 square feet for each dwelling unit over one.
  - b. The proposed use meets Maine Subsurface Wastewater Disposal Rules.
3. Professional Offices and Home Occupations, provided that:
  - a. The use complies with the applicable provisions of Article III.
  - b. The use is not a prohibited use listed in Article V. E (6)
4. Commercial uses other than those prohibited under Part 1, Art. V, ss. E.6.

**D. Piers, docks, and float, restricted:**

One pier, dock, or float, or combination thereof, may emanate from each shoreline parcel. It shall meet the standards for installation of Article V, Section F (1), in all other respects, except it may extend only 10 feet from the shoreline.

## ARTICLE VIII: NONCONFORMING USES AND NONCONFORMING LOTS OF RECORD

### A. Nonconforming lots of record:

1. Definition: A "Nonconforming Lot of Record" is a lot of record in legal existence as of the effective date of this Ordinance or amendments thereto which does not meet the requirements of this Ordinance in the applicable zone.
2. Conveyance of developed and contiguous nonconforming Lots of record:

The Planning Board shall grant a Conveyance Permit to single or joint owners of said lots after review, if said lots meet the following conditions:

  - a) If two or more contiguous and developed nonconforming lots of record are in the same single or joint ownership of record and if each lot contains a residence built in conformity with existing regulations at the time of its construction, and each lot currently meets the standards of the State Subsurface Wastewater Disposal Rules within its boundaries, and each is at least 20,000 square feet (or the State minimum Lot Size Law, whichever is greater), they may be conveyed separately or together. Any undeveloped lot of record, in the ownership of a person(s) who has any whole or partial interest in a contiguous developed lot (or lots), shall be added to one, or divided between said lots, to bring them into conformity or closer to conformity with minimum lot sizes in the zone. Said dividing of the undeveloped lot shall be in a manner consistent with the development on the lots to maximize their conformity, and so as not to create another nonconforming lot.

A "developed" lot shall mean one containing a residence. The presence of an accessory building or other structure not containing a dwelling unit shall not constitute development.
  - b) The application for a conveyance permit shall contain plans to show all lots to be conveyed and the dividing of contiguous or intervening vacant lots to said lots drawn to scale, locations of septic systems and the associated fields, a copy of the original deed(s) to the applicant(s) of the lot, and the names of the abutting property owners to all lots on the plan. The applicant shall provide evidence that each lot to be conveyed meets the State Subsurface Wastewater Disposal Rules within its boundaries, if requested by the Board.
  - c) A developed nonconforming lot of record contiguous to a developed conforming lot of record, both in the ownership of person(s) having any whole or partial interest in them, may be conveyed separately or together under the provisions of subsection 2 above.
3. Merger of contiguous nonconforming lots of record-vacant or partially built.
  - a) If two or more contiguous lots or parcels of land are in the ownership of a person(s) having any whole or partial interest in the contiguous lots as of the effective date of this Ordinance, and if any of these lots do not individually meet the minimum lot size requirements of the applicable zone as stated in this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain(s) only an accessory structure, the lots shall be combined to the extent necessary to meet all minimum lot size requirements.
  - b) This merger requirement applies to all lots or parcel whether they are part of a subdivision or other approved or recorded plan or not. Lots created pursuant to the provision of Article IX, Section K of this Ordinance, are exempt from this merger requirement.
  - c) Corporations, in which two or more directors are the same individual (or their spouses), shall be treated as the same corporation for the purposes of this Ordinance.
4. New buildings on single, vacant nonconforming lots of record:

It is permissible to construct a new residence containing one dwelling unit and/or accessory buildings thereto, if all buildings will meet the setbacks in the zone in which the lot lies; if

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construction is on an undeveloped nonconforming lot of record, which lot is not adjoined by other land in which the owner of the nonconforming lot has any whole or partial interest on the effective date of this Ordinance or subsequent amendments, and which lot is a least 20,000 square feet, and the use meets the requirements of the State Subsurface Wastewater Disposal Rules, and if the lot coverage requirements of C.1-c. of this Article are met. Undeveloped means a lot without a building containing a dwelling unit.

### 5. Two or More Dwelling Units on a Single Lot of Record

a. If two or more dwelling units existed on a single lot of record on the effective date of this Ordinance (June 18 1992), then each may be sold on a separate lot provided that the State Minimum Lot Size Law and the State Subsurface Wastewater Disposal Rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance for purposes of this section. Camper trailers and recreational vehicles are not considered dwelling units.

### **B. 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.

### **C. Requirements for permitted expansion**

#### 1. General requirements all zones

An addition, including porches and decks, to an existing single-family residence or other structure is considered to be expansion and is permitted, provided that:

- a. The expansion may not increase the nonconformity of the existing structure with respect to setbacks from all lot lines, roads and streets, rights of way, or the normal high water mark.
- b. With respect to heights, the expansion may not increase the level of the ground floor more than two (2) feet, or the height of the roof peak more than thirty (30) feet above the highest point of the natural grade at the perimeter of the building, and shall not create a ceiling height of 6.5 feet or more in a basement, without obtaining the necessary plumbing permits for the addition of one bedroom at the minimum, except for C.2 a. 2 below.
- c. With respect to lot coverage, shall not increase the existing square footage of all existing and proposed structures, including porches, decks, and non-vegetated surfaces to more than 20% of the total square footage of the lot. Square footage of a structure includes ground floor square footage, and the square footage of overhangs and other parts of a structure, cantilevered or otherwise supported, projecting outward from any floor of the structure.
- d. Shall not be on a lot which does not meet the State Subsurface Wastewater Rules.
- e. Shall not include placement of a foundation under a structure which is less than the required setback from the normal high water mark, unless the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent to the criteria of Section D. 2 below.

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### 2. Special Requirements for Expansion within the Shoreland Zone

a. Expansions - A non-conforming structure may be added to or expanded, after obtaining a permit from the same permitting authority as a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (1) and (2) below.

1). Legally existing non-conforming principal and accessory structures that do not meet the water body or wetland setback requirements may be expanded or altered as follows as long as all other applicable standards contained in this Ordinance are met.

a). Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.

b). Expansion of an accessory structure that is located closer to the normal high-water line of a water body or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.

c). For structures located less than 75 feet from the normal high water line of a water body or upland edge of a wetland. the maximum combined total foot print for all structures is 1,000 square feet, and the maximum height of any structure is 20 feet or the height of the existing structure, whichever is greater.

d). For structures located less than 100 feet from the normal high water line of a great pond classified GPA or a river flowing to a great pond classified as GPA, the maximum combined foot print for all structures is 1.500 square feet, and the maximum height of any structure is 25 feet or the height of the existing structure, whichever is greater except that any portion of those structures located less than 75 feet from the normal high-water line or upland edge of a wetland must meet the floor area and height limits of c).

e). Further, no expansion shall be greater than twenty (20) feet along the line parallel to a shoreline and no closer to the normal high water line of a water body or upland edge of a wetland than the current structure.

For the purposes of subparagraph (1) above, a basement, as defined, is not counted toward floor area.

2). Construction or enlargement of a foundation beneath the existing structure is not considered an expansion of the structure provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Part I. Article VIII.D, Relocation, below: that the completed foundation does not extend beyond the exterior dimensions of the structure: and that the foundation does not cause the structure to be elevated beyond the allowable height within section 2a1c&d above.

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### **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 or its designee 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 Planning Board or its designee 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 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. (3), 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 (3).,
- 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.



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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 re-vegetate 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:

- a. The proposed change in use is one that is permitted in the RI Zone under article II.
- b. The perimeter dimensions of the building will not change and there will be no change in height more than that required to install a foundation which brings the ground floor level to no more than two (2) feet above the highest natural grade at the location of the building on the site.
- c. The proposed use is less intensive, or at least no more intensive, as the existing use as measured by volume and type of traffic expected to be generated, number of potential customers or patrons, volume of waste water generated, area for exterior storage of materials associated with the use, or other similar measures of intensity of use.
- d. Off street parking spaces will conform to ordinance requirements for the proposed use.
- e. Is not a prohibited use as listed in Article V.E.6.
- f. Nothing in this section shall be construed to mean that existing buildings currently used wholly as residences, or for activities accessory to residential use can be changed to a nonconforming use.

### **G. New Uses, which are permitted as conditional uses, being established on nonconforming lots of record**

New uses, which are permitted as conditional uses in the Zone may be permitted as a conditional

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use on a nonconforming lot of record provided that:

1. Existing and proposed structures meet the setback provisions of the zone and the proposed use does not specifically require a minimum lot in the ordinance.
2. The use does not require an increase in the minimum lot size or in minimum setbacks in the applicable zone, which increase can not be met by the proposed use.
3. The square footage of all new structures, including porches, decks and non-vegetated surfaces when added to that of the existing structure and non vegetated surfaces shall not be more than 20% of the lots square footage. The square footage of the structures includes ground floor square footage and the square footage of overhangs and other parts of the structure, cantilevered or otherwise supported, projected outward from any floor of the structure.

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### ARTICLE IX:

### GENERAL REGULATIONS IN ALL OR AS DESIGNATED ZONES:

**A. Existing Use:** A lawful use existing at the time of adoption of this Ordinance or its amendments may continue.

**B. Junk Yards:** No junk yards, place for the storage of junk, or accumulation of junk, as herein defined shall be maintained on any land or lot within the Town of Wayne except as provided for by Conditional use.

**C. Fire Ruins:** No owner or occupant of land in any zone shall permit fire or other casualty ruins to be left more than one (1) year from the date of the casualty.

**D. Signs, Commercial:** No freestanding and exterior sign in any zone shall be of the flashing, revolving, portable, or on wheels with or without illumination, or neon type. No sign shall extend above a roofline more than six (6) feet. No free standing sign shall extend more than twenty (20) feet above grade at its point of installation. Signs shall advertise goods, services, and/or activity pertaining to the premises on which they are located.

1. No sign shall be located so as to obstruct sight distances or entering/exiting traffic to the premises.
2. No sign shall be located in a road right-of-way, so as to obstruct sight distances of traffic using abutting roads or streets.
3. One principal and free standing sign will be allowed per commercial establishment on its premises. The installation of additional permanent signs must be part of a use reviewed by the Planning Board as a Conditional use. Approval for additional permanent signs will be for corner lots only. Maximum display area of each freestanding sign shall be 24 square feet.
4. One sign attached to a building, identifying the name of the business or owner, is permitted. Letter size shall be no more than 12 inches.
5. One temporary sign, either freestanding or affixed to building, and no larger than 9 square feet of display area per side, is permitted, but only after its use has been permitted as a part of a use requiring review as a Conditional use, per commercial establishment. Such sign shall not be flashing, revolving, illuminated, or an illuminated rental. They may be displayed no more than 21 consecutive days or more than 63 days per calendar year.
6. Directional signs installed in road rights-of-way according to Department of Transportation standards and regulations are permitted.
7. Temporary traffic or directional signs to control and direct customer access and parting within, or to, a commercial or agricultural premise are permitted on the commercial or agricultural premise.

**E. Signs, Residential:**

Each residence is permitted a sign naming the owner and/or the nature of a "Home Occupation" of dimensions not more than 8 inches by 18 inches. Said signs may be located on the residential premise, or intersections of private roads or right of way. They shall not: be illuminated, flashing, revolving, or of neon type or obstruct site distances of any road or street public or private. Up to two real estate signs advertising the premises for sale are permitted. One sign advertising the contractor's name performing services at the premises is permitted for the donation of the work.

**F. Glare:** Outside lighting shall be installed so as to deflect light away from abutting streets and properties.

**G. Household Waste Disposal:** Except for the day of waste pickup, all household solid waste stored

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waiting removal to a waste disposal facility, shall be placed in covered containers, which containers are screened in such a way as not to be visible from adjoining properties, roads, and streets.

**H. Drainage:** No land shall be developed in a way that cause flooding or erosion on adjacent properties.

**I. Housing of Livestock:** No barn, stable, or kennel housing pet or livestock shall be located within 100 feet of any lot line in any zone, except as provided for in Part 1, Article IV, E. 8c.

**J. Excavation:**

1. Excavation in conjunction with permitted uses of building construction, road construction and the installation of septic systems is permitted, provided that such activities do not cause soil erosion. Such excavation which is a part of a use requiring a Conditional use Permit must be approved by such permit prior to its being accomplished.

2. Excavation in conjunction with improvement of land in agricultural use for soil tillage and the production of field and/or cultivated crops is permitted provided such activity does not cause soil erosion. (See additional requirements in Article V, Section F (4))

3. Gravel Pit Operations:

Except as above, top soil, rocks, sand, gravel and similar earth materials in excess of 1,000 cubic yards may be remove from zones where permitted only after review as a Conditional use under Part II, Article II, Section D, by the Planning Board. Said permit shall be reviewed with the following added provisions. A plan shall be submitted by the applicant showing:

a. Existing grades in the area in which materials are to be removed and finished grades at the conclusions of the operation.

b. A plan drawn to scale of the parcel on which the excavator is to occur, the location of all existing abutting roads, proposed access roads, existing watercourses, proximity of rivers, lakes, or streams, and names of abutting property owners.

c. When removal of materials is completed, the finished grades as specified in the plan will be covered with not less than four (4) inches of topsoil; and seeded with perennial cover crop except where ledge is showing.

d. Excavation will not take place within 100 feet of any road, right of way, or within 100 feet of a side or rear lot line.

e. The applicant shall provide evidence of financial capability to perform the requirements of this section and other conditions of the permit, satisfactory to the Board, or a Performance Bond will be required.

f. The application complies with applicable provisions of Title 38, M.R.S.A, Site Location of Development Act.

**K. Multiple dwelling unit development and certain divisions of land:**

The purpose of these provisions is to provide for division of certain lands and planned residential development which allows alternatives and choice of design, but which preserve and maintain open space. Within the limits of this section, all residential lot layout, dimensional and area requirements, contained in this Ordinance or the Town of Wayne Subdivision Regulations may be altered without restriction, except height requirements. Such alteration shall not be construed as granting a variance for hardship.

1. Definitions: For the purposes of this Section:

Parcel: A parcel is all the continuous land in the same ownership before the first division of such land into lots of any size.

Open Space: On undeveloped parcels, woodland, fields or agricultural land. On developed parcels, land that is woodland, fields or agricultural land in excess of the minimum lot size for a single

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family dwelling or conditional use use in the zone. Developed parcels are those which contain residence or commercial and/or farm structures.

Agricultural Land: Land in excess of one (1) acre which has been tilled, harvested, mown (except lawns and similar which are customarily incidental to residential use) and/or used for the production of field crops, including commercial orchards, pasture, and pick-your-own fruit crops, which use has been within five (5) years of the date of application for subdivision review, and/or development under these provisions. Included is land separating tilled areas, which separation is for proper agricultural practice and/or access.

Single Detached: One building containing one dwelling unit.

Single Attached: One building containing one dwelling unit attached by a common wall to an additional building(s) containing one dwelling unit.

Multi-Family: One building containing more than one dwelling unit within its four walls.

2. Jurisdiction: This Section applies to Zones R-2, R-3 and R-4 and to a minimum parcel herein or greater, and the provisions are:

Optional for a subdivision or residential development of parcels less than ten (10) acres which parcels do not contain agricultural land.

Mandatory for a subdivision or residential development or parcels of ten (10) acres or more or any parcels which contain agricultural land.

3. Minimum Size of Parcel to which these provisions can apply:

In Zones R-2 and R-4: 4 acres

In Zone R-3: 6 acres

Frontage on public or private way: 500 feet plus 50 feet for each dwelling unit over five (5)

Width: 500 feet

Depth: 300 feet

Shore Frontage: 500 feet

4. Minimum setbacks for structures from parcel perimeter of lines:

If a Front Lot Line: 100 feet

If a Side Lot Line: 100 feet

If a Rear Lot Line: 50feet

If shore frontage: 150 feet from the normal high water mark.

5. Minimum distance between structures:

Minimum distance between Single Attached Group, Multi Family and Single Detached, along with their accessory building shall be one hundred (100) feet.

6. Other Dimensional Requirements:

Setback from interior subdivision streets: 30 feet.

Minimum Lot Size which can be conveyed in fee: 20,000 sq. ft.

7. Residential Density:

The number of dwelling units permitted on a parcel is determined by the application of the following formula:

a. The total acreage of the parcel must be determined by survey. From the total acreage of the parcel, the acreage of any lot reserved or to be conveyed in fee of forty (40) acres or more is deducted. The resulting acreage is gross acreage.

b. From this gross acreage the following types of acreage are deducted. All must be shown

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on the plan and the area calculated by the registered surveyor.

1. Any land area which is defined as "Resource Protection" in Part 1, Article VI of this Ordinance must be shown on the plan, with the exception of aquifers where residential dwelling units are allowed as stated in ARTICLE VI, B. 6.

2. Any land area, which comprises buffer strips around resource protection areas, must be shown on the plan.

3. Any land area in which the water table is at or within six (6) inches of the surface at any time must be shown on the plan.

4. Any land area which comprises road right-of-way, driveways serving more than one dwelling unit, common parking areas, common areas of recreational development common Shoreland areas or any other developed common area, must be shown on the plan.

The result gives acreage available for development.

The number of dwelling units allowed is found by dividing the acreage available for development, by the minimum lot area (acres) required per dwelling unit of the zone. Fractional amounts are rounded down.

If in the Shoreland zone: The number of dwelling units is further limited to one dwelling unit per 250 feet of shore frontage. Shore frontage which is defined as "resource protection" shall not be included in the calculation.

c. Reservation of Open Space and Siting:

Fifty per cent of the land area determined to be acreage available for development above must be reserved as open space. Dwelling units may, be sited on the remaining 50% at such location consistent with these dimensional and layout provisions and the adequacy of soils to support waste water disposal.

If agricultural land comprises more than 50% of the acreage available for development, the Planning Board may further prescribe the siting of roads and structural development to preserve agricultural land. In prescribing siting, the Board shall be governed by the intent of these regulations to preserve as much agricultural land as reasonably possible while permitting residential development to occur, taking into consideration all the natural features of the parcel and the management of the resulting mixed use of the land.

8. Review as subdivision required:

Application for, and review of, proposed divisions and/or residential development under this Section, shall be a required by the town of Wayne Subdivision Regulations. Division of land by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage, or adoption (unless the intent of such gift is to avoid the objectives of State or local subdivision regulations) or transfers of any interest in land to the owner of land abutting thereon are exempt from the mandatory provisions of this section.

9. Uses permitted on parcels developed under these regulations:

Those uses permitted of residences, and those accessory to residences in the applicable zone, and agricultural uses as defined, where agricultural is permitted in the applicable zone.

10. Open Space:

Open space accumulated on the parcel by the provisions shall be shown on the subdivision plan with the appropriate notation that it shall not be further subdivided or used for additional dwelling units. It may be used for installation of waste water disposal fields for dwelling units.

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It shall be restricted by covenant, or be deeded, in common to owners in the development, and may be usable for low-intensity recreational and outdoor living purposes. Such uses shall not include rights-of-way, driveways, parking areas, golf courses, swimming pools other recreational development, or structures, all of which shall be shown and designated separately on the plan. Clearing or removal of vegetation shall be as specifically regulated in the zone in which the open space lies, or if not regulated, on a selective basis only, according to a plan approved by a State Service Forester or Registered Professional Forester in the State of Maine. No open space can also be a common Shoreland area as defined in Part II, Article I.

11. Agricultural land: Open space which is agricultural land as defined, shall be shown on the plan with the appropriate notation that it shall not be used for future building lots, shall not contain any structural development, except as permitted, and shall be maintained in a manner so as to preserve its agricultural capability, which at the minimum shall be annual mowing. The land may be leased for the agricultural purposes as defined. Agricultural land shall be owned in common by owners in the development, or otherwise be controlled to preserve it.

12. The formation and incorporation by the developer of homeowners associations shall be a condition of preliminary and final subdivision approval, wherever common areas are designated. Covenants for mandatory membership in the association shall be included in the deed for each lot or dwelling unit. The association shall have the responsibility, at the minimum, for maintaining common areas, common structures, roads or streets not accepted by the town, and for maintaining agricultural land.

### **L. Off street parking requirements:**

1. Off street parking shall be provided in accordance with the following standards for any project involving:
  - a. Construction of a new building or structure.
  - b. Additions of 200 square feet to buildings in commercial use.
  - c. Additions of dwelling units to existing buildings.
  - d. The change in use of a part or the whole of any existing building or parcel of land from one category of use to another category of use.
2. Minimum standards for off-street parking:
  - a. Dwelling units: Two (2) spaces per unit except for unit designed to be occupied by only one person, in which case one (1) space shall be provided.
  - b. Motels, hotels, inns: Four (4) spaces plus one (1) space for each sleeping room.
  - c. Bed & breakfasts: Two (2) spaces for each dwelling unit plus one (1) space for each room offered for rent
  - d. Retail establishments: One (1) space for each 200 square feet of floor area used for sales or display.
  - e. Restaurants: One (1) space for each four (4) seats in dining area, plus one (1) space for each 100 Square feet of lounge, waiting or bar area.
  - f. Service establishments: One (1) space for each 200 square feet of floor area exclusive of storage area.
  - g. Nursing & convalescent homes: One (1) space for each two (2) beds plus four (4) spaces.
  - h. Campgrounds: Four (4) spaces plus one (1) space for each site available for occupancy
  - i. Day care centers & nursery schools: One (1) space for each four (4) children plus two (2)

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spaces.

j. Industrial, manufacturing, distribution: One (1) space for each 350 square feet of floor area exclusive of storage area.

k. Commercial establishments not elsewhere classified: One (1) space for each 200 square feet of floor area exclusive of storage areas.

### **M. Private sewage disposal systems.**

1. All systems must be constructed in accordance with the RULES (see definition in PART II, ARTICLE I). A permit from the local plumbing inspector must be obtained, before a building permit is issued for any structure containing a dwelling unit or for any use requiring a disposal system.
2. In the R-4 Shoreland zone, the minimum setback for new subsurface disposal systems shall be no less than one hundred horizontal feet from the normal high water mark, as measured at a right angle to the normal high water mark, and this minimum setback distance shall not be reduced by variance.
3. Replacement systems shall meet the standards for replacement systems as contained in the RULES.

### **N. Road Construction:**

Roads shall be located, constructed, and maintained in such a manner that soil erosion or surface sedimentation of surface waters does not occur and in the R-4 Shoreland zone shall meet the additional requirements of Article V, Section H.

### **O. Antennas:**

The location of all freestanding antennas shall meet the setback requirements of the zone in which it lies. Prior to their installation, a permit shall be obtained from the Code Enforcement Officer. The application shall show the distance of the antenna location from all lot lines and normal high water if within the Shoreland Zone. Antennas are exempt from height requirements of the zone in which it lies.

**P. Use of lots for dwelling purposes:** No lot or parcel of land within the Town of Wayne shall be used or occupied for dwelling purposes without the placement of a permitted residence on said lot or parcel. The activity of camping on a lot or parcel of land, which camping includes the parking and occupying of a recreational vehicle, shall not be considered "dwelling," provided that:

1. The camping is not more than 14 consecutive days in a four month period, or
2. If longer than 14 consecutive days in a four month period, a permit is obtained from the Code Enforcement Officer who may issue a permit for up to 120 consecutive days of camping in a calendar year, provided the applicant shall provide a copy of plumbing permit, meeting the RULES for the disposal of waste water and/or septic wastes at the site, and evidence of its installation; or camping, or use of recreational vehicles on an approved campground space in an approved campground or RV Park.
3. The location of the campsite meets the setbacks of the zone.

### **Q. Use of structures for dwelling purposes:**

1. No structure of less than five hundred (500) square feet shall be used for dwelling purposes on any lot in any zone.
2. No structure shall be used for dwelling purposes without the installation of a wastewater and septic disposal system meeting RULES.
3. No structure or portion thereof, under construction as residence, may be occupied before installation of the required wastewater and septic disposal system.

### **R. Division of lots by zone boundaries.**



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Where the boundary line of a zone divides a lot, the provisions of this Ordinance applying to the less restricted zone shall extend no more than 30 feet into the portion of the lot which is more restricted. This paragraph; however, shall not permit the depth of the Shoreland zone (R-4), and Resource Protection Zone (R-5), and village Shoreland zone (R-6) to be reduced.

### **S. Sight distances:**

Exiting driveways or access points to any road or street shall be designed according to the following standards of safe sight-distances, or to standards of the Department of Transportation, whichever are less.

Posted or Designed Speed Limit	Sight Distance
25 mph	175'
30 mph	210'
35 mph	245'
40 mph	280'
45 mph	315'
50 mph	350'
55 mph	385'

### **T. Yard sales and similar uses:**

Sales of personal property at any premises are regulated by the Town of Wayne Yard Sale Ordinance, dated June 24, 1987, and subsequent amendments thereto.

### **U. Requirements for other uses**

Institutional. Educational, governmental and non-profit uses must comply with the lot size, frontage, density, setback, and height requirements for the zoning district in which they are proposed. Church buildings existing as of the date of adoption of this amendment are exempt from compliance with the height requirements.

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## PART II

### ARTICLE I - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

**A. In this Ordinance all words, other than the terms specifically defined, shall have their ordinarily accepted dictionary meanings as implied by the context or as customarily used in the practice of zoning.**

#### **B. Definitions:**

**Accessory Use or Structure:** A use of structure which is customarily both incidental and subordinate to the principal use or structure on the same lot. The term "incidental" in reference to the principal use of structure shall mean both a) subordinate and minor in significance to the principal use of structure, and b) attendant to the principal use of structure. For example, a mobile home dwelling unit is not customarily subordinate and minor in significance to the principal structure even when used only for storage. Such accessory uses, when aggregated, shall not subordinate the alleged principal use of the lot.

**Addition:** Structures, including porches and decks, which are attached to, or can be entered into, or on, from an existing building. Also, placement of a foundation under an existing building. Also, structures erected which increase the height of an existing building or structure.

**Agriculture:** Those uses associated with the growing of produce or livestock on farms. These include field crop farming; fruit growing; tree, shrub or flower nurseries; truck gardening; roadside stands for sale of agricultural produce; the keeping of bees; livestock raising and feeding; and "pick-your-own" vegetables and fruits. The following uses are specifically excluded from this definition: poultry houses of flocks more than 500 birds; feed lots in excess of 25 animals, which feed lots primary use is the finish feeding and retention of livestock prior to slaughter; and farms principally for the raising of hogs in excess of 25 mature animals. These exclusions are elsewhere defined as Conditional use Agriculture.

**Agricultural Land:** Land in excess of one (1) acre which has been tilled, harvested, mown (except lawns and similar which are customarily incidental to residential use) and/or used for the production of field crops, including commercial orchards, pasture, and pick-your-own fruit crops, which use has been within five (5) years of the date of application for subdivision review, and/or development under these provisions. Included is land separating tilled areas, which separation is for proper agricultural practice and/or access.

**Basement:** Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Bed and Breakfast Facilities:** A use accessory to the principal use of building as a single family residence, in which transient guests are furnished sleeping accommodations for a fee in residence bedrooms. Said guests shall be furnished a breakfast meal only as a part of the accommodation, which is prepared in the residence kitchen facility. The furnishing of additional meals to guests shall deem the use to be an "inn".

**Building:** A structure built for the support, shelter, or enclosure of persons, animals, goods or property of any kind (See Structure)

**Camping:** The occasional use of land on a temporary and intermittent basis for cooking and sleeping, and using temporary shelter customarily associated with such activity. Included is the occupancy of recreational vehicle parked on any lot.

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**Campsite:** No more than one camping vehicle, to include but not limited to, camping trailer, pick-up camper, and recreational vehicle, plus not more than two tents.

**Campground -** any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Common Areas, Shoreland:** A parcel of land containing shore frontage, which parcel is a part of a planned development, such as subdivision, or a land owners association, or similar organization, and which parcel provides access to the Shoreland zone of water bodies for non-Shoreland lot owners in the development subdivision or association. Access for lot owners to such common areas may be by formal easement, rights-of-way, informal agreement adoption of bylaws, or similar method.

**Code Enforcement Officer:** A person appointed by the Municipal officers to administer and enforce this Ordinance, also referred to as the CEO.

**Commercial use -** the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

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

**Conditional use agriculture:** The maintenance of poultry houses in excess of 500 birds, feed lots in excess of 25 animals, which feed lots' primary use is the feeding or storage of animals during the final finishing period prior to shipment for slaughter. Also included are farms for the raising and keeping of hogs for slaughter in excess of 25 mature animals.

**Congregate housing:** A building or group of buildings, Designed, Intended, or used primarily for 4 or more multi-family habitation and living purposes. Food preparation facilities may be provided in both private and common parts of the structure for residents and their guests.

**Dog Kennel:** Any place where four or more dogs over six months of age are kept or offered for sale; any place where pet boarding for fees is offered.

**Driveway -** a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**Dwelling:** A building designed, intended and/or used for habitation and living purposes. Further the occupancy of land or building for habitation and living purposes on a regular basis as opposed to "camping".

**Dwelling unit:** A room or group of rooms customarily designed, intended, capable of providing, equipped and/or occupied for living quarters of one family, which room or rooms customarily include provisions for living area, sleeping, cooking, eating and toilet facilities.

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Earth: Topsoil, sand, gravel, clay, peat, rock, or other minerals.

Emergency Operations: Emergency operations shall include operation conducted for the public health, safety, or general welfare. By way of example, but not limited to: protection of resources from immediate destruction or loss, law enforcement and operations to rescue human beings or livestock, from the threat of destruction of injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Excavation: Any removal of earth as defined from its original position.

Expansion of a structure - an increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

Family: One or more persons occupying premises and living as single housekeeping unit, as distinguished from a group occupying boarding house, lodging house, or hotel.

Fence: A barrier that encloses an area or separates different areas, usually constructed with posts that are connected by boards, rails, wire or netting. A fence differs from a wall in that it does not have a solid foundation that runs along its length. All fences are limited in height to six feet or less except for the following. Any fence over six feet in height is subject to spite fence provisions under MRSA 17 Section 2801. Any fence over six feet will be treated as a structure and will to meet the setbacks in respective zones, except that for agricultural uses, farm, farm operations and agricultural composting operations, fence height and setbacks are exempt if the uses meet best management practices as noted in MRSA 7 SUBSECTION 153-155. The Planning Board may require screening or fencing over six feet in height for certain uses through its conditional use review process.

Fire Protection: The establishment of fire protection implements, water sources, or access to same.

Flood: A temporary rise in water flow that results in water overtopping its banks and inundating adjacent areas.

Androscoggin Lake flood zone: All lands bordering the Androscoggin Lake watershed below the 286.4 foot contour (286.4 feet above sea level according to the USGS quadrangles) are considered to be flood plain area having special flood hazards.

Flood plain: The lands adjacent to a water body, which have been or may be covered by the regional flood.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to

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cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**Regional Flood:** The maximum known flood on a water body; either the 100 year frequency flood, where calculated, or the flood of record

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Foundation -** the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

**Freshwater wetland:** freshwater swamps, marshes, bogs and similar, areas, other than forested wetlands, which are:

- 1) of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; AND
- 2) Inundated or saturated by surface or ground water 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 soil.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Front lot:** A lot which fronts on a road or street.

**Frontage, shore:** The horizontal distance, measured at the high water mark and in a straight line, between the intersections of the side lot lines with the normal high water mark.

**Frontage, street:** The horizontal distance, between the intersection of the side lot lines, with the right of way line of any road street, public or private.

**Functionally water-dependent uses -** those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**Great pond -** any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

**Great pond classified GPA -** any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Habitable Space: Enclosed space in a residence which is designed, intended, occupied, or is capable of supporting the activities living in a residence.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home Occupation: An activity carried on in a single familiar residence or a building accessory to said residence by a member of the family residing in said residence, which activity is clear, incidental and secondary to the uses of the premises for residential purposes, the result of which produces items or services which the family member wishes to offer for sale to the general public. In way of example, but not limited to, knitted articles, crafts, baked goods, paintings, typing services or surplus produce from a garden plot designed to serve the residence. Also, the maintenance of an office in a residence for an activity primarily conducted outside the residence, such as a commission salesperson or manufacturer representative. The following shall disqualify an activity as Home Occupation and shall be deemed a Retail Business, Service Business or Agriculture:

1. Employment on the premises and in the activity of a person unrelated by blood or marriage to the persons occupying the residence.
2. Offering items for sale on the premises purchased for resale or on consignment.
3. The placement or construction of a structure whose primary purpose is to support the Home Occupation activity and is not customarily accessory to residential use.

In zone R-1, if the nature of the home occupation is such that customers come to the business location to transact business, a minimum of two parking spaces shall be provided. On-street parking otherwise permitted may provide those two (2) spaces, provided they are within 100 feet of the premises. If on street parking is not available as above, two (2) off street parking spaces shall be provided on the premises.

Hotels, motels, inns: A building or group of buildings designed, intended, or used primarily for providing temporary living accommodations, which may include provisions for sleeping space, cooking, bathing, and eating. Restaurant facilities may be provided within the building or buildings for guests or the general public.

Increase in nonconformity of a structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in property line, right-of-way line, water body, tributary stream, or wetland setback distance,

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increase in lot coverage, or increase in the height of a structure. Property changes or structure expansions which either meet the dimensional standard, or which cause no further increase on the linear extent of nonconformance of the existing structure, shall not be considered to increase nonconformity. For example, there is no increase in nonconforming with the setback requirement for water bodies, wetlands, or tributary streams, if the expansion extends no further into the required setback area than does the portion of the existing nonconforming structure. Hence, a structure may be expanded laterally, provided that the expansion extends no closer to the water body or wetland than the closest portion of the existing structure from the water body or wetland, and provided that no other setback requirement is violated. Included in this allowance are expansions that in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Junk: The accumulation of metals, bottles, cotton or mill yarns, paper products, rubber products, used appliances, scrap building materials, plumbing fixtures, two or more unregistered motor vehicles, automobile parts or other vehicle parts, or other second hand articles, on the exterior of buildings.

Junk Yard: A commercial use involving the storing and salvaging of "junk" as defined.

Light industry: Industrial activity involving the manufacturing, fabricating, packaging, assembly or distribution of finished products from previously prepared material. Including, by way of example only, are bakeries, bottling, printing and publishing pharmaceuticals, machine shops, welding shops fabricating products precision instruments, wood products assembly of electrical components, tool and die shops and packaging of foods. Light Industry does not include the processing of raw materials of salvaging operations.

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

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot depth: The dimension of the side lot line of least dimension as measured in a straight line from its intersection with the front lot line, to its intersection with the rear lot line. On a Shoreland lot, the dimension of the side lot line of least dimension as measured in a straight line from its intersection with the normal high water mark to its intersection with the right-of-way line of road or street or rear lot line. On a corner lot, the side lot line of least dimension measured in a straight line from both front lot lines or normal high water marks to the line opposite.

Lot lines: The lines bounding a lot as follows:

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**Front lot line:** On an interior lot, the line separating the lot from the right-of-way line of the street or road. On a corner lot the line separating the lot from the right-of-way line of either street or road.

**Front lot line - rear lot:** The rear lot line of the abutting front lot, including its extension beyond the points at which it abuts the rear lot, or the line of the rear lot which parallels the public or private way right-of-way line of the front lot.

**Rear lot line:** The lot opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of the least dimension.

**Side lot line:** Any lot line other than the front lot line or rear lot line.

**Lot of record:** A parcel of land, the dimensions of which is shown on a document or map, on file with the County Register of Deeds.

**Lots shorefront:** A lot within 250 feet horizontal distance of pond, lake, river, tributary stream, or upland edge of a freshwater wetland.

**Lot width:** The horizontal distance between the side lot line measured at the setback (in the zone in which it lies) from the front lot line. In the Shoreland zone, lot width is measured at the setback from the normal high water mark. On a corner lot, width is measured from the setback of both front lot lines using one lot line as a side lot line for the purpose of determining width.

**Marina -** a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**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 conversant with the property and with prevailing general price levels.

**Mineral exploration -** hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral extraction -** any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Mining and quarrying:** The removal of rock, gravel, sand or similar earth materials as a commercial activity.

**Minimum lot width -** the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Mobile home:** A structural unit or units designed for occupancy and constructed in a manufacturing facility



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and transported, by the use of its own chassis, or on an independent chassis, to a building site.

Mobile home park: Land on which three (3) or more mobile homes are installed.

Motel: See Hotel.

Multi-family residence: A building containing more than one dwelling unit.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal high water - normal high-water mark: That line on the shore and banks of water bodies, which is apparent because of the contiguous different character of the soil or vegetation, due to prolonged action of the water. Relative to vegetation: it is that line where the vegetation changes from predominately aquatic to predominately terrestrial. By way of example, but not limited to:

- Aquatic vegetation includes the following plants or plant groups: Water lily, pond lily, pickerel weed, cattail, wild rice, sedges, rushes and marsh grasses.

- Terrestrial vegetation includes the following plants or plant groups:

  - Upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples.

- In places where the shore or bank is of such character that the normal high water mark *cannot* be easily determined, the normal high water mark shall be estimated from places where it can be determined from the above method.

- In the case of wetland adjacent to lakes, ponds and stream, the normal high water mark is the upland edge of the wetland, and not the edge of the open water.

The normal high water mark on Androscoggin Lake shall be indicated on and by a permanent marker set at or near the Town Landing at Lake Street, and shall be used in lieu of other methods defined above.

The point of placement shall be approved by the Wayne Planning Board under the following criteria:

- That elevation which marks the extent of the annual spring flood of the lake, which is characterized by the observation over several years by the Board of the accumulation of debris, and the high water mark left on trees and other objects at the Lake Street shore.

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**Open Space:** On undeveloped parcels, woodland, fields or agricultural land. On developed parcels, land that is woodland, fields or agricultural land in excess of the minimum lot size for a single family dwelling or conditional use use in the zone. Developed parcels are those which contain residence or commercial and/or farm structures.

**Outlet stream** - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**Parking Space:** A minimum area of nine (9) feet wide and eighteen (18) feet long, exclusive of drives, aisles or entrances, fully accessible for the parking of vehicles.

**Parks and Recreation Areas:**

1. A lot(s) to which the general public is admitted with or without fee, and/ or;
2. A lot(s) used for gatherings, meetings, assembly and/or recreation by a corporation, partnership, association, fraternal or religious organization or similar entity, which entity is comprised of more than twenty five (25) persons, members, stockholders, partners or employees. Such entities may be the owners of the lot or invitees of the owner. Excluded from this connotation are occasional permissions for such use granted by lot owner, which owner is not an entity as above, and/or;
3. Lot(s) used for the gathering of people, in excess of twenty-five (25), for the commercial purposes of rallies, concerts, shows, carnivals or similar events. Commercial purposes include donations, collections, entrance fees and sharing of costs. Excluded from this connotation is use of municipal lots for public events, which events are approved by the Selectmen and occasional gatherings clearly incidental to residential use.

**Permanent:** Installed on a foundation, implanted in the ground securely, attached to the land or structures: intended or designed to remain in the place located, or other similar measure.

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**Piers, docks, wharves, bridges and other structures and uses** extending over or beyond the normal high-water line or within a wetland.

**Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Pond:** Ponds, or portions thereof, in the town of Wayne shall include Lovejoy Pond, Pickerel Pond, Berry Pond, Pocasset Lake, Androscoggin Lake, Muddy Pond, Wilson Pond, Wayne Village Mill Pond, and Dexter Pond.

**Principal structure** - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

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Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

Professional Offices: Offices of those in the fields of medicine, dentistry, architectural design, accountancy, or law. Also, offices of those who are consultants in specialized fields of endeavor, and who receive compensation primarily for advice to clients, relating to the consultant's specialized knowledge and expertise. (See Home Occupation for other offices).

In zone R-1 only: not more than two (2) persons may be employed full time in addition to one professional.

In all zones:

Off street parking spaces shall be provided as follows:

- a. One space per employee and one space for each professional.
- b. Parking spaces for patrons of the professional shall be as follows:
  1. A minimum of two shall be provided. On street parking otherwise permitted may provide two (2) spaces, provided they are within 100 feet of the premises of the professional. If on street parking is not available as above, two (2) off street parking shall be provided on the premises.
  2. Additional off street parking shall be provided as follows:
    - a) Physicians' Offices - 4 spaces per physician
    - b) Dentists' Offices - 2 spaces per dentist

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Rear lot: A line whose front line (defined) does not abut the right of way of a road or street.

Rear lot right of way: An easement across and over a front lot, from a road or street to a rear lot, for the purpose of vehicular travel and other access to a rear lot or lots.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreation area: See Parks and Recreation Areas.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

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Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residence: A building or portion thereof, containing the dwelling unit(s), or a building by its design is capable of supporting or is occupied for activities normally associated with dwelling and habitation purposes. A residence includes mobile homes, but no camper trailers or recreational vehicles.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Retail business establishment: A commercial activity primarily selling tangible goods. By way of example, grocery stores, gift shops, restaurants, takeout, foods, clothing stores, antique shops, pet shops or kennels, or similar.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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 motorized vehicles, excluding a driveway as defined.

ROW: Abbreviation for Right Of Way.

RULES: Abbreviation for the State of Maine Subsurface Wastewater Disposal Rules.

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seasonal dwelling: A residence, which has not been physically utilized as a year-round dwelling during the five (5) calendar year period, inclusive preceding the date of passage of this Ordinance. Also defined as a residence without a freeze-proof water supply, or one designed and constructed as customary to be used for regular occupancy only during the non-freeze months of May through October.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

(1) in the case of electric service

(a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the

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customer requesting service or upon a roadway right-of-way; and

(b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service

(a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

(b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Service business/establishment:** A commercial activity primarily providing services, as opposed to one primarily providing or selling tangible goods, which, selling of goods is defined as a "retail business". By way of example, professional offices employing more than two (2) people in addition to the professional, real estate sales, securities dealers, insurance agencies, auto repair, body shops, appliance repair, small engine repair, furniture refinishing or repair, welding service not fabricating products for resale.

**Setback:** In each instance, the minimum horizontal distance from a lot line to the nearest part of a structure, or from a lot line to the perimeter of a parking space or storage area, or from a lot line to the perimeter of a prescribed land area, the setback for which area or parking space is defined in this Ordinance.

**Setback from water:** The minimum horizontal distance from the normal high water mark to the nearest part of a structure, perimeter of a parking space, storage area or other defined object or prescribed land area.

**Shoreland zone -** the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

**Shoreline –** the normal high-water line, or upland edge of a freshwater.

**Sign:** A name, identification, description, display or illustration which is affixed to painted or represented, directly or indirectly: on a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

**Significant wildlife habitat:** Significant wildlife habitat means:

1. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife in Title 38 ss480-I, for species appearing on the official state of federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; and
2. Except for solely forest management activities, for which "significant wildlife habitat" is defined and mapped in accordance with section 480-I by the Department of Inland Fisheries and Wildlife, the following areas that are defined by the Department of Inland Fisheries and Wildlife and are in conformance with criteria adopted by the Department of Environmental Protection or are within any other protected natural resource:

A. Significant vernal pool habitat;

B. High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas; and

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### C. Shorebird nesting, feeding and staging areas.

Single family dwelling/residence: A building that contains one (1) dwelling unit.

Soil and water conservation: Activities designed and intended to prevent or stop soil erosion.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street (see 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 motorized vehicles, excluding a driveway as defined.

Structure – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences 6 feet or less in height; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Temporary: Designed, intended or constructed as customary to be easily capable of removal or changed in location. By way of example, not secured by foundations, implantation in the ground or firmly attached to the ground or structures. Also, any use that is occasional, transient, not regular or continuous.

Timber harvesting: See definition in Bureau of Forestry Rules, Chapter 21, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas., incorporated herein by reference.

Timber harvesting and related activities: See definition in Bureau of Forestry Rules, Chapter 21, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, incorporated herein by

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reference.

**Tiny Home:** A Tiny Home. Has the same meaning as in Title 29-A Motor Vehicles and Traffic, Section 101, subsection 80-C. "Tiny home" means a living space permanently constructed on a frame or chassis and designed for use as permanent living quarters that:

- A. Complies with American National Standards Institute Standard A 119.5 on plumbing, propane, fire and life safety and construction of National Fire Protection Association standard 1192 on plumbing, propane and fire and life safety for recreational vehicles;
- B. Does not exceed 400 square feet in size;
- C. Does not exceed any dimension allowed for operation on public way this Title; and
- D. Is a vehicle without motive power.
- E. "Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle or manufactured housing.

**Tree** - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream** – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the shoreland zones.

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

**Use:** The purpose for which land or a structure is arranged, designed, intended or occupied or the purpose for which land or structure may be occupied.

**Variance:** A permission, granted by the Zoning Board of Appeals, to an applicant for deviation from the provisions of this Ordinance, where strict application of the Ordinance, or a provision thereof to the applicant and his property, would cause undue hardship. The words "undue hardship" as used here shall mean:

- a. That the land in question granted yield a reasonable return unless a variance is granted; and
- b. That the need for a variance is due to the unique circumstance of the property, and not to the general conditions in the neighborhood; and
- 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 prior owner.

A variance shall not be granted because of the presence of nonconformities in the zone or in adjacent zones. As used in this Ordinance, a variance is authorized only for structure height, percent of lot coverage, setback requirements, or the size of yard and open space. Establishment or expansion otherwise prohibited shall not be allowed by variance.

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Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure: The volume of all portions of a structure enclosed by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Warehousing: The primary use of receiving, housing, or stockpiling of finished materials or products either inside or outside of structure prior to their redistribution.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Water body: any great pond, river or stream.

Wetlands: Freshwater wetlands as defined in this Ordinance; wet meadows, swamps, bogs, or other areas where ground water, flowing of standing surface water, or ice, provide a significant part of the supporting substrate for a plant community of wetland vegetation, typically adapted for life in saturated soils either seasonally or permanently. A wetland can be contiguous with or isolated from ponds, lakes, streams, rivers, and brooks. Included in this definition are freshwater wetlands, mapped and numbered by the Department of Environmental Protection.

Wetland vegetation: Plants and plant groups which require water, either flowing or standing, as a substrate for propagation and/or culture. By way of example, but not limited to, water lily, pond lily, pickerel weed, cattail, wild rice, sedges, rushes, and mars grasses.

Wood processing: A site or facility on a lot, including any assigned structures, for the processing of logs or pulp into dimension lumber, wood chips, firewood or products related thereto, for commercial purposes. Wood processing adjunct to residential use is excluded, as are the temporary operations associated with wood harvesting.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

Year-round: Excluding temporary absences, a residence which is, or is designed and/or constructed to be, occupied twelve months of this year, as evidenced by a freeze-proof water system, methods of heating, and/or other features customarily associated with ease of occupancy during the months of November through April.



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### **ARTICLE II: ENFORCEMENT & ADMINISTRATION**

#### **A. Board of Selectmen:**

It shall be the duty of the Board of Selectmen, and the Board is hereby given the power and authority, to enforce the provisions of this Ordinance, on their own initiative or upon receipt of information from the Code Enforcement Officer, that a violation exists. The Board may seek such remedies in equity and/or in law that are available and proper.

#### **B: Code Enforcement Officer:**

It shall be the duty of the Code Enforcement Officer, or any other person duly authorized by the Selectmen, to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is not being met, the Code Enforcement Officer shall notify, in writing, the person responsible for the violation and the owner of the property. The written notice shall specify the nature of the violation, the action necessary to correct the violation and a time frame for complying. If after such notice and demand, such violation has not been corrected and abated within the required time, the Code Enforcement Officer shall refer the case to the Selectmen for appropriate legal action. A written notice shall not be condition precedent to the Town instituting enforcement action for any violation of this Ordinance.

1. The Code Enforcement Officer is directly responsible to the Board of Selectmen in an employer/employee relationship, and both shall follow the requirements of the Ordinance in matters of law and procedure. The Board of Selectmen shall establish policies and procedures relating to the manner and form of carrying out his administrative duties to ensure consistent and fair application of the Ordinance requirements.
2. The Code Enforcement Officer shall remove himself from the permit process, of which he is the issuing authority, in any application in which he has any financial, familial, or other personal interest, and refer such applications to the Board of Selectmen, who are authorized to process, review and issue or deny permits required. The Board of Selectmen is also authorized to review and issue permits for which the Code Enforcement Officer is the issuing authority in cases of his incapacity for any other reason.
3. A Code Enforcement Officer shall be appointed or reappointed annually by the Selectmen and shall not be a person who engaged in the building construction trades within the town of Wayne.

#### **C: Permits and Fees**

Permit fees for the construction or alteration of a building or structure, use, Conditional use or other permits shall be proposed from time to time by the Planning Board and sent to the Select Board for approval. A schedule of such fees is on file in the Town Office.

Applications for a building, use, Conditional use or other permits required by this Ordinance shall be in writing on forms and in content approved by the issuing authority or by the Selectmen, if appropriate. They shall be directed to the issuing authority and signed by the owner of the property, who shall certify that the information in the application is complete and correct.

1. Approval of permits shall proceed in a manner stipulated by this Ordinance. Within 35 days of the date of receiving written application, the Planning Board or Code Enforcement Officer shall notify the applicant in writing either that the application is complete, or if the application is incomplete, that specified additional material is needed to make the application complete. The issuing authority shall approve, approve with conditions, or deny all permit applications in writing, within 35 days of receiving a completed application. Permits shall not be denied if the use is found to be in conformance with the provisions of this Ordinance with respect to such use. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purpose and provisions of this Ordinance. No approval shall be granted for an application involving

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a structure or use if it would be located in an unapproved subdivision, or would violate any other local Ordinance or regulation or any State law which the municipality is responsible for enforcing.

2. Expiration of Permit: Permits issued under this section expire one (1) year after the date of issuance for zones R 4, R-5, and R-6, and expire two (2) years after the date of issuance for zones R-1, R-2, and R-3. If neither substantial construction nor the use has commenced and one (1) year has elapsed since the date of issuance, then the applicant must apply for and obtain a new permit. A permit may be extended for one (1) additional year, only if the applicant applies to the Code Enforcement Officer prior to the expiration of the original permit, and any provision of this Ordinance that applies to the permitted project has not been amended. As used in this section, substantial construction means completion of thirty (30) percent of the work authorized by the permit, measured as a percentage of total estimated cost

3. Code Enforcement Officer: The Code Enforcement Officer shall approve or deny those applications which he or she is empowered to issue. Approval shall be only in those cases where the application clearly meets all the provisions of the Ordinance. In those matters where, in his or her opinion, there is doubt about compliance and which requires interpretation of the Ordinance, he or she shall deny the permit and refer the applicant to the Board of Appeals. This shall not prevent his or her seeking advice and counsel from the Planning Board or Selectmen to resolve such doubts, concerning matters relating to applications for permits and the provisions of the Ordinance.

4. Plumbing permits: No building permit shall be issued for any structure or use involving construction, installation, or alteration, or use involving plumbing facilities and/or septic systems, unless a permit for such activity has been obtained by the applicant or his designated agent from the local plumbing inspector according to the requirements of this Ordinance and the State of Maine Subsurface Wastewater Disposal Rules.

5. Installation of public utility service: No public utility, water district, sanitary district, or any utility company of any kind may install services to any new structure located in Wayne, unless written authorization, attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials.

**D. Conditional use permits:** The Planning Board shall be the issuing authority for Conditional use Permits required by this Ordinance. In reviewing a Conditional use Application, the Board shall approve, deny, or approve with conditions, all applications submitted to it and shall notify the applicant in writing of its decision.

1. Burden on applicant; additional information: The applicant shall have the burden of proof that his or her application and proposal is in compliance with the requirements of this Ordinance and the review standards for Conditional uses. The Board may request additional information from the applicant, written or oral, to determine that the application and proposal meets the Ordinance and the standards for Conditional uses

2. Review: The application shall be reviewed as follows:

Review Standards: After receipt of a complete application, said complete application, including all of the information requested by the application form, and any additional information requested by the Board, the Board shall approve an application or approve it with conditions if it makes positive finding that the proposed use:

- a. Will maintain safe and healthful conditions.
- b. Will adequately provide for the disposal of all wastewater septic wastes, organic wastes and solid wastes.
- c. Will not have an undue adverse effect or impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.

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- d. Will conserve shore cover under the Timber Harvesting and Related Activities regulations in Part I, Article V, Section F, ss 2 or Clearing or Removal of Vegetation regulations in Part I, Article V, Section F, ss 3 and preserve visual access to water bodies, and actual access, where such exists and is available to the general public.
- e. Will comply with the following standards of land use:
  - 1) Is in compliance with the Town of Wayne Floodplain Management Ordinance, adopted June 24, 1987, and subsequent amendments.
  - 2) Will have safe access to the site from existing or proposed roads and that the proposal will not cause or aggravate undue traffic congestion or hazards. Safe access shall comply with the sight distance standards defined in Article IX, Section S, of this Ordinance.
  - 3) Will not cause water pollution, erosion or sedimentation.
  - 4) Adequate land for off street parking according to the standards of Article IX, Section L. If a proposed use does not fit one of the categories in Article IX, Section L, the Board may prescribe the required number of spaces based upon the projected use and volume of traffic to the proposed site.
  - 5) Adequate land for the exterior storage of vehicles, boats, trailers, or other types of equipment and/or materials, used in connection with the proposed use. Adequacy shall be determined by the following:
    - a) Storage areas shall be apart from parking areas, roads or driveways, and related rights-of-way.
    - b) The storage areas shall meet the setbacks for buildings in the zone in which they lie.
  - 6) The proposed use will not have an adverse impact on the visual and aesthetic character of the property as viewed from roads, streets, and abutting properties. The Board shall review the application using the following standard:
    - a.) Storage areas, permitted under Subsection e., 5 above, shall be screened whether naturally by existing evergreen vegetation, or by planted evergreen vegetation, or by the construction of wood fencing or screening, so as not to be visible from abutting properties, roads, or streets during any season.
    - b) General merchandise of a type customarily displayed on the inside of buildings shall not be displayed outside in buildings.
    - c) Exterior storage areas may be used for display or merchandise for sale, provided they meet the requirement of Subsection e, 5, above and this Subsection, except display shall not be limited to the hours of operation and such merchandise is of a type not normally stored in buildings' because of its size, such as vehicles, boats trailers, RV's, tractors and other farm equipment and/or logging or excavating equipment. Such storage areas also used for the display of such merchandise must be screened as in 6a. above.
- f. Will not incorporate any areas which are wetlands, or areas where the ground water table is at or within 6 inches of the surface at any time, in meeting the minimum lot size for the use proposed or be within 100 feet of the perimeter of such areas.
- g. Adequate water supply to meet the demands of the proposed use with respect to the operations of septic disposal systems, potable water supply, and fire protection purposes.
- h. The proposed use meets with all other requirements of this Ordinance, other Town Ordinances, or applicable State laws and regulations.
- i. The proposed use will adequately preserve open space according to the following standards:

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- 1) Exterior storage areas, combination storage/display areas, and/or parking areas for patrons and/or occupants shall not comprise more than 33 % of the open space on a lot.
  - 2) Maximum lot coverage (ground floor square footage) of all structures and unvegetated surfaces, existing and proposed, shall be no more than 20% of the lot area.
- j. The proposed use will not generate noise on the exterior of buildings in excess of that customarily and generally generated by the predominate use within five hundred (500) feet of any of the applicant's property lines. Predominant use shall be determined by the use of the majority of lot and/or the land area of lots within five hundred (500) feet of the proposed use. Example: If the majority of lots within 500 feet of the proposed use were in residential use, then the noise customarily and usually generated by residential use would be the upper limit of acceptable noise level for the proposed use; i.e., lawn mowers, occasional use of chain saws, etc.
3. Fees for special constitution: When deemed necessary, and at any time in the review process, the Board may consult with agencies or persons of recognized special authority in the field of traffic engineering, environmental protection, land use, fish and wildlife management, geology, air or water quality, solid or liquid waste disposal, or other such fields, so that it may make a positive finding on related parts of its review. Consultation from sources without fee shall be employed first if available. If not, any fees charged for such consultation shall be the responsibility of the applicant. The applicant shall be informed of the estimated fee in advance of proceeding with the consultation. Time periods for review shall be adjusted accordingly until reports have been received. A permit shall not be issued until such fees are paid.
4. The Planning Board is authorized and directed to develop an application form and procedures for its consideration and review of requests for the issuance of Conditional Use permits, including without limitation requiring the submission by the applicant of all information and plans which the Planning Board deems necessary in order for it to adequately review such an application under the terms and standards of review set forth in this Ordinance. A schedule of fees for processing an application for a Conditional Use permit shall be set by the Board, and any fees shall be due at the time the application is submitted.

The application for a Conditional Use permit and any accompanying materials shall be submitted to the Town at least 10 days prior to a regularly scheduled Planning Board meeting. The Planning Board will review the application at the next regularly scheduled Planning Board meeting solely to determine if additional information and materials are needed for it to conduct its review, or if the application as submitted is “complete”. The Board may conduct an on-site inspection of the parcel or building connected with the proposed use before considering the application “complete”. The on-site inspection shall be at a time and in weather conditions which permit adequate inspection of physical features of the land. If the Planning Board finds the application incomplete, either because it elects to conduct an on-site inspection or for any other reason, it shall notify the applicant of any information and materials necessary for it to find the application “complete”.

Upon the Planning Board determining at a regularly scheduled meeting that an application for a Conditional Use permit is “complete”, the applicant shall have 7 days from such determination to notify by certified mail all property owners whose property is within 500 feet of where the proposed use is to be located, of the application for a Conditional Use permit. The applicant shall provide to

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the Planning Board the names and addresses of all such property owners and proof that notice by certified mail as required herein has been provided.

Within 30 days of determining that an application for Conditional Use is “complete”, the Board may hold, at its discretion, a public hearing on the application. Notice of the public hearing shall be published at least seven (7) days prior to the hearing date.

Within 30 days of the completion of such public hearing, or within 60 days of determination of a “complete” application if no public hearing is held, or within some other, longer time limit mutually agreed upon by the parties, the Board shall act upon the application and issue an order granting, granting with conditions, or denying the application for Conditional use, setting forth its findings and facts supporting its decision based upon its review and the standards contained herein. The Planning Board may attach such conditions to a Conditional Use permit as it finds necessary to make a positive finding of each of the standards set forth in Section D, Subsection 2 above; violation of any such conditions shall be a violation of this Ordinance.

### 5. To whom issued:

a. Conditional use permits for all other activities or uses are issued to the property owner(s). Permits issued under this Section expire one (1) year after the date of issuance for zones R-4, R-5, and R-6, and expire two (2) years after date of issuance for zones R-1, R-2, and R-3. If neither substantial construction, nor the use, has commenced, and one (1) year has elapsed since the date of issuance, then the applicant must apply for and obtain a new permit. A permit may be extended for one (1) additional year, only if the applicant applies to the Planning Board prior to the expiration of the original permit, and any provision of this Ordinance that applies to the permitted project has not been amended. As used in this section, substantial construction means completion of thirty (30) percent of the work authorized by the permit, measured as a percentage of total estimated cost. Unless the use or activity for which they are issued is commenced in full within six months and completed within one year of issue, the permit is void.

b. While the permit is still valid, it is transferable to new owners of the property, upon their written application to the Planning Board in the exact scope, purpose, and conditions as the original permit. Any change requires reapplication.

### **E. Penalties**

Any person, including any individual(s), partnership, corporation, sole-proprietorship, or any other form of legal entity, and/or the authorized agents of said persons, who violates any of the provisions of this Ordinance shall be fined not less than \$100 up to a maximum of \$2,500.

Any person, having been given written notice by the Code Enforcement Officer or Board of Selectmen that a violation exists, and having been given a period of time so stated in the notice, to correct such violation(s), who fails to correct, and continues said violations, may have each day of continuance of said violation(s) considered to be a separate offense.

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### ARTICLE III: BOARD OF APPEALS

**A. Establishment:** The Board of Selectmen shall appoint a Board of Appeals and determine their compensation.

**B. Organization:**

1. The Board shall consist of 5 members, serving staggered terms of three (3) years or so, that no more than two terms expire in any one year. The Board shall elect annually a chairperson and secretary from its membership at the next regular meeting after the annual Town meeting.
2. Neither a municipal officer nor his/her spouse may be a member of the Board.
3. Any question of whether a particular issue involves conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member being challenged.
4. A member of the Board may be dismissed for cause by the municipal officers before expiration of his or her term.

**C. Procedure:**

1. The chairman shall call meetings of the Board as required, or when requested by a majority of the members, or by the municipal officers. A quorum of the Board necessary to conduct an official Board meeting shall be three members. The chairman shall preside at all meetings of the Board and shall be the official spokesman of the Board. In the absence of the elected chairman, a temporary chairman may be elected by the members present.
2. The secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board, and shall maintain those records which are required as a part of the various proceedings which may be brought before the Board. Copies of decisions, findings, and supporting documents shall be maintained at the Town Office as well. All such records are deemed public and may be inspected at reasonable times at the Town Office.
3. The Board may provide by rule, which shall be recorded by the secretary, for any matter to the conduct of any hearing, except any rule may be waived by majority vote of the members present.
4. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present his or her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct a cross-examination as may be required for a full and true disclosure of the facts.
5. The transcript or recorded tapes, if any, and exhibits together with all documents filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed to every party within days of each decision.
6. Any aggrieved party, who participated as a party during the proceedings before the Board of Appeals, may take an appeal to Superior Court in accordance with state laws within 30 days from the date of any decision of the Board of Appeals.

**D. Powers and duties:**

The 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 order, requirement, decision, or determination made by the Code Enforcement Officer in the administration of this

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Ordinance. Only the administrative decisions of the Code Enforcement Officer and not enforcement orders are appeal-able

b) To hear and decide where it is alleged there is an error in any order, requirements, decision or determination made by the Planning Board regarding its administration of Conditional use Permits or other permits for which the Board is the issuing authority under this Ordinance.

### 2. Interpretation appeals

a. To consider applications for interpretation of issues involving the granting of permits under this Ordinance, whenever there is uncertainty as to the meaning and/or intent of any part of this Ordinance, the Board having the power to interpret such parts. The issuing authority shall be governed by the Board's findings in issuing or denying said permits, and may be present at the hearing of the appeal. Reasonable notice shall be given the issuing authority and/or the Selectmen of the hearing date, time, and location.

### 3. Variance appeals: Variances may be permitted only under the following conditions:

a) Variances may be granted only from dimensional requirements including but not limited to, structure height, percent of lot coverage, and setback requirements.

b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

c) The Board shall not grant a variance unless it finds that the proposed structure or use would meet the provisions of this Ordinance, except for the specific provisions which have created the nonconformity and from which relief is sought.

d) The Board shall not grant a variance unless it finds that the strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

1) That the land in question cannot yield reasonable return unless a variance is granted;

2) That the need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;

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.

A copy of all variances granted in the Shoreland zone (R4), and resource protection zone (R-5) and Village Shoreland Zone (R-6) shall be submitted to the Maine Department of Environmental Protection within fourteen days (14) of the decision.

4. Parties: The Board shall reasonably notify of any hearing, the petitioner, the Planning Board, the municipal officers, and the Code Enforcement Officer and such persons shall be made parties to the action. All interested persons shall be given a reasonable opportunity to have their views expressed at any hearing.

### 5. Time limit for appeals:

In all cases, a person aggrieved by a decision of the Code Enforcement Officer or Planning Board shall commence his or her appeal within 30 days after a decision is rendered by such issuing authority.

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### 6. Procedure for appeals:

- a. The appeal shall be in writing on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds of the appeal.
- b. Before taking action on any Administrative or Variance Appeal, the Board shall hold a public hearing and the Secretary shall publish notice of such public hearing at least seven (7) days in advance of the hearing. The Board shall give notice via the U.S. Postal Service, first class mail, sent to the address which appears in the assessment records of the Town, to property owners within 500 feet of the property involved. Names and addresses of such property owners shall be furnished to the Board with the application. Fees for notification and administrative costs shall be set by the Board. No fee is required regarding interpretation appeals.
- c. Following the filing of an application for an Administrative Appeal or Variance Appeal, the Board of Appeal shall hold a public hearing on the appeal within thirty (30) days. The public hearing portion of the appeal proceeding may be held in conjunction with a meeting at which the Board takes action on the application. In the case of Interpretation Appeals, the Planning Board and Code Enforcement Officer shall be notified seven (7) days in advance of the hearing date.
- d. At any hearing, a party may be represented by an authorized agent or attorney. Hearings shall not be continued to other times except for good cause.
- e. The appellant's case shall be heard first. To maintain orderly procedures, each side shall proceed without interruption. All persons at the hearing shall abide by the order of the Chairman.
- f. Within twenty (20) days of a public hearing, the Board shall reach a decision or an appeal. In reaching a decision, the Board may reverse or modify the decision of the Planning Board or Code Enforcement Officer, only upon a finding that the decision is contrary to specific provisions of this Ordinance, or based on a finding that the decision was unsupported by substantial evidence in the record. The Board shall inform in writing, the appellant, Code Enforcement Officer, and Municipal Officers, of its decision within 7 days of the decision.
- g. Upon notification of the granting of an appeal by the Board, the Code Enforcement Officer and/or the Planning Board shall, within ten (10) days, issue a permit in accordance with the conditions of approval. Said permit shall be conditional and subject to any appeals made according to State law.
- h. A variance secured by a vote of the board shall expire in the work or change is not commenced within one year of the date on which the appeal was granted, and if the work or change is not substantially completed within two years of the date on which the appeal was granted.

7. Appeal to Superior Court: Any aggrieved party, who participated as a party during the proceedings before the Board of Appeals, may take an appeal to Superior Court in accordance with State laws within thirty days from the date of any decision of the Board of Appeals.

8. The Board of Appeals may reconsider any decision within thirty days (30) of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.



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### ARTICLE IV: AMENDMENTS

- A. The Wayne Planning Board and/or the Wayne Zoning Board of Appeals shall have the right to review all proposed amendments to this Ordinance and may have up to four (4) months to make its recommendations to the Board of Selectmen concerning such amendments. The Board of Selectmen shall not call a Town meeting unless legally required to do so, concerning such amendments until it has received the recommendations of the Planning Board and/or Board of Appeals.
- B. This Ordinance may be amended by a majority vote of any legally called town meeting. Prior to calling such a meeting involving amendments to this Ordinance, the proposed amendments shall be given a public hearing, which hearing has been given a ten days (10) notice in the same manner for posting town meetings. The public hearing shall be conducted by the Planning Board.
1. The purpose of the public hearing shall be to receive information from the public regarding the amendments proposed, explain the effects of such amendments, and to put the public on notice that amendments to the Ordinance are being proposed are considered.
  2. As a result of information received at said public hearing, changes to amendments presented for said hearing can be made as long as such changes are presented in the warrant of the town meeting, at which they are to be voted, said town meeting being sufficient hearing of the changes.

Amendments submitted by petition of voters under the legal requirements of submission of Articles by petition shall not be altered and shall be presented at a time and in a manner prescribed by law.

Amendments to be voted by referendum shall follow the procedure prescribed by law for such voting method. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by majority vote of any legally called town meeting and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the town of Wayne within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

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### **ARTICLE V: SAVING CLAUSE**

The invalidity of any provision, section, subsection, phrase, clause, reference, or sentence shall not affect the validity of any other provision, section, subsection, phrase, clause, reference, or sentence.

### **ARTICLE VI: WHEN EFFECTIVE**

This Ordinance repeals and supersedes on the date of its passage, the Wayne Zoning Ordinance, enacted April 28, 1973, together with any subsequent amendments thereto, and is effective on the date of passage.

### **ARTICLE VII: CONFLICTS OF ORDINANCES OR PROVISIONS**

In any case where provisions of this Ordinance are found to be in conflict with another provision of this or any other Ordinance, statute, regulation, or code of the town of Wayne, the State of Maine or the United States of America, the provision which establishes the higher standard or greater restriction shall apply.