

STEUBEN COUNTY, NY
TOWN OF WAYNE
LAND USE REGULATIONS

Local Law No. 1 of 2018



Adopted December 11, 2018

Town Officials

Stephen T. Butchko – Supervisor
Michael Haff – Deputy Supervisor
Thomas Dunbar – Councilperson
Julie Haar – Councilperson
Shona Freeman – Councilperson
William Mahr – Clerk

Planning Board

Stan Witkowski – Chair
Christopher Mooney – Vice Chair
Nancy Gabel – Member
Donna Sue Kerrick – Member
Jon Serdula – Member
Jeff Martin – Alternate

Zoning Board of Appeals

Wayne Hand – Chair
William Feinstein – Vice Chair
Candy Dietrich – Member
Greg Blessing – Alternate

Acknowledgements

Dennis Carlson (KLA), Amy Dlugos, Dan Kahabka, Maureen Kurtz,
Hobum Moon, Beth Mooney, Glenn Neu, Matt Sousa

Special Thanks to:

Gil Harrop – Code Enforcement Officer
George Frantz – Cornell University
Laura Smith – Harter Secrest & Emery LLP
Leslie Mauro – Harter Secrest & Emery LLP

Sections

- 1.0 District Regulations
- 2.0 Site Plan Review
- 3.0 Supplemental Regulations
- 4.0 Planning Board, Zoning Board, AgAd Council
- 5.0 Definitions, Administration, Enforcement

Appendix

- A. Telecommunication Tower
- B. Solar Installation
- C. Service Station
- D. Swimming Pool

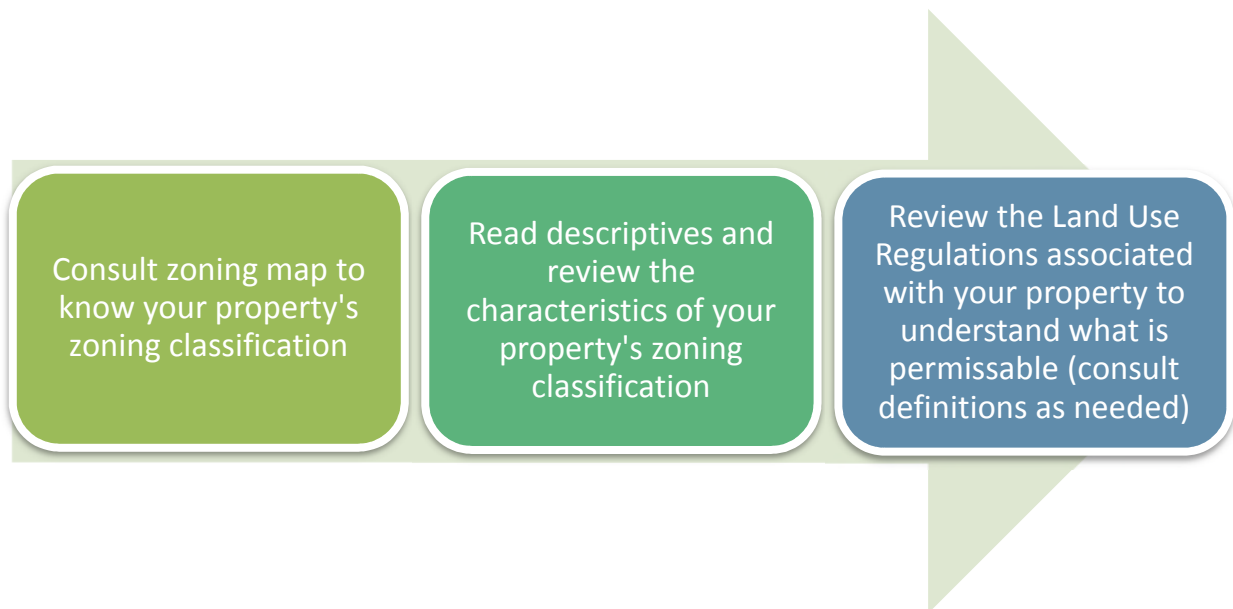


How to Use this Document

The purpose of this land use regulations document is to help guide and plan land uses that serve our community needs in the Town of Wayne while also safeguarding the scenic and natural resources that contribute to the quality of life in Wayne. This endeavor represents an effort to preserve the rural, agricultural community that the Town of Wayne encapsulates, while providing guidelines for future growth that fits with the unique character of our town.

While we may not all agree on what exactly it is that makes our town so attractive, we all nevertheless know that we live in a stunning area that we must, as with the grapes which grow in our fields, carefully cultivate, prune, and maintain for the future.

The Process at a Glance



1.0 DISTRICT REGULATIONS

A. General

1. Application of District Regulations. Except as otherwise specified by this local law, after the effective date of the local law no development shall commence except in conformance with the regulations specified for the district in which the land, structure, or activity is located.
2. Principal Uses. Except as otherwise specified herein, only one (1) principal use shall be allowed per parcel.

B. Establishment and Purposes

1. Establishment of Districts. The Town of Wayne is hereby divided into ten (10) land use districts and one (1) overlay district.
2. District Purposes. In addition to the general purpose of this LUR, each land use district is intended to accomplish the following particular purposes, which shall guide the regulation of all uses allowed therein:
 - a. *Agricultural District.* To preserve and protect farmland and open spaces in the town and also to promote the economic viability of agriculture.
 - b. *Hillside Conservation District 1.* To specify the conditions under which development can occur in the hillsides of the Town of Wayne. These areas contain sensitive natural features such as ravines, ridgelines, bluffs, natural drainage ways, and geological conditions that are not suited for development and also characterize the Town of Wayne's unique natural features and aesthetic qualities. The Hillside Conservation District 1 will help to preserve and enhance the scenic viewsheds, open space, and existing vegetation of the community while ensuring the peoples' public health and safety in areas not suited for development.
 - c. *Hillside Conservation District 2.* To specify the conditions under which development can occur in the hillsides of the Town of Wayne. These areas contain sensitive natural features such as ravines, ridgelines, bluffs, natural drainage ways, and geological conditions that are not suited for development and also characterize the Town of Wayne's unique natural features and aesthetic qualities. The Hillside Conservation District 2 will help to preserve and enhance the scenic viewsheds, open space, and existing vegetation of the community while ensuring the peoples' public health and safety in areas not suited for development.
 - d. *Lakeshore Residential 1 District.* To maintain a residential setting along the lakeshores, while providing regulations that accommodate existing area conditions.
 - e. *Lakeshore Residential 2 District.* To maintain a residential setting along the lakeshores, while providing regulations that accommodate existing area conditions.

1.0 DISTRICT REGULATIONS

- f. *Lakeshore Residential 3 District.* To maintain a residential setting along the lakeshores, while providing regulations that accommodate existing area conditions.
 - g. *Mixed Use/Hamlet District.* To encourage clustering of small-scale mixed uses without detracting from the rural character of the Town and providing opportunities for village and hamlet-scale residential and pedestrian-oriented mixed-use development to serve the varied needs of local residents.
 - h. *Industrial District.* To provide appropriate locations for manufacturing, processing, and warehousing developments not dependent on municipal water supply or sewerage; to allow such uses with outdoor storage and service areas; and to accommodate such uses that may generate heavy traffic.
 - i. *Corridor District.* To highlight great landscapes and vistas alongside New York State Route 54 and protect and enhance of a town's cultural, historical, recreational, and natural beauty.
 - j. *Municipal and Public Purpose District.* To allow for municipal and public spaces, including public parkland.
3. Overlay District. The following overlay district also regulate property within that district, in addition to the regulations governing the underlying district.
- a. *Land Conservation Overlay District.* To identify areas wherein substantial development may result in public safety or health problems, and/or ecological damage because of topography, drainage, soil characteristics, and other natural conditions; to encourage soil conservation and protection of scenic features, plant and wildlife resources, and water quality; and, to allow very low-density residential and recreational uses.

C. Zoning Map

- 1. Description. The said land use districts are shown and bounded on the official Land Use Regulations Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this LUR. Such Map may comprise a number of map sheets drawn at various scales in order to depict more clearly the land use districts shown thereon. The Map shall show the date of enactment of this LUR and of each subsequent Map amendment and shall be duly certified and maintained by the Town Clerk.
- 2. Interpretation of Land Use Regulations Map.
 - a. Where uncertainty exists with respect to the boundaries of any land use district as shown on the official Land Use Regulations Map, the following rules shall apply:
 - i. Where boundaries of a district appear approximately to follow the centerlines of roads, such centerlines shall be construed to be such boundaries.

1.0 DISTRICT REGULATIONS

- ii. Where boundaries of a district appear approximately to be parallel to the centerlines or right-of-way lines of roads, such boundaries shall be construed as being parallel thereto and at such distance there from on the Map. If not stated, such distance shall be determined by using the scale on the Map.
- iii. Where boundaries of a district appear approximately to follow platted parcel lines, such parcel lines shall be construed to be such boundaries.
- iv. Where boundaries of a district appear to follow the bank of a stream or other watercourse, they shall be deemed to follow such bank, and in the event of any change therein, shall be construed as moving with the actual bank. Boundaries indicated, as approximately following the centerline of such waterway shall be deemed to follow such centerline.
- v. Along the shorelines of Keuka and Waneta Lakes, the lake ward boundary of the Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District is declared to be the established mean high-water line on such lake.

D. Land Use Descriptions (Districts)

1. AGRICULTURAL.

- a. *Purpose.* The Agricultural District encompasses the majority of the land in the Town of Wayne. The purpose of the district is to promote agricultural development and accommodate for rural residential structures.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within the Agricultural District.
- c. *Permitted Principal Uses and Structures.* No building or structure shall be erected, altered or extended, and no land or building thereof in the Agricultural District shall be used for any purpose or purposes other than the following:
 - i. Agriculture
 - ii. Agricultural Commerce
 - iii. B&B
 - iv. One (1) Single-family Dwelling per parcel
 - v. Community Space
 - vi. Private Airfield
 - vii. One (1) Small Structure

A parcel in the Agricultural District may be used for one or more of the above permitted principal uses and structures as long as all other federal, state, and local laws and requirements, including but not limited to setbacks, are met.

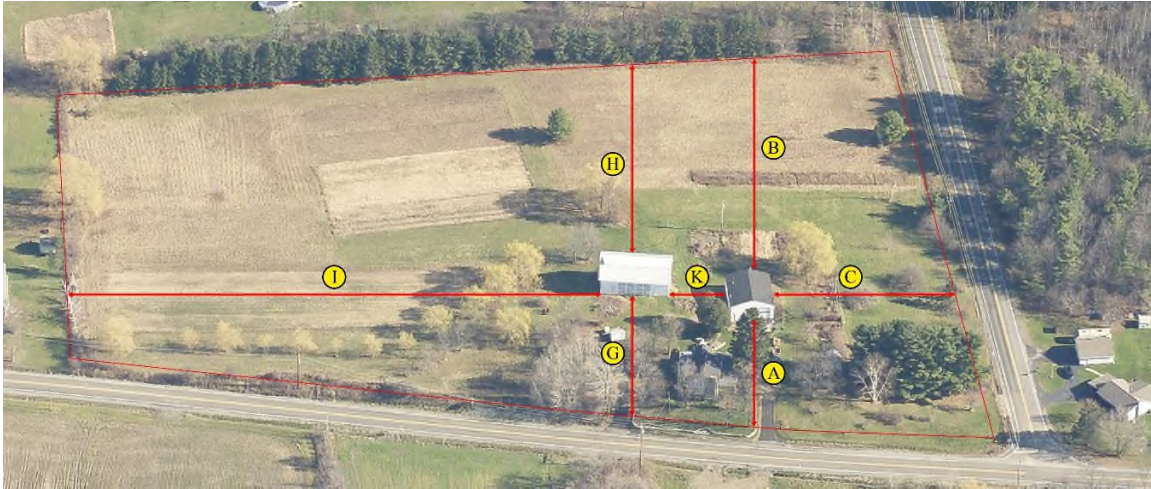
- d. *Accessory Uses and Structures.* No accessory building or structure shall be erected, altered or extended, and no land or building thereof in the Agricultural District shall be used for any purpose or purposes other than the following:

1.0 DISTRICT REGULATIONS

- i. Agricultural Tourism
 - ii. Dwelling, Farm Worker
 - iii. One (1) Roadside Stand per parcel
 - iv. Active Agricultural Buildings
 - v. One (1) Private Garage, attached or detached, per parcel
 - vi. Home Occupations
 - vii. One (1) swimming pool per parcel
 - viii. No more than five (5) Small Structures per parcel
 - ix. Hunting stands
- e. *General Standards.* The following standards shall apply to all uses and structures in the Agricultural district:
- i. The right-of-way from the edge of the road shall be open and unobstructed. Front yard setbacks shall ensure that a clear unobstructed view is available and that there is a safety zone established to protect buildings.
 - ii. Housing for farm animals, animal feeding equipment or structures therefor, and outdoor storage of odor or dust producing materials, shall be placed not less than two hundred feet from a side or rear parcel line nor less than three hundred feet from an existing dwelling on another parcel.

1.0 DISTRICT REGULATIONS

f. Setback and Bulk Requirements for the Agricultural District:



Principal Building

Minimum Setbacks			Other Specifications		
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)
A 50	B 25	C 25	D 34	E 108,900	F 200

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
G 50	H 25	I 25	J 18	K 10

Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

2. HILLSIDE CONSERVATION 1 AND 2.

- a. *Purpose.* Hillside Conservation Districts 1 and 2 are intended to specify the conditions under which development can occur in the hillsides of the Town of Wayne. These areas contain sensitive natural features such as ravines, ridgelines, bluffs, natural drainage ways, and geological conditions that are not suited for development and also characterize the Town of Wayne's unique natural features, significant viewsheds, and aesthetic qualities. This district also contains the most prominent features visible from neighboring towns and towns across Keuka and Waneta Lake.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within Hillside Conservation Districts 1 and 2.
- c. *Permitted Principal Uses and Structures.* No building or structure shall be erected, altered or extended, and no land or building thereof in Hillside Conservation Districts 1 and 2 shall be used for any purpose or purposes other than the following:
 - i. Agriculture
 - ii. Agricultural Commerce
 - iii. B&B
 - iv. One (1) Single-family Dwelling per parcel
 - v. Community Space
 - vi. One (1) Small Structure
- d. *Accessory Uses and Structures.* No accessory building or structure shall be erected, altered or extended, and no land or building thereof in Hillside Conservation Districts 1 and 2 shall be used for any purpose or purposes other than the following:
 - i. Agricultural Tourism
 - ii. Dwelling, Farm Worker
 - iii. One (1) Roadside Stand per parcel
 - iv. Active Agricultural Buildings
 - v. Private Garage, attached or detached
 - vi. Home Occupations
 - vii. One (1) swimming pool per parcel
 - viii. Small Structures
 - ix. Hunting stands
 - x. Private Airfield
- e. *General Standards.* The following standards shall apply to all uses and structures in Hillside Conservation Districts 1 and 2:
 - i. Existing vegetation, depressions in elevation, or other natural features shall be utilized to minimize the negative visual impacts of development.
 - ii. The right-of-way from the edge of the road shall be open and unobstructed.
 - iii. Front yard setbacks shall ensure that a clear unobstructed view is available and that there is a safety zone established to protect buildings.

1.0 DISTRICT REGULATIONS

f. Setback and Bulk Requirements for the Hillside Conservation District 1



Principal Building

Minimum Setbacks			Other Specifications		
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)
A 75	B 50	C 50	D 34	E 217,800	F 300

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
G 100	I 50	H 50	J 18	K 10

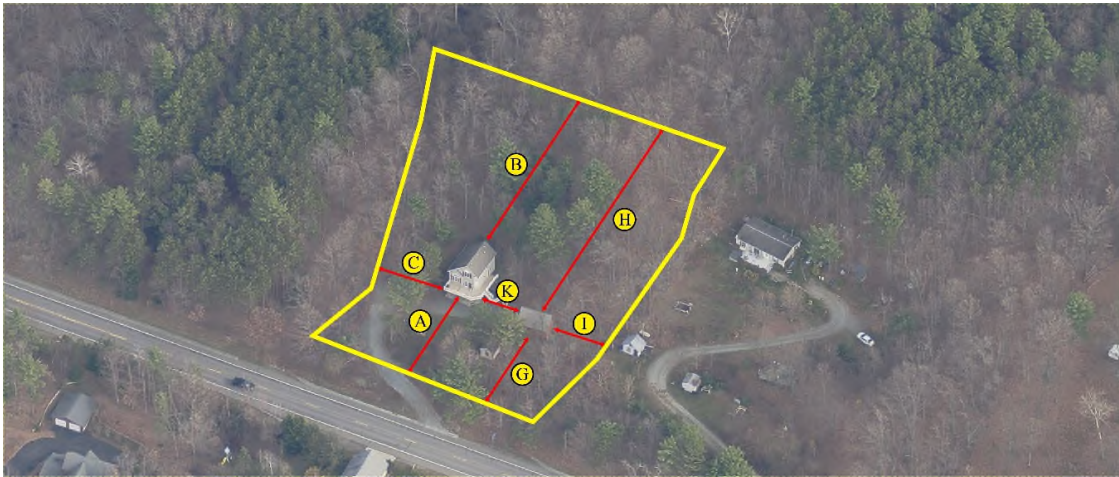
Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

g. Setback and Bulk Requirements for the Hillside Conservation District 2



Principal Building

Minimum Setbacks			Other Specifications		
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)
A 50	B 50	C 50	D 34	E 108,900	F 175

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
G 100	H 50	I 50	J 18	K 10

Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

3. LAKESHORE RESIDENTIAL 1, LAKESHORE RESIDENTIAL 2, and LAKESHORE RESIDENTIAL 3.

- a. *Purpose.* The Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District include areas along Keuka and Waneta Lakes. The purpose of the districts is to maintain a residential setting along the lakeshores, while providing regulations that accommodate existing area conditions.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within the Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District.
- c. *Permitted Principal Uses and Structures.* No building or structure shall be erected, altered or extended, and no land or building thereof in the Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District shall be used for any purpose or purposes other than the following:
 - i. One (1) Single-family Dwelling per parcel
- d. *Accessory Uses and Structures.* No accessory building or structure shall be erected, altered or extended, and no land or building thereof in the Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District shall be used for any purpose or purposes other than the following:
 - i. One (1) Private Garage, attached or detached, per parcel
 - ii. One (1) swimming pool per parcel
 - iii. One (1) Guest House per parcel
 - iv. No more than two (2) Small Structures per parcel
- e. *General Standards.* The following standards shall apply to all uses and structures in the Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District:
 - i. The right-of-way from the edge of the road shall be open and unobstructed.
 - ii. Front yard setbacks shall ensure that a clear unobstructed view is available and that there is a safety zone established to protect buildings.
 - iii. Minimum setbacks shall be measured from both the mean high water mark and the natural ground level of the parcel exclusive of fill to ensure that the quality of the lake water is maintained and again to preserve the viewsheds that nature has provided.
 - iv. Docks on Keuka Lake are exempt from these regulations but are regulated under the Keuka Lake Uniform Docking and Mooring Law Determining Rights and Waterlines.

1.0 DISTRICT REGULATIONS

f. Setback and Bulk Requirements for the Lakeshore Residential 1 District.



Principal Building

Minimum Setbacks			Other Specifications				
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Max. Lot Coverage (%)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)	Min. Lot Depth (ft.)
A 50 lake 25 road	B 10 lot line 25 road	C 10 lot line 25 road	D 34	15%	E 20,000	F 100	G N/A

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
H 50 lake 25 road	I 10 lot line 25 road	J 10 lot line 25 road	K 18	L 10

Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

g. Setback and Bulk Requirements for the Lakeshore Residential 2 District.



Principal Building

Minimum Setbacks			Other Specifications				
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Max. Lot Coverage (%)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)	Min. Lot Depth (ft.)
A 25 lake 10 road	B 10 lot line 10 road	C 10	D 34	25%	E 8,500	F 50	G N/A

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
H 25 lake 10 road	I 10 lot line 10 road	J 10	K 18	L 10

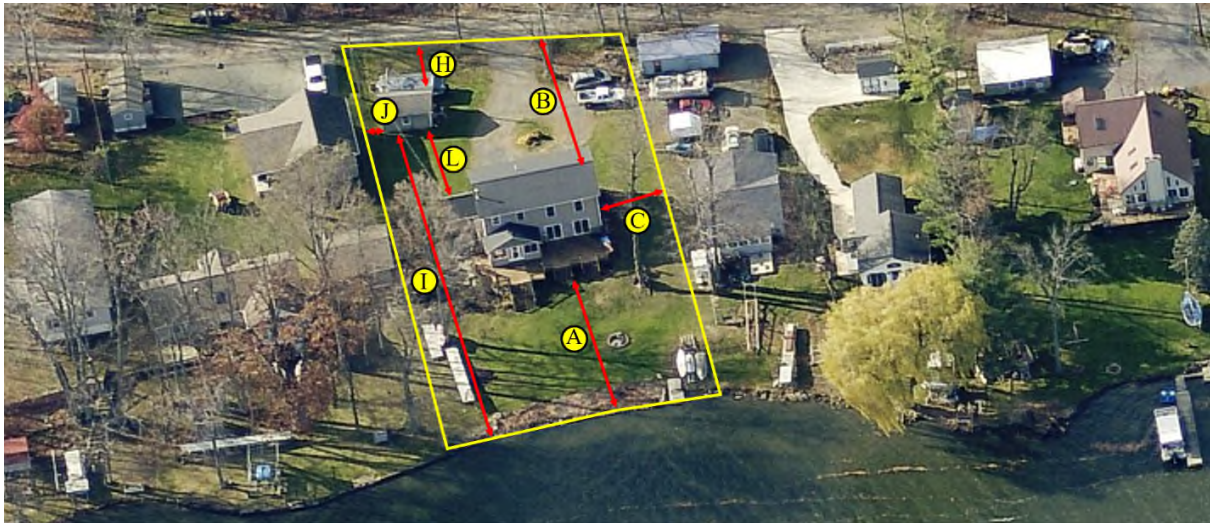
Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

h. Setback and Bulk Requirements for the Lakeshore Residential 3 District.



Principal Building

Minimum Setbacks			Other Specifications				
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Max. Lot Coverage (%)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)	Min. Lot Depth (ft.)
A 25 lake 10 road	B 10	C 8 lot line 10 road	D 34	35%	E 4,250	F 50	G N/A

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
H 25 lake 10 road	I 10	J 8 lot line 10 road	K 18	L 10

Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



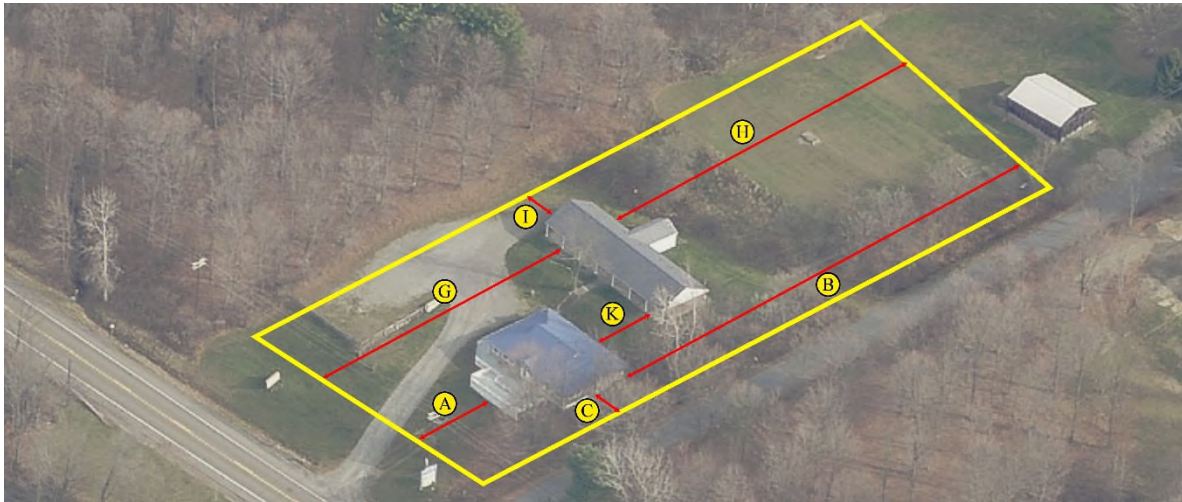
1.0 DISTRICT REGULATIONS

4. HAMLET/MIXED USE.

- a. *Purpose.* The purpose of the Hamlet/Mixed Use District is to encourage clustering of small-scale mixed uses without detracting from the rural character of the Town and providing opportunities for village and hamlet-scale residential and pedestrian-oriented mixed-use development to serve the varied needs of local residents. It will allow the Town to assert reasonable controls over such development consistent with the Town of Wayne Comprehensive Plan.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within the Hamlet/Mixed Use District.
- c. *Permitted Principal Uses and Structures.* No building or structure shall be erected, altered or extended, and no land or building thereof in the Hamlet/Mixed Use District shall be used for any purpose or purposes other than the following:
 - i. One (1) Single-family Dwelling per parcel
 - ii. B&B
 - iii. Multi-family Dwellings
 - iv. Manufactured Home Park
 - v. Retail Business
 - vi. Service Business
 - vii. Mixed Use Business
 - viii. Lodging Establishment
 - ix. Community Space
- d. *Accessory Uses and Structures.* No accessory building or structure shall be erected, altered or extended, and no land or building thereof in the Hamlet/Mixed Use District shall be used for any purpose or purposes other than the following:
 - i. Home Occupations
 - ii. One (1) Private Garage, attached or detached, per parcel
 - iii. One (1) swimming pool per parcel
 - iv. One (1) Small Structure per parcel
- e. *General Standards.* The following standards shall apply to all uses and structures in the Hamlet/Mixed Use District:
 - i. The right-of-way from the edge of the road shall be open and unobstructed.
 - ii. Front yard setbacks shall ensure that a clear unobstructed view is available and that there is a safety zone established to protect buildings.

1.0 DISTRICT REGULATIONS

f. Setback and Bulk Requirements for the Hamlet/Mixed Use District.



Principal Building

Minimum Setbacks			Other Specifications		
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)
A 10	B 10 road 5 lot line	C 10 road 5 lot line	D 34	E 8,500	F 50

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
G 10	H 10 road 5 lot line	I 10 road 5 lot line	J 18	K 10

Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

5. INDUSTRIAL.

- a. *Purpose.* The purpose of Industrial is to provide appropriate locations for manufacturing, processing, and warehousing developments not dependent on municipal water supply or sewerage; to allow such uses with outdoor storage and service areas; and to accommodate such uses that may generate heavy traffic.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within the Industrial District.
- c. *Permitted Principal Uses and Structures.* No building or structure shall be erected, altered or extended, and no land or building thereof in the Industrial shall be used for any purpose or purposes other than the following:
 - i. Retail Business
 - ii. Service Business
 - iii. Mixed Use Business
 - iv. Light Industrial Use
 - v. Adult Entertainment Business
- d. *Accessory Uses and Structures.* No accessory building or structure shall be erected, altered or extended, and no land or building thereof in the Industrial District shall be used for any purpose or purposes other than the following:
 - i. Storage of items in support of the principal use and/or structures
- e. *General Standards.* The following standards shall apply to all uses and structures in the Industrial District:
 - i. The right-of-way from the edge of the road shall be open and unobstructed.
 - ii. Front yard setbacks shall ensure that a clear unobstructed view is available and that there is a safety zone established to protect buildings.

1.0 DISTRICT REGULATIONS

f. Setback and Bulk Requirements for the Industrial District.



Principal Building

Minimum Setbacks			Other Specifications		
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)
A 10	B 10 road 5 lot line	C 10 road 5 lot line	D 34	E 8,500	F 50

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
G 10	H 10 road 5 lot line	I 10 road 5 lot line	J 18	K 10

Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

6. CORRIDOR DISTRICT.

- a. *Purpose.* The Corridor District is intended to highlight great landscapes and vistas alongside New York State Route 54 and protect and enhance of a town's cultural, historical, recreational, and natural beauty.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within the Corridor District.
- c. *Permitted Principal Uses and Structures.* No building or structure shall be erected, altered or extended, and no land or building thereof in the Corridor District shall be used for any purpose or purposes other than the following:
 - i. Agriculture
 - ii. B&B
 - iii. One (1) Single-family Dwelling per parcel
 - iv. Mixed Use Business
- d. *Accessory Uses and Structures.* No accessory building or structure shall be erected, altered or extended, and no land or building thereof in the Corridor District shall be used for any purpose or purposes other than the following:
 - i. Agricultural Commerce
 - ii. Agricultural Tourism
 - iii. Home Occupations
 - iv. One (1) Private Garage, attached or detached, per parcel
 - v. One (1) swimming pool per parcel
 - vi. No more than two (2) Small Structures per parcel
- e. *General Standards.* The following standards shall apply to all uses and structures in the Corridor District:
 - i. Existing vegetation, depressions in elevation, or other natural features shall be utilized to minimize the negative visual impacts of development.
 - ii. The right-of-way from the edge of the road shall be open and unobstructed.
 - iii. Front yard setbacks shall ensure that a clear unobstructed view is available and that there is a safety zone established to protect buildings.

1.0 DISTRICT REGULATIONS

f. Setback and Bulk Requirements for the Corridor District.



Principal Building

Minimum Setbacks			Other Specifications		
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Lot Size (sq. ft.)	Min. Lot Width (ft.)
(A) 50	(B) 50	(C) 25	(D) 34	(E) 217,800	(F) 200

Accessory Buildings (detached garages, carports, storage buildings, sheds, barns, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Bldg. Height (ft.)	Min. Distance Between Buildings
(G) 50	(H) 50	(I) 25	(J) 18	(K) 25

Accessory Structures (not buildings – stairs, retaining walls, fences, patios, walkways, etc.)

Minimum Setbacks			Other Specifications	
Front (ft.)	Rear (ft.)	Side (ft.)	Max. Height (ft.)	
1	1	1	4	



1.0 DISTRICT REGULATIONS

7. MUNICIPAL AND PUBLIC PURPOSE.

- a. *Purpose.* To allow for municipal and public spaces, including public parks.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within the Municipal and Public Purpose District.
- c. *Permitted Principal Uses and Structures.* No building or structure shall be erected, altered or extended, and no land or building thereof in the Municipal and Public Purpose shall be used for any purpose or purposes other than the following:
 - i. Parks, playgrounds, preserves and other similar uses.
 - ii. Municipal or public utility structures or facilities.
- d. *General Standards.* The following standards shall apply to all uses and structures in the Municipal and Public Purpose:
 - i. Existing vegetation, depressions in elevation, or other natural features shall be utilized to minimize the negative visual impacts of development.
 - ii. The right-of-way from the edge of the road shall be open and unobstructed.
 - iii. Front yard setbacks shall ensure that a clear unobstructed view is available and that there is a safety zone established to protect buildings.

E. OVERLAY DISTRICT

1. LAND CONSERVATION OVERLAY (LCO).

- a. *Purpose.* The purpose of the Land Conservation Overlay District is to identify areas wherein substantial development may result in public safety or health problems, and/or ecological damage because of topography, drainage, soil characteristics, and other natural conditions; to encourage soil conservation and protection of scenic features, plant and wildlife resources, and water quality.
- b. *Applicability.* The guidelines and provisions in this section shall apply to all proposed development within the Land Conservation Overlay District. All requirements of the underlying district shall control except when such requirements conflict with this section, in which case this section shall control.
- c. *Map.* The locations and boundaries of the Land Conservation Overlay District shall be delineated on an official set of maps on file in the Town Clerk's office and Town Building Department. These maps shall be known and may be cited as the "Official Town of Wayne Land Conservation Overlay District Map" and shall include and/or include by reference the environmental atlas maps for the Town the Official Flood Insurance Rate Maps (FIRM) for the Town (prepared by the Federal Emergency Management Agency [FEMA]), the Coastal Erosion Hazard Area maps (prepared by the NYSDEC) and the State Coastal Erosion Maps. The Official Town of Wayne Land

1.0 DISTRICT REGULATIONS

Conservation Overlay District Map shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the Land Conservation Overlay District. Field investigations and/or other environmental analyses may be required in order to determine whether or not a particular piece of property is Sensitive Land and included within the Land Conservation Overlay District.

2. OVERLAY PERMITS.

a. *Permit Required.* An overlay permit shall be required subject to the provisions of this article and prior to the commencement of any regulated activity requiring municipal approval, including a building permit, in the Land Conservation Overlay District. The following activities are exempt from the permit procedures of this article, subject to a determination by the Code Enforcement Officer that such activities involve necessary normal maintenance and upkeep of property and/or involve public health, safety or emergency situations:

- i. Activities that are completely contained within the interior of a building.
- ii. Lawn care and maintenance.
- iii. Gardening activities.
- iv. Tree and shrub care and maintenance.
- v. Removal of dead or deteriorating vegetation.
- vi. Removal of structures.
- vii. Repair and maintenance of structures.
- viii. Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
- ix. Reconstruction of structures damaged by a natural disaster.
- x. Agricultural activities, except structural activities.
- xi. Public health activities, orders and regulations of the New York State Department of Health, Steuben County Department of Health or other agencies.
- xii. Activities subject to the review jurisdiction of the New York State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment.
- xiii. Any actual or ongoing emergency activity which is immediately necessary for the protection and preservation of life, property or natural resource values.

b. *Application.* Application for an overlay permit shall be made in writing to the Planning Board on forms available from the Code Enforcement Officer. Such an application shall be made by the property owner or his/her agent and shall be accompanied by any materials or information deemed appropriate by the Code Enforcement Officer, including but not limited to a scaled site plan prepared and certified by a licensed engineer or land surveyor that contains the following minimum information:

- i. A location plan and boundary line survey of the property.
- ii. The location of all Land Conservation Overlay District, designated Town open space, Town, county or state parkland or other similar areas within and/or adjacent to the property, as defined by this article.

1.0 DISTRICT REGULATIONS

- iii. The location of all existing and proposed buildings, structures, utility lines, sewers, water and storm drains on the property or within 200 feet of the proposed work site.
 - iv. Names and addresses of the owner of the site (if not the applicant) as well as all other owners within 200 feet of the site.
 - v. The location of all existing and proposed impervious surfaces, such as driveways, sidewalks, etc., on the property or within 200 feet of the proposed work site.
 - vi. Existing and proposed contour levels at intervals of five feet for the property, unless such property features steep slopes (grades in excess of 15%), in which case contour levels shall be required at intervals of two feet.
 - vii. The location and types of all existing and proposed vegetation and shrub masses, as well as all trees with a diameter of four inches or more within and/or adjacent to the property.
 - viii. The location of all existing and proposed drainage patterns, drainage ways, swales, etc., within and/or adjacent to the property.
- c. *Public Hearing.* The Code Enforcement Officer shall refer a completed overlay permit application to the Planning Board for a public hearing. The Planning Board shall conduct a public hearing on the overlay permit application within 62 days of the date of receipt of the application, which shall be advertised in a newspaper of general circulation in the Town at least five days prior to the public hearing.
- d. *Approval or Denial.* Within 62 days of the closing of the public hearing, the Planning Board shall grant or deny an overlay permit, subject to the standards, criteria and other regulations contained in this article.
- e. *Conditions.* Any overlay permit issued by the Planning Board in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached as are deemed necessary by the Planning Board to ensure the preservation and protection of Sensitive Land and to ensure compliance with the policies and provisions of this article (e.g., changing site plans to minimize impacts to Sensitive Land, replanting removed vegetation or trees, utilization of native plants, etc.). Every permit issued pursuant to this article shall contain the following conditions:
- i. The Town Code Enforcement Officer, Town Engineer and/or other appropriate Town official shall have the right to inspect the project from time to time.
 - ii. The permit shall expire on a particular date, unless extended by the Planning Board upon good cause shown.
 - iii. The permit holder shall notify the Town Code Enforcement Officer or other appropriate Town official of the date on which project construction is to begin, at least five days in advance of such date.
 - iv. The overlay permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.
- f. *Suspension of Permit.* The Planning Board, upon recommendation of the Town Code Enforcement Officer or other appropriate Town official and subject to a majority vote

1.0 DISTRICT REGULATIONS

of the Planning Board, may suspend or revoke an overlay permit issued in accordance with the provisions of this article where it has found evidence that the applicant has not complied with any or all terms or conditions of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the application. The Planning Board shall set forth, in writing, its findings and reasons for revoking or suspending a permit issued pursuant to this article and shall forward a copy of said findings to the applicant. The Town Code Enforcement Officer may suspend a permit (temporarily) until such time as the Planning Board reviews the suspension.

g. *Land Conservation Overlay District Approval Criteria.* In granting, denying or conditioning any application for an overlay permit in the Land Conservation Overlay District, the Planning Board shall consider the effect that the proposed regulated activity will have on the public health, safety and welfare and the protection or enhancement of the several functions and benefits of the Sensitive Land. No permit to undertake a regulated activity within the Land Conservation Overlay District shall be issued by the Planning Board, unless the applicant can adequately demonstrate to the Planning Board that:

- i. The proposed regulated activity is consistent with the policy of this section to preserve, protect and conserve Sensitive Land and the benefits derived there from.
- ii. The proposed regulated activity is compatible with the public health, safety and welfare.
- iii. The proposed regulated activity is reasonable and necessary.
- iv. There is no reasonable alternative for the proposed regulated activity on a site which would not affect Sensitive Land.
- v. For parcels featuring a steep slope (grade in excess of 15%):
 1. The stable angle of repose of the soil classes as found on the site has been used to determine the proper placement of structures and other development-related facilities within the plateau area. Site specific calculations of the stable angle of repose for the site shall be determined by a professional soil scientist or engineer and obtained for the site by borings, as well as high-density soil survey data provided by the applicant.
 2. The stability of soil will be maintained or increased to adequately support any construction thereon or to support any landscaping, agricultural or similar activities. This shall be documented by soil bearing data provided by a qualified testing laboratory or engineer and paid for by the developer.
 3. Drainage of storm water shall not cause erosion or siltation, contribute to slope failures, pollute groundwater or cause damage to or flooding of property. Drainage systems shall be designed and located to ensure slope stability.

1.0 DISTRICT REGULATIONS

4. Any grading, excavating or other soil disturbance conducted on a steep slope shall not direct surface water runoff over the receding edge during construction.
- h. *Fee.* Each application for an overlay permit shall be accompanied by an application fee set in accordance with Section 5.0. This fee shall be in addition to any other fee required for the development under this section.

2.0 SITE PLAN REVIEW

A. Site Plan Review

1. Applicability

- a. Site plan review is required in all districts prior to the issuance of any town permit(s), except when such permitted activity is completely contained within the interior of a building.
- b. Site plan review is also required prior to a change of use and/or expansion of use, including changes or expansions completely contained within the interior of a building, for the specific uses and structures listed below, prior to the issuance of a building permit:
 - i. Lodging Establishments
 - ii. Multi-family Dwellings
 - iii. Manufactured Home Parks
 - iv. Retail Businesses
 - v. Service Businesses
 - vi. Mixed Use Businesses
 - vii. Community Spaces
 - viii. Single Family Dwellings

2. Application Submission

- a. In all cases where site plan approval is required, the owner or his contract purchaser or lessee shall complete an application for site plan approval on the forms available there for from the Code Enforcement Officer. No such application shall be complete unless it signed by the applicant and contains the following:
 - i. A site plan prepared by an architect, landscape architect, engineer or land surveyor containing the information and data as required by this article and the Code Enforcement Officer.
 - ii. A completed environmental assessment form as required by 6 New York Codes, Rules and Regulations 617 - State Environmental Quality Review (NYCRR-SEQRA).
 - iii. Steuben County Agricultural Data Statement, if required.
 - iv. All necessary application fees and deposits as required by the Code Enforcement Officer.
 - v. Any other information as may be reasonably required by the Code Enforcement Officer.

2.0 SITE PLAN REVIEW

- b. Site plan requirements. The site plan map or maps shall contain the following information and elements. The Planning Board is hereby empowered to waive any such requirements it finds not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.
- i. A boundary survey certified by a licensed land surveyor in accordance with the code of practice as set forth by the New York State Association of Professional Land Surveyors which represents the deed of record as filed in Steuben County or proposed boundary of property if property is to be subdivided.
 - ii. A North arrow, scale, original date and last revision date for all maps.
 - iii. Names and addresses of the owner of the site (and the contract purchaser or lessee, if applicable) as well as all other owners within 500 feet of the site.
 - iv. The zoning classification of the site and all property within 500 feet.
 - v. All existing easements and restrictions of record, including rights-of-way and the mean high water mark.
 - vi. All existing and proposed utilities, both public and private, including potable water lines, sanitary sewer or septic system.
 - vii. The location, setbacks, heights and proposed use for all buildings and structures.
 - viii. All watercourses, marshes, wooded areas, wetlands (DEC or Corps of Engineers) floodplains (based on FEMA maps) or other significant natural or man-made features.
 - ix. Existing topography of the site and adjacent properties as revealed by contours or key elevations.
 - x. Proposed grading.
 - xi. Proposed land use.
 - xii. All driveways, parking lots, curbing, loading spaces and driving lanes, including proposed on- and off-site circulation patterns.
 - xiii. All proposed landscaping, plantings, screening devices and exterior lighting.
 - xiv. All proposed signs.
 - xv. Existing and proposed fire hydrants and fire suppression connections on buildings.

2.0 SITE PLAN REVIEW

- xvi. Detailed drainage plans showing on-site storage, floodways, and proposed easements, including siltation and erosion control plans.
- xvii. Construction sequence and timing of completion of all improvements.
- xviii. Architectural drawings and floor plans showing pedestrian and vehicular access.
- xix. Type, size and location of all waste removal containers, compactors and outdoor mechanical equipment, including the screening of them pursuant to the requirements of Section 3.0(C)(5).
- xx. Such other information or details as may reasonably be required by the Code Enforcement Officer or the Planning Board.

B. Visual Impact Assessment. In addition to the site plan map or maps, the Planning Board may require applicants in any district to submit a visual impact assessment prepared at the applicant's sole cost and expense by a design professional trained in visual assessment procedures to demonstrate that the proposed project will not have an unreasonable adverse effect on (1) Scenic Resources, scenic vistas, and/or viewsheds; and/or (2) the health, safety and welfare of the neighborhood or community. The Planning Board is hereby empowered to waive any such requirements it finds not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

- a. **Board Review.** The Planning Board shall consider the following criteria when determining whether the proposed project will have an unreasonable adverse effect on (1) Scenic Resources, scenic vistas, and/or viewsheds; and/or (2) the health, safety and welfare of the neighborhood or community:
 - i. Whether the land use of the proposed project is obviously different from, or is in sharp contrast to, current land use patterns between the proposed project and a Scenic Resource.
 - ii. Whether the proposed project is visible from a Scenic Resource.
 - iii. Whether the proposed project may result in the obstruction, elimination or significant screening of one or more Scenic Resources.
 - iv. Whether the proposed project may be visible from publicly accessible vantage points either: i. seasonally (e.g., screened by summer foliage, but visible during other seasons); or ii. year round.
 - v. Whether the proposed project will be viewed by routine travel by residents, including travel to and from work, or recreational or tourism-based activities.
 - vi. Whether the proposed project may cause a diminishment of the public enjoyment and appreciation of the Scenic Resource.

2.0 SITE PLAN REVIEW

- vii. Whether there are similar structures (e.g., same use, scale, context, dimensions, density, design, and/or location) visible within the following distance of the proposed project: 0–½ mile; ½–3 miles; 3–5 miles; 5+ miles.

C. Approval Process

1. Pre-application meeting. A pre-application meeting is recommended to be held with the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to present a proposal prior to the preparation of a detailed site plan, to ensure basic site design concept meets planning criteria, to advise the applicant of concerns, and to generally determine the information to be required in the site plan. In order to accomplish these objectives, the applicant is encouraged to provide the following at a site plan conference:
 - a. Proof of property ownership or authorization of owner representation.
 - b. Survey showing the present condition of the property.
 - c. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features.
 - d. An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features.
 - e. A topographic or contour map of adequate scale and detail to show site topography (degree of detail to be determined at the site plan conference).
 - f. Erosion control plan.
2. Meeting scheduled. Upon receipt of a complete application, the Code Enforcement Officer shall cause said application to be placed on the next available Planning Board agenda for consideration by the Planning Board and shall refer a copy of the application to the Steuben County Planning Board if required by GML § 239-m, as well as the Wayne Fire Department, the Town Highway Superintendent, and such other persons or agencies as in his discretion seem advisable.
3. Public Hearing. The Planning Board shall conduct a public hearing within sixty-two (62) days from the day a complete application is received by the Code Enforcement Officer. The Planning Board shall give notice of such hearing pursuant to the requirements of Town Law § 274-a.
4. Decision by Planning Board. The Planning Board shall review such plan for completeness and suitability in accordance with the provisions of this article. Such review shall commence with the first meeting after receipt of a complete application, and a decision

2.0 SITE PLAN REVIEW

shall be rendered no later than sixty-two (62) days from: (1) the day a complete application is received by the Code Enforcement Official if no public hearing is conducted; or (2) the date the public hearing is conducted.

- a. Referral to Zoning Board. If the Planning Board determines that an area variance is required by the proposal, the matter shall be referred to the Town Zoning Board of Appeals and the sixty-two (62) day decision time shall be stayed during the time of such referral.
 - b. Extension of time for decision. The time for decision set forth above may be extended by mutual consent of the Planning Board and the applicant.
5. Permissible action by Planning Board. The Planning Board, when rendering a decision on a proposed site plan, may approve, approve with modifications, or disapprove such proposal. In addition, the Planning Board shall have the authority to impose such conditions or restrictions as in the opinion of the Planning Board are both reasonable and directly related to the purposes of site plan review, including but not limited to conditions that are deemed necessary by the Planning Board to ensure the preservation and protection of: (1) a Scenic Resource, scenic vistas, and/or viewsheds; and/or (2) the health, safety and welfare of the neighborhood or community.
- a. An application may be denied if the Planning Board determines that the proposed project will have an unreasonable adverse effect on: (1) a Scenic Resource, scenic vistas, and/or viewsheds; and/or (2) the health, safety and welfare of the neighborhood or community, even if the proposed project has no practicable alternative and the applicant has minimized the proposed alteration and its impacts as much as possible through mitigation.
6. The Planning Board shall review each application for site plan review in order to insure to the extent practicable that all elements of the site plan serve to promote the following goals and objectives:
- a. Compatibility of the proposed use with neighboring uses.
 - b. Safe and appropriate movement of vehicles and pedestrians onto and off of the site.
 - c. Adequacy of the systems for general safety and the suppression of fires.
 - d. Suitability of landscaping, buffering, lighting, and, hours of operation.
 - e. Adequacy of drainage systems.
 - f. Suitability of signage.
 - g. Compatibility with the Comprehensive Plan.

2.0 SITE PLAN REVIEW

7. The Town Code Enforcement Officer, Town Engineer and/or other appropriate Town official shall have the right to inspect the project from time to time.
8. The permit holder shall notify the Town Code Enforcement Officer or other appropriate Town official of the date on which project construction is to begin, at least five (5) days in advance of such date.
9. Fee. Each application for a site plan review shall be accompanied by an application fee set in accordance with Section 5.0.

3.0 SUPPLEMENTAL REGULATIONS

A. General Provision

1. The provisions of this Section supplement those of Section 1.0. When there is a conflict between the two, the provisions of the more restrictive regulation will control.
2. The maximum allowable height of buildings or structures in any district does not apply to spires, belfries, cupolas, ventilators, chimneys, or other appurtenances that usually extend above the roof level and are not intended or used for human occupancy. Notwithstanding the foregoing, the maximum allowable height of buildings or structures shall apply to roof-mounted solar installations.
3. Nothing herein shall be construed to supersede or otherwise control over any local, state, or federal laws or regulations regarding septic systems or wastewater management.
4. Non-conforming Uses, Structures, and Parcels
 - a. *Non-conforming Status.* A use, structure, and/or parcel that was existing lawfully on the effective date of this LUR but which is prohibited or restricted hereunder, is hereby declared to be non-conforming and may be continued and maintained as provided herein.
 - b. Non-Conforming Uses, Structures, and Parcels shall be treated as follows:
 - i. Non-Conforming Uses
 1. Discontinuance. When a non-conforming use has been discontinued for a period of one (1) year it shall not thereafter be re-established; future use of such premises shall be in conformity with the provisions of this LUR.
 2. Changes. When a non-conforming use is brought into conformity with this LUR, it shall not be allowed again to become non-conforming. A non-conforming use shall not be changed to another non-conforming use.
 3. Displacement. No non-conforming use shall be extended to displace a conforming one.
 4. Moving. A structure used for a non-conforming use may not be moved to another parcel unless such use shall conform to the requirements for the District in which it is located after such move.
 5. No Expansion. A non-conforming use may not be enlarged, altered, extended, reconstructed, or restored, except as provided herein.
 - ii. Non-Conforming Structures

3.0 SUPPLEMENTAL REGULATIONS

1. Unsafe Structures. Any non-conforming structure declared unsafe by a proper authority, may be restored to a safe condition on the same location to the same dimensions.
2. Reconstruction. A damaged non-conforming structure may be repaired or rebuilt on the same location to the same dimensions, with a building permit issued by the Code Enforcement Officer.
3. Changes. When a non-conforming structure is brought into conformity with this LUR, they shall not be allowed again to become non-conforming.
4. Displacement. No non-conforming structure shall be extended to displace a conforming one.
5. Moving. A non-conforming structure moved from one parcel to another shall conform to the requirements for the District in which it is located after such move.
6. No Expansion. A non-conforming structure may not be enlarged, altered, extended, reconstructed, or restored, except as provided herein.

iii. Non-Conforming Parcels

1. Building. A non-conforming parcel may be buildable for any use allowed in the zoning district, provided, however, that all buildings and structures constructed thereon shall meet or exceed the current applicable minimum standards of the zoning district (including setbacks), except minimum parcel area. Notwithstanding the foregoing, a non-conforming parcel may not be buildable for any use if it is contiguous to property owned by the same owner and, if such parcels were merged, the resulting parcel would be conforming.

B. Protection of Natural Resources

1. Limited Use of the Lakeshore.

- a. *Purpose*. Recreational and related use of the shores of Keuka and Waneta Lakes shall be limited in order to prevent excessive use harmful to scenic vistas, near-shore water quality, fish habitat, and established community character. Such limitation, as set forth below, is in addition to the density provisions of Section 1.0.
 - i. A lakeshore parcel shall include not less than fifty (50) feet of shoreline frontage for each dwelling unit located on such parcel.
 - ii. Occupants of premises that lack lakeshore may acquire from the owner of a lakeshore parcel a legally binding right of access to and use of all or a portion of such parcel. A parcel subject to such an agreement shall include not less than

3.0 SUPPLEMENTAL REGULATIONS

fifty (50) feet of shoreline frontage for each parcel benefiting there from, in addition to any shoreline frontage required in accordance with sub-paragraph above.

- iii. The owner of a lakeshore parcel subject to an agreement in accordance with above shall cause the instrument of such agreement to be recorded in the office of the Steuben County Clerk, and a certified copy sent to the Code Enforcement Officer.
 - iv. The limitation established by this subsection shall not apply to a right-of-way across a lakeshore parcel solely for withdrawal of lake water for domestic use.
2. Protection of Ground Cover. No building permits shall be issued and/or no site plan shall be approved that causes the unnecessary loss of trees, shrubs or other ground cover on slopes of sixty percent (60%) or steeper, or within twenty-five (25) feet from the edge of a wetland regulated pursuant to the NYS Freshwater Wetlands Act.
3. Grading and Erosion Control.
- a. *Applicability.* An application for a building permit and/or site plan review must include a grading plan and an erosion plan if such development includes grading, filling, and/or excavating either:
 - i. On a slope of fifteen percent (15%) or steeper;
 - ii. Over a contiguous area ten thousand (10,000) square feet or larger; or
 - iii. Uses one hundred (100) cubic yards or more of excavated or fill material.
 - b. *Grading Plan.* A grading plan shall be designed to minimize foreseeable problems arising from storm water run-off and soil erosion. It shall show clearly the proposed finished ground surfaces throughout the development, with graded areas properly tied back into areas of ungraded land. The plan shall distinguish cut from fill and existing from proposed contour lines, with contours depicted at vertical intervals of not greater than two (2) feet unless the Code Enforcement Officer specifies otherwise.
 - c. *Erosion Control Plan.* An erosion control plan shall be designed to prevent soil loss from the development site. The plan shall identify all erosion control measures and practices proposed, both during the construction period and following completion, keyed to the proposed construction schedule. The erosion control plan shall identify the maintenance practices needed to ensure proper functioning of control measures. The Code Enforcement Officer shall not issue a Certificate of Compliance when site preparation has been completed unless such maintenance has been properly performed to that point.

3.0 SUPPLEMENTAL REGULATIONS

4. *Control standards.* Erosion control measures, related storm water run-off facilities, and maintenance practices shall be according to standards recommended by the District Conservationist and Steuben County Soil and Water Conservation district, and shall meet the following objectives:
 - a. Minimize soil erosion through application of runoff control and soil stabilization control measure to minimize pollutant discharges;
 - b. Control storm water discharges to minimize channel and stream bank erosion and scour in the immediate vicinity of the discharge points;
 - c. Minimize the amount of soil exposed during construction activity;
 - d. Minimize the disturbance of steep slopes;
 - e. Minimize sediment discharges from the site;
 - f. Provide and maintain natural buffers around surface waters, direct storm water to vegetated areas and maximize storm water infiltration to reduce pollutant discharges, unless infeasible;
 - g. Minimize soil compaction, unless the intended function of a specific area of the site dictates that it be compacted; and
 - h. Unless infeasible, preserve a sufficient amount of topsoil to complete soil restoration and establish a uniform, dense vegetative cover.

C. Design Standards

1. Parking Areas.

- a. *General Provisions.* Off-road parking spaces at least nine (9) feet by twenty (20) feet in size, together with appropriate access drives and maneuvering area, shall be provided when a building is erected or changed in use.
 - i. Residential parking spaces shall be on the same parcel as the dwelling served. Parking spaces for non-residential uses may be on a different parcel, within 700 feet from the use served.
 - ii. Space in a public parking parcel may be credited toward the parking requirement for a non-residential use when evidence that such space has been reserved for that purpose has been filed with the Code Enforcement Officer.
 - iii. Repairs or servicing of boats or motor vehicles shall not be performed in any public parking parcel.

3.0 SUPPLEMENTAL REGULATIONS

- iv. On-site private garage spaces may be credited toward the required parking spaces. No automotive business or service shall be performed in such garage.
 - v. Unless there is no practical alternative, off-road parking spaces shall be designed with maneuvering areas so that vehicles can exit without backing into the road. No parking area shall encroach on any side yard or public road right-of-way.
 - vi. Unless otherwise approved by the Planning Board during site plan approval, all parking areas shall be constructed with pervious concrete, porous asphalt, paving stones, crushed stone, or other pervious, dust-free materials. This requirement shall not apply to parking areas serving Single Family Dwellings.
 - vii. No motor vehicle shall be parked or stored on the traveled portion of the highway in any district.
- b. *Number of Spaces Required.* Parking spaces for new development shall be provided in accordance with the following schedule. For uses not specifically listed below, the requirements for off-road parking shall be determined by the Planning Board at the request of the Code Enforcement Officer, who shall maintain a file of such determinations.
- i. Such requirements shall also apply fully to a change of use and/or an existing use enlarged by more than 50% of such measure; the minimum number or parking spaces required shall be based upon the enlargement alone.
 - ii. The off-street parking schedule shall be as follows:

Uses	Required Number of Parking Spaces
Lodging Establishment and B&B	1 for each sleeping room plus 1 for each employee in the maximum working shift
Community Space	1 for each 200 square feet of gross floor area or 1 for each 3.5 seats, whichever is greater
Single-family Dwelling	2, unless the dwelling contains more than three (3) bedrooms, in which case an additional parking space shall be provided for each additional bedroom starting with the fourth bedroom (e.g., a Single-family Dwelling with five bedrooms must have at least 4 parking spaces)
Multi-family Dwelling	Minimum of 1.5 for each living unit on the premises
Retail Business and Adult Entertainment Business	1 for each 100 square feet of floor space, plus 1 for each employee in the maximum working shift
Roadside stands	2, in addition to the parking required by the principal use or structure

3.0 SUPPLEMENTAL REGULATIONS

Uses	Required Number of Parking Spaces
Light Industrial	1 for each employee in the maximum shift
Service Business and Mixed Use	1 for each 200 square feet of floor space, plus 1 for each employee in the maximum working shift
Manufactured/Mobile Home and Manufactured Home Park	2 per home

c. Off-road Loading.

- i. *General Requirements.* At least one off-road truck-loading space shall be maintained on the same parcel for any mixed use or industrial establishment normally receiving or shipping more than one truckload per day. Such space shall be provided in addition to required off-road parking spaces.

1. Unless there is no practicable alternative, loading spaces shall be designed so that vehicles can exit without backing onto the road.

- ii. *Dimensions.* A loading space shall have minimum dimensions of not less than twelve (12) feet in width and seventy-five (75) feet in length, exclusive of driveways and maneuvering areas. Height clearance shall be not less than fifteen (15) feet.

- iii. *Location.* Loading spaces shall not encroach on any required front yard, access-way, or off-road parking area, except that parking areas may be used for loading spaces whenever the business is closed.

2. Signs.

a. *General Provisions.*

- i. *Non-Conforming Sign.* A sign installation not in compliance with this LUR shall be allowed to remain without change or alterations, for up to three (3) years from the effective date of this LUR, by which time any such installation shall be removed or made conforming by the person responsible therefore or the owner of the premises on which the sign is located.
- ii. *Sign Lighting.* Signs may only be illuminated via a shielded light source directed solely at the sign (not internally illuminated), not causing glare for motorists, pedestrians or neighboring premises.
- iii. *Projecting Sign.* A projecting sign installation shall not extend above the soffit of the building to which it is attached. No sign other than an official traffic control device shall overhang a road right-of-way.

3.0 SUPPLEMENTAL REGULATIONS

- iv. *Wall Sign.* A wall sign installation shall not extend not more than eighteen (18) inches from such wall, nor above the soffit of the building to which it is attached.
 - v. *Lapse.* A sign that no longer advertises an existing business, product, service, or activity, shall be removed by the owner of the premises upon which the sign is located immediately after the cessation of such business, product, service, or activity.
 - vi. *Signs in the Right-of-way.* In no event shall a sign other than an official traffic control device be placed in the right-of-way. In addition to the enforcement provisions contained in Section 5.0, the Highway Superintendent or his/her designee shall be authorized to remove and destroy or otherwise dispose of said sign located within any public right-of-way.
- b. *Prohibited Signs and Devices.* The following shall not be allowed in any district:
- i. A sign other than an official traffic control device that uses the words "stop", "danger", or "slow" prominently or in any manner that implies danger to motorists.
 - ii. A sign that obstructs motorists' view of an official traffic control device or restricts the clear view of oncoming vehicles less than five hundred (500) feet distance.
 - iii. A sign that produces glare to an extent or in a direction that may be a hazard to motorists.
 - iv. A flashing sign, or one employing flashing, pulsating, intermittent, rotating or moving lights or simulation thereof.
 - v. A sign affixed to a utility-owned pole.
 - vi. Any outdoor advertising sign advertising a product, event, or service or for a location that is not on-premises (e.g., billboards, directional signs, realty signs not located on the property being offered for sale or lease, etc.).
- c. *Signs allowed without a permit*
- i. *Permanent Signs.* One (1) of the following signs (per parcel) shall be allowed in any district without a permit, subject to the size limitations specified:
 - 1. A sign not exceeding two (2) square feet in area denoting the name and address of the occupants of a Single-family Dwelling located on that parcel.
 - 2. Parking directional or handicapped accessibility sign if and as required by law, not exceeding one (1) square foot in area.

3.0 SUPPLEMENTAL REGULATIONS

ii. *Temporary Signs.* The following shall be allowed in any district without a permit, subject to the limitations specified:

1. Construction Sign. One (1) unlighted sign not exceeding six (6) square feet in area, identifying persons or firms involved in construction on that site may be placed on a parcel during construction. Such signs shall be removed within one (1) week following completion of the project.
2. Realty Sign. Up to two (2) unlighted signs not exceeding six (6) square feet in area each, offering the sale or lease of the premises. Such signs may only be placed on the property being offered for sale and shall be removed immediately following the sale or lease of the premise.
3. Non-commercial Signs. A parcel may have one (1) sign not exceeding six (6) square feet in area, announcing or supporting a campaign, drive, or event to be conducted on the premises by a political, civic, religious, charitable, or educational organization. An event sign shall be displayed not earlier than four (4) week before, and shall be removed promptly following, the occasion advertised there for.

d. *Signs requiring a permit*

i. Any other sign not listed in Section 3.0(C)(2)(c) maybe erected, installed or created only in accordance with a duly issued and valid sign construction permit from the Code Enforcement Officer. Such permits shall be issued only in accordance with the following uses and size limitations:

1. Signs in the Lakeshore Residential 1, 2, & 3 Districts. Only one (1) sign not exceeding six (6) square feet shall be allowed per parcel for a Home Occupation use in the Lakeshore Residential 1, 2, & 3 Districts.
2. Signs in all other Districts. Unless otherwise approved by the Planning Board during site plan review, only one (1) sign not exceeding forty (40) square feet shall be allowed per parcel for a non-residential use in the Agricultural, Hillside Conservation 1 and 2, Mixed Use, Corridor, and Municipal and Public Purpose Districts.

ii. *Sign permit requirements*

1. Permit for new sign or for sign modification. An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign.
2. Inspection. The Code Enforcement Officer shall cause an inspection of the parcel for which each permit is issued during the sixth month after the issuance

3.0 SUPPLEMENTAL REGULATIONS

of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void.

3. Lapse of sign permit. A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed, or if the business activity on the premises is otherwise discontinued for a period of 60 days.
4. Assignment of sign permits. A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Code Enforcement Officer may require and paying any applicable fee.

3. Lighting

- a. *Purpose.* Large high intensity exterior lighting fixtures waste energy, can inhibit views of the night sky, trespass onto neighboring properties causing light pollution, negatively impact wildlife, and cause glare which is dangerous to drivers and pedestrians. Excessive light can have a negative impact in important viewsheds in Wayne and surrounding communities. Proper lighting levels and shielded fixtures that direct lighting down can minimize night sky pollution and light trespass onto neighboring properties.
- b. *Applicability.* This section does not apply to lighting installed by a municipality in the public right-of-way.
- c. *Light Level Measurement.* Light shall be specified and measured in foot candles. Measurements shall be made at ground level with the light-registering portion of the meter held parallel to the ground pointing up.
- d. *Lighting Design and Installation.*
 - i. The maximum light level of any light fixture shall not exceed 0.5-foot candles at the property line of any site; and
 - ii. Lighting must not be oriented towards adjacent properties, streets, or public sidewalks.
- e. *Flood Lights and Flood Lamps.* All flood lamps shall be aimed so that the main beam is not visible from adjacent properties or the right-of-way.
- f. *Vehicular Canopy Lighting.* Lighting under canopies shall be designed to prevent glare off-site.
- g. Building and Security Lighting.

3.0 SUPPLEMENTAL REGULATIONS

- i. Lighting fixtures shall be designed to direct illumination at the building façade, plantings or other intended site features;
 - ii. Lighting shall be directed away from adjoining properties and the right-of-way;
 - iii. Wall mounted lighting shall use full cutoff fixtures; and
 - iv. Light directed upward to accent architectural features shall be shielded to avoid night sky light spill.
4. Fences and Hedges. Fences, walls, hedges, and landscape features along a boundary line are allowable as customary accessory structures in a yard for various purposes, such as aesthetics, personal privacy, property security, providing shade, and obscuring views. They shall be designed, placed, and maintained as follows:
- a. Where a fence, wall, hedge, or landscape feature along a boundary line is a specified condition for approval of a site plan or is otherwise required by this LUR, it shall be designed, placed, and maintained as required by such site plan or elsewhere herein.
 - b. Unless otherwise specified by the Planning Board in a site plan approval, no fence, walls, hedge, and/or landscape feature along a boundary line shall exceed four (4) feet in height.
 - c. Unless otherwise specified by the Planning Board in a site plan approval, fences, walls, hedges, or landscape feature along a boundary line shall be setback from any parcel line a distance equal to $\frac{2}{3}$ of the height of the fence, wall, hedge, or similar landscape.
 - d. No fence, wall, hedge, or landscape feature along a boundary line shall be designed, placed, or maintained in such a way as to unnecessarily impair other properties' access to air, sunlight, or view.
 - e. A fence, wall, hedge, or landscape feature along a boundary line placed within a front yard shall not obscure visibility of the road needed for safe movement of vehicles to and from the premises.
 - f. A fence, wall, hedge, or landscape feature along a boundary line placed approximately parallel to a side or rear parcel line, shall be accessible for proper maintenance from both sides without entering upon the adjacent parcel.
 - g. A non-conforming hedge or other landscape planting shall be thinned or pruned where necessary to meet the standards stated above
 - h. The requirements under this Section 3.0(C)(4) shall not apply to fences, walls, hedges, or landscape features along a boundary line used for Agriculture purposes.

3.0 SUPPLEMENTAL REGULATIONS

5. Screening of Waste Receptacles. All trash receptacles, dumpsters, recycling containers, oil containers, and grease containers shall be screened to ensure that they are not visible from: (1) the street; (2) neighboring properties, nor (3) above. This provision shall only apply to the following uses:
 - a. Retail Business
 - b. Service Business
 - c. Mixed Use Business
 - d. Community Space
 - e. Light Industrial Use
 - f. Adult Entertainment Business
6. Preexisting Trash Receptacles, Dumpsters, and Grease Containers, amortization. All trash receptacles, dumpsters, recycling containers, oil containers, and grease containers existing at the above listed uses as of the effective date of this LUR shall have one (1) year from such effective date to come into compliance with the requirements of Section 3.0(C)(5).

D. Protection of Roads, Walkways, and Related Rights-of-Way

1. Road Use Agreements. The Code Enforcement Officer is hereby authorized to create a road use agreement to protect the investment of the Town in its highway infrastructure. If the Code Enforcement Officer and Highway Superintendent together determine that any work within the Town and any work in neighboring communities that utilize the roads in the Town may cause damage to the highway infrastructure, the individual or corporation undertaking the work will be required to enter into a road use agreement before any permits or approvals are issued.
2. Any landowner or contractor activity (permitted or not permitted) adjacent to the road right-of-way (within the land use setbacks set by District) shall be supplemented with a Road Use Agreement, where the Code Enforcement Officer and Highway Superintendent together determine likely damage to the road rights-of-way will occur due to, but not limited to:
 - a. Heavy equipment access
 - b. Grading and/or erosion
 - c. Access for equipment and material delivery for construction to the job location
 - d. Access to or abutment to Town roads, walkways, or rights-of-way

3.0 SUPPLEMENTAL REGULATIONS

3. Standard. Highway protection shall be designed to eliminate problems arising from development projects within the Town and development projects outside the Town that utilize Town roads, including those activities associated with heavy industrial use. Highway use and protection plans related to the protection of the roads and the rights-of-way from degradation due to development projects shall be according to standards recommended by the NYS Dept. of Transportation, Town Highway Superintendent and selected County specialists.
4. No structures shall be permitted in Town rights-of-way.
5. Setbacks set forth in Section 1.0 or otherwise set forth in this LUR shall be measured from the interior edge of the right-of-way.

E. Access

1. General Provisions

- a. A building hereafter erected or moved shall be on a parcel fronting on a road affording safe and convenient vehicular access for normal use and for emergency vehicles.
- b. Development that is intended to serve the general public shall include at least one access way designed for use by physically handicapped persons.
- c. *Improvement Standards*.
 - i. Drives, walkways, and parking and loading spaces for public use shall be improved with surfaces of a dust inhibiting nature.
 - ii. Drainage facilities shall prevent ponding of water.
 - iii. A property owner shall maintain the drives, walkways, and parking and loading areas on his premises in good condition, and loading areas on his premises in good condition, free of holes, dust, trash and debris.
 - iv. Walkways shall be clearly separate from vehicular traffic and shall be designed for safe use.
 - v. Parking spaces and access ways designed for use by physically handicapped persons shall be properly signed.

2. Driveways

- a. The applicant shall obtain a permit when required in order to establish an entrance to a County, State, or Town road.

3.0 SUPPLEMENTAL REGULATIONS

- b. *Driveway Openings.* No access drive shall enter a public road where its entrance would be:
 - i. within fifty (50) feet of the nearest right-of-way line of an intersecting public road; or,
 - ii. located where the sight distance in either direction along the public road would be less than five hundred (500) feet where the posted speed limit exceeds thirty-five (35) miles per hour. Where the posted speed limit is thirty-five (35) miles per hour or less, sight distance shall be not less than two hundred fifty (250) feet.
- c. *Residential Driveways.* Driveways for Single-Family Dwellings shall be located and built in accordance with the following standards:
 - i. Entrances shall comply with the specifications contained in the New York State Department of Transportation Policy and Standards for the Design of Entrances to State Highways.
 - ii. The angle of entry to the road shall not be less than sixty (60) degrees.
 - iii. In order to cross a ditch or drainage swale, driveway pipe shall be a minimum of eighteen (18) inches in diameter and not less than twenty (20) feet in length.
 - iv. Larger sizes may be required to accommodate anticipated flows. Pipe shall be so placed so as to maintain the drainage gradient of the road ditch.
 - v. There shall be concrete, laid stone, or integral end sections on all culverts, with heights not to exceed driveway elevations.
 - vi. Driveway entrances shall be not less than five (5) feet from any property lines nor less than ten (10) feet from the entrance of another driveway.
 - vii. Driveway grades between the edge of road pavement and the setback line shall not exceed twelve percent (12%).
 - viii. Drives shall have a transition radius of five (5) feet at the curb or the equivalent in a flared entrance.
 - ix. Normally, there shall be one drive per parcel; one additional drive may be granted if sufficient frontage exists.
- d. *Non-residential Driveways.* Driveways for non-residential use (e.g., Mixed Use, Business, Retail Business, Service Business, Industrial, etc.) shall be located and built in accordance with the following standards:

3.0 SUPPLEMENTAL REGULATIONS

- i. The same as required for Residential driveways listed in subsection 3.0(E)(2)(c), above.
- ii. The width of a two-way drive shall be at least twenty-four (24) feet (thirty (30) feet maximum). The width of a one-way drive shall be at least twelve (12) feet (twenty-four (24) maximum).
- iii. The driveway entrance may be required to be paved.
- iv. Normally, there shall be two driveways per parcel; additional drives may be granted if sufficient frontage exists.

F. Yards

1. Visibility On Corner Parcels for Traffic Safety. Nothing shall be erected, placed, planted or grown on a corner parcel in such a manner as to obstruct materially the line of sight from one road to the other.
2. Architectural Projections
 - a. An open structure such as a deck, porch, stair, balcony, carport, or similar architectural feature shall be considered part of a building to which it is attached and shall not project beyond the buildable portion of the parcel.
 - b. A chimney, eave, window or bay window or uncovered patio or terrace, essentially at ground level, may not project beyond the buildable portion of the parcel.

G. Recreational Vehicles and Equipment

1. No recreational vehicles may be stored outdoors nor used as living and/or sleeping accommodations in the Lakeshore Residential 1 or Lakeshore Residential 2 Districts.
2. No more than one (1) recreational vehicle per parcel may be stored outdoors and/or used as living and/or sleeping accommodations in any other district, pursuant to the following requirements:
 - a. The recreational vehicle may only be located in the buildable portion of the backyard or side yard of a parcel.
 - b. Any recreational vehicle used as living and/or sleeping accommodations shall not be connected to a water supply or septic system serving another structure unless otherwise approved to do so by a regulatory officer in the Keuka Watershed Improvement Cooperative and in compliance with all local, state, and federal laws related thereto, including but not limited to Local Law 2 of 2011, as amended or changed.

3.0 SUPPLEMENTAL REGULATIONS

3. Pre-existing recreational vehicles, amortization. In addition to the requirements of Section 3.0(A)(4), all recreational vehicles stored outdoors or used as living and/or sleeping accommodations in the Lakeshore Residential 1 or Lakeshore Residential 2 Districts that are not in compliance with Section 3.0(G)(1) as of the effective date of this LUR, must be removed upon the subsequent sale of the parcel and may not be replaced.
4. Recreational equipment stored in the Lakeshore Residential 1, 2, or 3 Districts cannot be stored within the right-of-way nor within two (2) feet of any property line. Recreational equipment stored in any other district may only be stored in the buildable portion of the backyard or side yard of a parcel.
5. All recreational vehicles and/or recreational equipment stored outside and/or used as living and/or sleeping accommodations must be operable; be in condition for its intended use; be in a condition suitable for registration; and either be registered or have been registered within the past six months if such recreational vehicle and/or recreational equipment is required by law to be registered.
6. No more than one (1) recreational vehicle or recreational equipment per parcel may be displayed for sale.
7. No recreational vehicle or recreational equipment may be stored for consideration on property that is not owned by said recreational vehicle or recreational equipment owner, except as permitted as an approved business in Mixed Use and Industrial District.
8. Lodging Establishments that include campground space and/or recreational vehicle parking shall be governed by the following requirements:
 - a. Recreational vehicles shall not intrude into public traveled way or obstruct sight visibility from adjacent driveways or intersections.
 - b. Recreational vehicles equipped with liquefied petroleum gas containers shall meet the standards of the Interstate Commerce Commission. Valves or gas containers shall be closed when the vehicle is stored, and, in the event of leakage, immediate corrective action must be taken.
 - c. No recreational vehicle park shall be developed on a parcel less than ten (10) acres in area.
 - d. No recreational vehicle space shall be sited within fifty feet of the right-of-way of any public road.
 - e. An individual space for a recreational vehicle shall be dimensioned and arranged so that no recreation vehicle may be parked within ten (10) feet of another recreational vehicle.

3.0 SUPPLEMENTAL REGULATIONS

- f. No parking or loading, or maneuvering incidental to parking or loading, shall be permitted on a public road.
- g. Roads within a recreation vehicle park shall be privately owned, shall afford safe and convenient access to all spaces and facilities, and shall be laid out and built in accordance with the following rules:
 - i. All traffic into and out of park shall be through marked exits and entrances.
 - ii. No material impediment to visibility shall be created which obstructs the view of drivers on a public road.
- h. The owner of the recreational vehicle park is responsible for complying with all laws and regulations governing campgrounds, including but not limited to the provision of adequate water and sanitary facilities.

H. Manufactured/Mobile Homes

- 1. A manufactured/mobile home shall be installed in accordance with the manufacturer's instructions, and shall meet all relevant Federal, State, and local standards.
- 2. A manufactured/mobile home shall not be used for a non-residential purpose in any district.

I. Manufactured Home Parks

- 1. General Standards: A manufactured home park shall not be developed on a parcel less than ten (10) acres. Such parcel shall in all respects be suitable for residential use; it shall not be subject to hazards, infestations of insects or rodents, objectionable smoke, noxious odors, unusual noise, soil subsidence, or the probability of flooding or erosion.
- 2. Density. Manufactured/mobile homes within a manufactured home park shall be sited in individual spaces meeting the following standards:
 - a. Minimum space area: 8,500 square feet.
 - b. Minimum set-back from park road (equivalent of front yard): twenty (20) feet.
 - c. Minimum distance between manufactured/mobile homes: twenty-five (25) feet.
 - d. Minimum distance between any manufactured/mobile home and a boundary of the manufactured home park: fifty (50) feet.

3.0 SUPPLEMENTAL REGULATIONS

3. Landscaping, Screening.

- a. Landscaping or fencing shall be used to screen objectionable views and to provide shade for the manufactured/mobile homes and other facilities. The Planning Board shall require screening as a condition to site plan approval, where needed, for visual protection of the park or adjacent properties.
 - b. Screening may be provided by a solid fence four (4) feet high, which shall be maintained in good condition and without signs; or, planted screenings may be specified in lieu of fence, and shall consist of dense plantings of evergreens at least four (4) feet high, maintained in good condition.
 - c. Landscaping materials shall be of appropriate size, quantity, and character to provide an attractive setting for the manufactured/mobile homes and accessory facilities, to provide adequate privacy, and to minimize glare, and to afford shade. Existing natural vegetation should be preserved to the maximum extent possible where suitable for these purposes.
4. Roads: Roads within the park shall provide access to each manufactured/mobile home space and other facilities on the property and shall be privately owned. An entrance drive from a public road shall have a minimum roadway width of twenty-four feet and comply with the specifications contained in the New York State Department of Transportation Policy and Standards for the Design of Entrances to State Highways. An internal road shall be not less than twenty-four (24) feet wide. A dead-end road shall have a turn-around with an outside diameter of at least seventy (70) feet, and a roadway width of not less than twelve (12) feet.
5. Placement of Homes: A manufactured/mobile home stand shall be provided with a patio pad constructed on concrete, a minimum of eight (8) feet by twenty (20) feet, and four (4) inches in depth. A patio pad shall be located so as to provide safe and easy access to and from a manufactured/mobile home. An individual manufactured/mobile home space shall be permanently and visible identified by a number at the forward edge of the patio pad.

J. Accessory Buildings

1. General Standards.

- a. Accessory buildings and uses shall not be allowed on a parcel without a principal building or principal use.
- b. Private garages may have a guest house on the second floor, subject to the approval of the Zoning Board of Appeals of an area variance if the guest house and garage will together be over eighteen feet in height.
- c. A guest house cannot contain a kitchen or other cooking facilities.

3.0 SUPPLEMENTAL REGULATIONS

- d. Roadside stands may only be located in the front yard.
- e. Small Structures may be located outside the buildable portion of the parcel, but not less than five (5) feet from any parcel line. All other accessory structures must be located within the buildable portion of the parcel.

K. Miscellaneous Regulations

1. Right to Farm. Any agricultural practice determined to be a sound agricultural practice by the New York State Commissioner of Agriculture and Markets pursuant to Article 25-AA, Section 308, including but not limited to practices necessary for on-farm production, preparation and marketing of agricultural commodities, such as the operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; and construction and use of farm structures, shall not constitute a private nuisance in the Town.
2. Housing for Farm Animals. In any district where Agriculture is allowed, housing for farm animals, animal feeding equipment or structures therefore, and outdoor storage of odor or dust producing materials, shall be placed not less than two hundred (200) feet from a side or rear parcel line nor less than three hundred (300) feet from an existing dwelling on another parcel. Housing of farm animals is not allowed in the Lakeshore Residential 1, 2, & 3 Districts.
3. Farm Ponds. A farm (conservation) pond having a maximum depth greater than four (4) feet or a surface area larger than one tenth (0.1) acre, requires a building permit. Such a pond shall be located and constructed in accordance with plan prepared by the Steuben County Soil & Water Conservation District.
4. Motor Vehicles.
 - a. No more than one (1) motor vehicle per parcel may be displayed for sale.
 - b. No more than one (1) unregistered motor vehicle per parcel may be stored outdoors in any district.
5. Yard Sales. Household or farm auction, yard sale, or garage sale may be held in any district. Such a sale shall not continue for longer than one week, nor shall a permanent structure be established there for.
6. Portable Toilets. Temporary or permanent placement, storage, and/or use of port-a-johns or portable toilets is prohibited in Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District. Notwithstanding the foregoing: (i) one (1) port-a-john or portable toilet may be placed/stored/used at a parcel during construction on said parcel while a valid building permit from the Town of Wayne is in effect; and (ii)

3.0 SUPPLEMENTAL REGULATIONS

port-a-johns or portable toilets may be placed/stored/used on a parcel during special events, but in no event for longer than one (1) week.

L. Explicitly Prohibited Uses

1. The following uses and activities are hereby expressly and explicitly prohibited in each and every zoning district within the Town of Wayne, and no building or structure shall be created, altered or erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:
 - a. Disposal of radioactive material
 - b. Injection well
 - c. Land application facility
 - d. Large-scale water use
 - e. Natural gas and/or petroleum extraction, exploration or production wastes disposal/storage facility
 - f. Natural gas and/or petroleum extraction, exploration or production wastes dump.
 - g. Natural gas compression facility
 - h. Natural gas processing facility
 - i. Mining
 - j. Gravel pits
 - k. Non-regulated pipelines
 - l. Underground injection
 - m. Underground natural gas storage
 - n. Uses that produce offensive or objectionable vibration, noise, odor, or glare noticeable beyond the property line, except that customary agricultural practices shall not be restricted hereby
 - o. Uses with a high likelihood of a physical hazard due to fire, explosion, radiation or other cause, to persons or property
 - p. Uses that include storage of material in such a manner that it facilitates the breeding of vermin
 - q. Uses that include the emission of smoke, fly ash, or dust in such a manner as to damage property or to harm the health of persons, animals, or plants
 - r. Breeding of dogs and/or cats so that there are more than two (2) litters kept on a single parcel or adjacent parcels owned by the same person or entity at one time.
2. Any condition caused or permitted to exist in violation of this Subsection L is a threat to public health, safety and welfare, and is hereby declared and deemed to be a nuisance. A variance may not be granted to allow any of the prohibited uses contained herein.

M. Other Uses

1. Telecommunication Towers. In addition to all other applicable provision contained in this LUR, all telecommunications towers shall comply with the requirements set forth in Appendix A, which is attached hereto and made a part hereof.

3.0 SUPPLEMENTAL REGULATIONS

2. Solar Installations. In addition to all other applicable provision contained in this LUR, all solar installations shall comply with the requirements set forth in Appendix B, which is attached hereto and made a part hereof.
3. Services Stations. In addition to all other applicable provision contained in this LUR, all service stations shall comply with the requirements set forth in Appendix C, which is attached hereto and made a part hereof.
4. Swimming Pools. In addition to all other applicable provision contained in this LUR, all swimming pools shall comply with the requirements set forth in Appendix D, which is attached hereto and made a part hereof.

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

A. Planning Board

1. A Planning Board for the Town of Wayne is hereby established. The Town of Wayne Planning Board shall consist of five (5) members, who shall be appointed and serve according to the requirements of Article 16 of the Town Law.
2. Powers. The Planning Board shall have the powers granted to it under this Land Use Regulations and Article 16 of the Town Law.

B. Zoning Board of Appeal

1. Creation. A Zoning Board of Appeals for the Town of Wayne is hereby established. The Town of Wayne Zoning Board of Appeals shall consist of three (3) members, who shall be appointed and serve according to the requirements of Article 16 of the Town Law.
2. Powers. The Zoning Board of Appeals shall have the powers granted to it under Article 16 of the Town Law, including:
 - a. *Administrative Review.* To hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer or other administrative officer in carrying out or enforcing any provision of this chapter. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance.
 - b. *Variances.* The Zoning Board of Appeals shall have the power, after public notice and hearing and in accordance with the requirements of law and this chapter, to grant use variances and area variances as those terms are defined in Article 16 of the Town Law. A majority vote of the members of the Zoning Board of Appeals shall be necessary to grant a variance. Where an action is the subject of a referral to the Steuben County Planning Board, the voting provisions of § 239-m of the General Municipal Law shall apply.
 - c. The Zoning Board of Appeals does not have the power to permit a use specifically prohibited by this Land Use Regulations or other local, state, or federal laws.

C. Agricultural Advisory Council

1. An Agricultural Advisory Council for the Town of Wayne is hereby established. The Town of Wayne Agricultural Advisory Council shall consist of five (5) members, who shall be appointed by the Town Board. The Council shall appoint a Chairperson from among the members to preside at meetings.
2. Term. Each member's term shall end on December 31st two (2) years after the member is appointed.

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

3. Duties. The Agricultural Advisory Council shall have the following duties:

- a. Advise the Town of Wayne Board, Planning Board, and Zoning Board of Appeals, on matters affecting the preservation, conservation, development and use of the “working landscape” features and conditions of the Town in so far as they have a bearing on the detriment and quality with regard to any threat posed to this quality, so as to enhance the long- range value of the “working landscape” to the people of the Town.
- b. Develop and conduct a program of public information in the Town which shall be designed to foster increased understanding of the nature of “working landscape” problems and issues.
- c. Conduct studies, surveys and inventories for the identification of all “working landscapes” which are of Town significance and for which an index shall be maintained in order to make recommendations to the Town Legislature, planning and zoning for the appropriate preservation and use of such areas and features.

4. Meetings and Procedural Matters.

- a. Regular Meetings-Regular meetings of the Council shall be held at a time and place designated by the Council. Meetings shall be open to the public.
- b. Special Meetings-Special meetings of the Council maybe called by a majority of the members at any regular meeting, by the Chair or at the written request of the Chair with at least three Council members.
- c. Minutes-Minutes of meetings shall be recorded and maintained within the Council. Minutes of any committees shall be sent to such designated appointee and made available to all members.
- d. Reports-The Council shall submit a calendar year end report to the Town Board concerning activities and recommendations in time for the Town’s Budget.
- e. Committees- the Council may convene temporary committees and advisory committees to study special or specific technical matters. All such committees shall meet in an open meeting.

D. Use Variances

1. If a use variance is granted, the applicant shall obtain site plan review approval from the Planning Board prior to commencing the use and prior to obtaining a Building Permit.
2. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that otherwise applicable zoning regulations and restrictions have caused unnecessary hardship.

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

- a. *Unnecessary hardship.* In order to prove such unnecessary hardship, the applicant is required to demonstrate to the Zoning Board of Appeals that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each of the following four (4) criteria is satisfied:
 - i. Reasonable rate of return. The applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence.
 1. In evaluating whether the applicant can realize a reasonable rate of return, the Zoning Board of Appeals shall examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this chapter, the Zoning Board of Appeals finds that the applicant has clearly demonstrated, by detailed “dollar and cents proof,” the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district.
 - ii. Unique hardship. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood involved.
 1. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this chapter, the Zoning Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.
 - iii. Essential character of the neighborhood. The requested use variance, if granted, will not alter the essential character of the neighborhood.
 1. In making its determination of whether the proposed project will alter the essential character of the neighborhood, the Zoning Board of Appeals shall take into account factors that are of vital importance to the citizens of the Town including, without limitation, the rural residential, agricultural and historic character of the Town; its irreplaceable recreation and tourism sites; the extent of hazard to life, limb or property may result from the proposed project; health impacts; the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances; the impact on property values; and whether the applicant will use a style of development that will result in degradation to the air quality, water quality or scenic and natural resources of the Town. In order to find that the proposed project does not alter the essential character of the neighborhood, the Zoning Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following:

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

- a. Pose a threat to the public safety, including public health, water quality or air quality;
 - b. Cause an extraordinary public expense; or
 - c. Create a nuisance.
- iv. Self-created hardship. The alleged hardship has not been self-created.
1. The Zoning Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that:
- a. The applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision;
 - b. The applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or
 - c. When the applicant purchased the property, he or she knew or should have known the property was subject to the zoning restrictions.
3. *Application*. In addition to the application requirements from time to time established pursuant to law and this chapter, an application for any use variance shall contain a typewritten narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for a use variance, including:
- a. *Competent financial evidence*. Competent financial evidence must include “dollars and cents proof” such as appraisals, economic studies, and any other evidence supporting the applicant’s contention that the desired relief is appropriate, including appraisals relating to any alleged diminution of all or substantially all of the fair market value of property, and include, at a minimum (as to the entire parcel of which the proposed project is a part):
 - i. Date of acquisition;
 - ii. The purchase price;
 - iii. Present value of the property;
 - iv. The amount of real estate taxes;
 - v. The amount of mortgages or liens and other expenses;
 - vi. The asking price for the property when it had been offered for sale;
 - vii. The costs of demolishing any existing structures on the property;
 - viii. Cost of erecting a new building(s) for each and every permitted use in the zoning district;
 - ix. Efforts to market the property; and

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

- x. A schedule of all other property in common ownership at either the date of the enactment of this chapter or thereafter. For the purposes hereof, common ownership means all other interests in property either located within the Town or contiguous to the Town that is held by the any of the applicants (if more than one), whether such ownership is of a legal or equitable interest, in whole or in part, contiguous or not, and whether such property interest is held by any of the applicants through a legal or equitable interest in a(nother) corporation, partnership, trust, business, entity, association, fund, joint venture, or individually.
- b. *Unique nature of the property.* The applicant must provide evidence demonstrating the unique nature of parcel as a whole. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto. Exceptional topographic conditions are an example of a factor demonstrating the unique nature of the property.
- c. *Alteration of the essential character of the neighborhood.* The applicant must demonstrate that the proposed project will not change the essential character of the neighborhood with regard to physical, economic, social or environmental elements. Adverse impacts to the essential character of the neighborhood include, but are not limited to, decreased quality or increased quantity of storm water runoff, increased soil erosion, increased traffic congestion, decreased road quality, impairment of the scenic or rural character of roads, increased noise, dust, odor and/or glare, reduced wildlife habitat, decreased air quality, decreased water quality, impairment of the viewshed, creation of solid wastes, negative impacts on sustainability efforts, increased social costs, increased emergency response times, negative impacts to public infrastructure, decreased property values, and negative impacts on the health of area residents.
- d. *Hardship not self-created.* In order to show that the hardship is not self-created, the applicant must demonstrate that either:
 - i. When the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or did not otherwise apply; or
 - ii. Some other change has occurred since the applicant's purchase which makes the use nonconforming, as long as the change was not caused by the applicant.
- e. *State Environmental Quality Review Act Environmental Assessment Form.* Applicants shall also prepare and submit Part 1 of the State Environmental Quality Review Act Short or Full (as applicable) Environmental Assessment Form.
- 4. In addition to all other application requirements from time to time established pursuant to law and this chapter, the Zoning Board of Appeals may require one or more of the following reports, as well as proposed remedies to address principal findings of such reports, to assist in its determination as to the impact of a proposed project on the Town

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

and/or the essential character of the neighborhood and/or to determine whether the proposed project complies with the requirements of this chapter:

- i. Description of surrounding uses, including all county-designated unique natural areas and locally designated Sensitive Lands, within a two-mile radius of the perimeter of the site of the proposed use
 - ii. Traffic impact report
 - iii. Road impact report
 - iv. Transportation plan
 - v. Noise impact report
 - vi. Sustainability analysis
 - vii. Fiscal impact assessment describing the adverse effects and impacts on Town revenue and costs necessitated by additional public facility and service costs likely to be generated by the proposed project
 - viii. Fire prevention, equipment failure and emergency response report
 - ix. Public facilities and services assessment
5. The Zoning Board of Appeals, in the granting of use variances, shall grant only the minimum variance that it shall deem necessary and adequate to allow an economically beneficial use of the property, and at the same time preserve and protect the essential character of the neighborhood and the health, safety and welfare of the community.
6. The Zoning Board of Appeals, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such use variance may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this chapter. If the applicant refuses to accept such requirements and conditions, the use variance shall be denied.

E. Area Variances

1. In making a determination whether to grant, grant conditionally, or deny an application for an area variance, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, and balance this benefit against the detriment to the health, safety and welfare of the neighborhood or community by making such grant. In making such determination the Board shall consider each of the following factors: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of Zoning Appeals, but which consideration shall not necessarily preclude the granting of the area variance.

2. Application. In addition to the application requirements from time to time established pursuant to law and this chapter, an application for any area variance shall contain a typewritten narrative explaining what the application is for, and how the project meets or exceeds the criteria for an area variance laid out above.
 - a. *State Environmental Quality Review Act Environmental Assessment Form*. Applicants shall also prepare and submit Part 1 of the State Environmental Quality Review Act Short or Full (as applicable) Environmental Assessment Form.
3. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum area variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. In addition to the application requirements from time to time established pursuant to law and this chapter, applications for an area variance shall contain a narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for an area variance.
5. The Zoning Board of Appeals shall, in the granting of area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such area variance may have on the neighborhood or community. If the applicant refuses to accept such requirements and conditions, the area variance shall be denied.

F. Procedures Relative to Appeals

1. Who may appeal. An appeal to the Zoning Board of Appeals for administrative review or variance may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by any decision of the Code Enforcement Officer, based in whole or in part upon the provisions of this chapter. Such an appeal shall be taken by filing with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof. The Code Enforcement Officer shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

2. Time of appeal. Said notice of appeal shall be filed within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official from which the appeal is sought.
3. Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record, on application, a notice to the Code Enforcement Officer, and on due cause shown.

G. Hearings; Notices; Decisions; Costs

1. Hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of any application for variance, the hearing of an appeal for administrative review.
2. Notice. The Zoning Board of Appeals shall give public notice of any application for a variance or for the hearing of appeal for administrative review in compliance with Town Law § 267-a.
3. Decisions. At the hearing, any party may appear in person or by agent or by attorney, and the Zoning Board of Appeals shall decide the application for variance or appeal for administrative review within 62 days after the final hearing. The Zoning Board of Appeals may, in conformity with the provisions of this LUR, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made regarding the premises and, to that end, shall have the powers of the officer from whom the appeal was taken. Notice of such decision shall be given forthwith to all parties in interest.
4. Costs. All costs of such publication and notice shall be paid by the applicant.

H. Alternate Members

1. Definitions. For the purpose of this article, the following words and phrases shall have the meaning ascribed to them in this article:
 - a. *ALTERNATE MEMBER*: An individual appointed by the Town Board when a regular member is unable to participate on a matter before the respective Board, as provided herein.

4.0 PLANNING BOARD, ZONING BOARD OF APPEALS, AND AGRICULTURAL ADVISORY COUNCIL

- b. *MEMBER*: An individual appointed by the Town Board to serve on the Town Planning Board or the Zoning Board of Appeals pursuant to the provisions of the local law or ordinance which first established such Board.
- 2. The Town Board may appoint alternate members for a term of three years, which term shall end on December 31 of the third year after the date of their appointment.
- 3. The Chairpersons of the Planning Board and the Zoning Board of Appeals may designate an alternate to substitute for a member when such member is absent or unable to participate on an application or matter before the board. When so designated, the alternate member shall have the same powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of every Planning Board/Zoning Board of Appeals meeting at which the substitution is made.
- 4. All provisions of state law relating to Planning Board and Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law relating to training, continuing education, compensation and attendance, shall also apply to alternate members.
- 5. It is the intent of the Town Board, pursuant to § 10 of the New York State Municipal Home Rule Law, to supersede any inconsistencies between this article and § 271 of the Town Law relating to the appointment of alternate members to Town Planning Boards and § 267 of Town Law relating to the appointment of alternate members to Town Zoning Board of Appeals.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

- A. **Short Title and Intent.** This local law shall be known as the “Town of Wayne Land Use Regulations.” The intent of this local law is to establish comprehensive controls for the development of land in the Town of Wayne and is enacted in order to promote and protect health, safety, comfort, convenience, and the general welfare of the people.
- B. **Purpose.** The purpose of this local law is to follow and to help implement the goals and policies set forth in the Comprehensive Plan for the Town of Wayne, adopted by the Town Board in March, 2010, and any amendments thereto. It is also to secure safety and to promote health and general welfare and for such other purposes as shall from time to time be appropriate under the provisions of § 263 of the Town Law of the State of New York.
- C. **Severability.** If any word, phrase, sentence, part, section, subsection, or other portion of this LUR, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this LUR that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this LUR or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board hereby declares that it would have enacted this LUR, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.
- D. **Hyperlinks.** Select hyperlinks to forms and websites of other governmental entities may be provided in the electronic version of this LUR for the convenience of the applicant. Nothing herein shall be interpreted as an endorsement of such websites, guarantee of the accuracy of such hyperlinks, nor guidance on what other approvals, permits, and/or licenses an applicant may need to obtain outside of the requirements of this LUR.
- E. **Meaning of Terms**
1. **Customary Usage.** Terms used in this LUR shall have their customarily recognized meanings, except as otherwise stated.
 2. **Interpreting Certain Terms.** The following terms shall be interpreted as stated, unless the context clearly indicates otherwise:
 - a. The word “shall” designates a mandatory action or condition, while “may” is permissive.
 - b. The word “person” includes an individual, a firm, group of individuals, association, organization, or agency thereof.
 - c. Masculine and feminine pronouns are used interchangeably. Words used in the present tense include the future tense. Singular words include their plural forms.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

- d. The words “used” or “occupied” include the words “intended”, “designed”, or “arranged” to be used or occupied.

F. Definitions.

1. **ACCESSORY STRUCTURE:** A subordinate structure, detached from but located on the same parcel as the principal structure, the use of which is customarily incidental and accessory to that of the principal structure. Said structure shall be subordinate and/or lesser in area, extent and purpose to the principal structure or principal use served.
2. **ACCESSORY USE:** A use that is subordinate and customarily incidental to and on the same parcel as the principal use or occupancy of a building or parcel. Said use shall be subordinate and/or lesser in area, extent, and purpose to the principal use served.
3. **ACTIVE AGRICULTURAL BUILDINGS:** Customary farm buildings and structures actively used, or intended to be actively used upon construction, for the housing of farm animals and storage of farm products and farm equipment.
4. **ADULT ENTERTAINMENT BUSINESS:** A bookstore, video store, nightclub, movie theater, retail store or other establishment which prominently features entertainment or materials with sexually explicit content. Entertainment primarily as a form of legitimate artistic expression shall not be considered an adult entertainment business.
5. **AGRICULTURAL COMMERCE:** An enterprise providing for the wholesale or retail sale of grain, fruit, produce, trees, shrubs, or flowers.
6. **AGRICULTURAL TOURISM:** An agriculture-related enterprise, operated as an accessory use to an agriculture operation, which bring together tourism and agriculture for the enjoyment and education of the public, including: hay rides, corn mazes, hay mazes, petting zoos (farm animals only), farm tours and agricultural related events or festivals (e.g., Finger Lakes Wine Festival, 4-H events, etc.).
7. **AGRICULTURE:** The use of land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a mixed use enterprise, including but not limited to a mixed use horse-boarding operation as defined in the Agriculture and Markets Law Article 25-AA, Section 301 and distilling or brewing products, cider, and/or wine composed of 51% or more of grains, hops, grapes or other fruits produced on-farm.
8. **B&B:** An owner-occupied dwelling that may also provide overnight accommodations and a morning meal to transient lodgers and containing not more than three (3) bedrooms for such lodgers.
9. **COMMUNITY SPACE:** Places of worship, membership clubs, social halls, banquet facilities, performance venues, and similar land use that is intended for private, semi-public, or public gatherings.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

10. DWELLING: Any building or portion thereof designed for use as a residence or sleeping place of one (1) or more persons.
11. DWELLING, FARM WORKER: A dwelling unit or units located on an active farm operation that are accessory to said operation and are occupied by employees of the farm or members of the farm household.
12. DWELLING, MULTIFAMILY: One or more dwellings located on a single parcel or on contiguous parcels providing separate dwelling units for two or more families, including duplexes, apartments, condominiums, townhouses, and cooperative apartment buildings.
13. DWELLING, SINGLE-FAMILY: A residential building containing not more than one dwelling unit designed to be occupied by only one family, including manufactured homes (defined herein).
14. HOME OCCUPATION: a business conducted entirely inside of the principal dwelling unit that:
 - a. Involves no more than one (1) person other than persons residing on the premises;
 - b. Shows no visible evidence from the exterior of the dwelling unit of the conduct of the occupation (including but not limited to no exterior storage nor use of an accessory building for such home occupation);
 - c. Generates no additional traffic nor the need for off-street parking beyond the customary needs of the occupants of the dwelling unit; and
 - d. Uses no equipment which would not customarily be used by the occupants of a dwelling unit.
15. GARAGE, PRIVATE: Accessory building used to store motor vehicles, recreational vehicles, related equipment, and other personal property with no spaces or services offered for financial compensation.
16. GUEST HOUSE: A room or grouping of rooms no more than 500 square feet containing only one (1) bedroom, arranged and designed with provisions for sanitary and sleeping facilities such that it is suitable for occupancy by one (1) or more persons.
17. LIGHT INDUSTRIAL USE: The manufacture or assembly of finished products or parts predominately from previously processed or prepared materials (including fabrication, treatment, packaging, and incidental storage, and sale and distribution of such products or parts); provided that all operations are conducted entirely within an enclosed building, and provided, further, that such use does not produce or generate or otherwise involve on-site use or storage of natural gas and/or petroleum extraction, exploration or production wastes.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

18. **LODGING ESTABLISHMENT:** A motel, hotel, inn, campground, recreational vehicle park, or similar establishment that provides lodging to the public for pay. “Lodging Establishment” shall not include: (1) B&Bs; (2) the rental of Single Family Dwellings; or (3) the rental of a unit within a Multi-family Dwellings.
19. **LUR:** Town of Wayne Land Use Regulations.
20. **MANUFACTURED/MOBILE HOME:** Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle (whether on wheels, a foundation or any other stand); which is used, designed to be used and capable of being used as a detached single-family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems.
21. **MANUFACTURED HOME PARK:** Any parcel of land which is planned and improved for the placement of two or more mobile homes.
22. **MAXIMUM BUILDING HEIGHT:** The maximum allowable height of a structure measured from the lowest adjacent grade.
23. **MAXIMUM LOT COVERAGE:** The area of all structures on a parcel divided by the buildable portion of the parcel.
24. **MEAN HIGH WATER:** Has the same meaning as defined in 6NYRR § 608.1(r) and as established in 6 NYCRR § 608.11, as amended or changed.
25. **MIXED USE BUSINESS:** A land use intended for the purpose of providing a combination of product(s) or service(s) to the public for a fee that is not otherwise defined in this section.
26. **PARCEL:** A platted parcel of a subdivision recorded in the Office of the Steuben County Clerk or a parcel or parcel described by metes, and bounds, the description of which has been so recorded.
27. **PRINCIPAL BUILDING:** A building in which the primary use of the parcel on which the building is located is conducted, as distinguished from a secondary or accessory use.
28. **PRINCIPAL USE:** The main use of land or structures, as distinguished from a secondary or accessory use.
29. **PRIVATE AIRFIELD:** land used for the purpose of the landing, storing, taxiing and taking-off of private aircraft with no spaces or services offered for financial compensation.
30. **RECREATIONAL EQUIPMENT:** All-terrain vehicles, boats, jet skis, snowmobiles, or similar vehicles, and including trailers used to transport such vehicles.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

31. **RECREATIONAL VEHICLE:** a travel trailer, motor home, truck camper, or camping trailer that is designed and/or used as living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, and/or is not immobilized or permanently fixed to a mobile home parcel.
32. **RECREATIONAL VEHICLE PARK:** Any parcel of land on which two (2) or more recreational vehicles are placed for temporary or seasonal overnight occupancy.
33. **RETAIL BUSINESS:** An establishment selling goods to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drugstore, florist, grocer, hardware store, liquor store, newsstand, restaurant, shoe store, stationery store, variety store, and businesses that sell distilled and/or brewed products, cider and/or wine composed of less than 51% of grains, hops, grapes or other fruits produced on-site.
34. **ROADSIDE STAND:** A temporary or permanent accessory structure, wagon or trailer, not exceeding 240 square feet in size, for the purpose of retail sale of produce, baked goods and handicraft items to the public.
35. **SCENIC RESOURCE:** Any officially designated federal, state, or local scenic or aesthetic resource, including but not limited to scenic byways, scenic roads, scenic areas of statewide significance, scenic trails, and scenic rivers, places or sites listed on the National or State Registers of Historic Places, State Parks, State Forest Preserve areas, State Game Refuges, National Natural Landmarks, and National Park Service Lands.
36. **SCREENING:** A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.
37. **SENSITIVE LAND:** areas within wherein substantial development may result in public safety or health problems, and/or ecological damage because of topography, drainage, soil characteristics, and other natural conditions and are a part of the Land Conservation Overlay District, including:
 - a. Wetlands;
 - b. Federally designated flood hazard areas;
 - c. Ravines, gullies, and stream corridors; and
 - d. Steep slopes (grades in excess of 15%).
38. **SERVICE BUSINESS:** A business or nonprofit organization that provides services to the public, either on or off the premises, including but not limited to building, electrical, plumbing and landscape contracting, arts instruction or studio, auto repair, business and educational services (including museums), catering, health club, house cleaning services, locksmith, photocopying, repair and restoration services, tailoring, typing and word processing, and storage (including self-storage) businesses. "Service business" does not include retail business, restaurants, or industrial warehouses.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

39. **SMALL STRUCTURE:** nonpermanent, movable structures, not exceeding 12 x 16 x 10 cubic feet in size, including, but not limited to, a dog house, garden shed, lawnmower storage shed or beach gear storage shed.
40. **STRUCTURE:** Anything constructed or erected which requires temporary or permanent support, placement or attachment to the ground, beneath the ground or to something having permanent location on the ground, including, but not limited to, gasoline and oil tanks, buildings, sheds, pools, decks, docks, manufactured homes, fences, signs, billboards, towers, antennas, satellite TV dishes, patios, sidewalks, driveways, and parking areas. The term does not include vegetative landscaping.
41. **TELECOMMUNICATIONS FACILITY:** any equipment installed, mounted, operated or maintained by a telecommunications carrier to transmit, receive, distribute, provide or offer telecommunications service, including the service of power thereto and co-location thereof on an already existing tower or structure.
42. **TELECOMMUNICATIONS TOWER:** A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.
43. **VACANT LAND:** A parcel that has: (1) no structures; or (2) only accessory structures customary to residential use that are not used for living accommodations.
44. **YARD, FRONT:** Except as otherwise provided, the area between that part of an existing structure nearest the street line and the street line, bounded on each side by the side lines of the parcel.
- a. On corner parcels, those areas between the part of each exterior wall of an existing structure nearest each street line abutting said parcel and said street lines bounded by the other street and the side line most closely parallel to said other street line shall each be the front yard, and hence there is no rear yard.
 - b. On parcels bound by two roads on opposite ends of the parcel that are located, in whole or in part, within 500 feet of Keuka Lake or Waneta Lake, the area between that part of an existing structure nearest the water line and the road nearest the water line, bounded on each side by the side lines of the parcel.
 - c. On parcels bound by two roads on opposite ends of the parcel that are located more than 500 feet away from Keuka Lake or Waneta Lake, the area between the street in which serves as the mailing address of the structure and the existing structure nearest that street line.
 - d. On waterfront parcels, the area between that part of an existing structure nearest the water line and the water line, bounded on each side by the side lines of the parcel.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

45. YARD, REAR: That area between that portion of an existing structure nearest the rear line of the parcel and said rear line, bounded on both sides by the side lines of said parcel.
- a. On corner parcels, the yard behind the house, from the front entry door perspective, shall be considered the rear yard.
 - b. On waterfront parcels, the area between that part of an existing structure nearest the street line and the street line, bounded on each side by the side lines of the parcel.
46. YARD, SIDE: yard which is not a front or rear yard.

G. Fees

1. Fee Schedule. The Town Board shall, by resolution, adopt a schedule of fees for each of the permits, variances, and approvals provided by this LUR, which fees shall be designed to cover the Town's administrative costs related to such permits, variances, and approvals and may be revised from time to time by subsequent resolution.
2. Consultant Fees. The Town Board, the Town Planning Board or the Town Zoning Board of Appeals, in the review of any application pending before it, may refer the application to such engineering, planning, legal, fiscal, accounting, technical or environmental consultant employed by the Town as such Board shall deem reasonably necessary to enable it to review the application as required by law and to observe a project following its initial approval, as during or after construction for inspections and administration.
 - a. The applicant shall reimburse the Town for the cost of such consultant's services, except for the following:
 - i. Review by the town engineer of the initial design plans for water, sewage, drainage or roads (public or private) submitted by the applicant.
 - ii. Attendance by the town engineer at one or more meetings prior to the submission of an application for the purpose of discussing the project, identifying applicable rules and regulations, and anticipating technical concerns.
 - iii. Preparation by the town attorney of any required public notices regarding said application.
 - iv. Review by the town engineer and attorney of any environmental assessment form and supporting documents in connection with the determination of environmental significance pursuant to the New York State Environment Quality Review Law. An environmental assessment form does not include an environmental impact statement or the process known as scoping.
 - v. Attendance by the Town Engineer and Attorney at any regular or special public meetings of the Town Planning Board or the Town Zoning Board of Appeals.

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

- vi. Consultant's fees incurred in reviewing projects involving one (1) single-family dwelling.
- b. Charges made by consultants who are not regular employees of the Town shall be in accord with charges usually made for such services in the Steuben County, New York region, or pursuant to an existing contractual agreement between the Town and the consultant.
- c. Charges made for consultants who are regular employees of the town shall be in accord with the hourly rates upon which the employee's actual salary is based plus fringe benefits and reasonable overhead costs.
- d. In the event that an application is required to be reviewed by more than one board, then to the extent practicable, both boards shall use the same consultant, who shall to the extent practicable, prepare one report providing data, information and recommendations requested. In all cases, duplication of consultants' reports or services shall be avoided wherever practicable in order to reduce the cost of such consultants' reports or services to the applicant.
- e. A building permit or other permits, variances, and approvals being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town.
- f. The above charges are in addition to any and all other fees required by any other law, rule or regulation.

H. Amendments

1. The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement, change, modify or repeal this LUR pursuant to the provisions of the Town Law and Municipal Home Rule Law applicable thereto. Every such proposed amendment shall be referred to the Planning Board for a report prior to the public hearing thereon. If the Planning Board fails to report therein within 62 days after referral, the Town Board may act without such report.

I. Enforcement

1. Code Enforcement Officer. The provisions of this LUR shall be administered and enforced by the Code Enforcement Officer appointed by the Town Board, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this LUR.
2. Duties. It shall be the duty of the Code Enforcement Officer to keep a record of all applications for permits, variances, and approvals and a record of all permits, variances, and approvals issued with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted and the same shall form a part of the records of

5.0 DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT

his office and shall be available for use of the Town and other officials. The Code Enforcement Officer shall not issue a permit for the construction of any building or use of any property, unless such building or use conforms to all other ordinances of the Town of Wayne.

3. Enforcement. Any person who shall violate any provision of this LUR or shall fail to comply with any of its provisions or shall violate or fail to comply with any order, rule, permit, approval or regulation made hereunder shall be guilty of a violation of this law.
 - a. Every violation of this LUR is hereby declared to be an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and for conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.
 - b. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this LUR shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.
 - c. The Code Enforcement Officer, or his designated agent, is authorized to issue a stop-work order to any person acting in violation of any provision of this LUR or the terms of any permit, variance, or approval granted there under. Such order, posted at a work site, shall be sufficient notice to require such violator to immediately cease work on the site until an appropriate permit, variance, or approval is obtained or the violation otherwise corrected. Failure to abide by a stop-work order shall constitute an additional violation of this LUR. The Town Board may also maintain an action or proceeding to prevent, correct or restrain any violation of this LUR.

APPENDIX A: TELECOMMUNICATIONS TOWERS

A. Use and Location

1. Permitted Use. Telecommunication towers and telecommunication facilities are permitted in the following districts in accordance with the regulations in this article:
 - a. Agricultural District
 - b. Mixed Use/Hamlet District
 - c. Industrial District
 - d. Municipal and Public Purpose District
2. Notwithstanding any provisions of this article to the contrary, telecommunications towers shall not be permitted in the Land Conservation Overlay District or Scenic Overlay District, even where such districts may fall into the one of the above permitted districts.
3. Approvals. No person shall construct or operate a telecommunication tower or telecommunications facility, except those approved prior to the effective date of this article, until he has obtained a visual impact assessment approval and site plan approval from the Planning Board.
4. Preference for higher-intensity use districts. It is the preference of the Town of Wayne to located telecommunication towers and telecommunication facilities in a higher-intensity use district or on higher-intensity use property, provided that there is a technologically and economically feasible and available location. A guideline for the preference, from most favorable to least favorable district/property, shall be as follows:
 - a. Property with an existing structure suitable for collocation.
 - b. Municipal or government-owned property
 - c. Industrial District
 - d. Mixed Use/Hamlet District
 - e. Agricultural District
5. Existing structure/co-location. An applicant proposing to share use of an existing tall structure shall be required to submit:
 - a. A completed application for a building permit.
 - b. Documentation of intent from the owner of the existing facility to allow shared use.
 - c. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify to the above.
 - d. A completed short environmental assessment form (EAF) and a completed visual EAF addendum.

APPENDIX A: TELECOMMUNICATIONS TOWERS

6. New towers considered; report required. The Planning Board may consider a new telecommunication tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical.

a. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Planning Board in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.

i. For any proposed new tower site that is not on municipal or government-owned property, the applicant must also document the physical, technical and/or financial reasons why all of the preceding uses/districts of preference are impractical (e.g., if the proposed site is in the Mixed Use District, the applicant must demonstrate why no municipal or government-owned property and no parcels within the Industrial District are feasible).

b. The applicant shall design a proposed new telecommunications tower to provide for collocation of at least three carriers or designed so that it can be retrofitted to accommodate a minimum of three carriers. The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit and shall state that the applicant will:

i. Respond within 90 days to a request for information from a potential shared-use applicant.

ii. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.

iii. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a prorated share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation and all of the costs adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

B. Site Plan requirements. In addition to the requirements of Section 2.0(A)(2)(b), the site plan application for a telecommunications tower shall show all existing and proposed structures

APPENDIX A: TELECOMMUNICATIONS TOWERS

and improvements including roads, buildings, tower(s), guy wires and anchors, antennas, parking and landscaping and fencing, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

- a. Supporting documentation. The applicant shall submit a complete short EAF, a complete visual environmental assessment form (visual EAF addendum) and documentation on the proposed intent and capacity of use as well as a justification for any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license.
2. Parcel size and setbacks. All proposed telecommunication towers and telecommunication facilities shall be located on a single parcel and shall be set back from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.
 - a. Parcel size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Planning Board determines that this provision may be waived.
 - b. Telecommunication towers and telecommunication facilities shall comply with all existing setback requirements of the underlying zoning district and shall be located with a minimum setback from any property line, building, and/or structure (other than structures associated with the telecommunication facilities) equal to the height of the tower. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.
3. Visual impact assessment. All new telecommunications towers and telecommunications facilities shall be subject to the visual impact assessment requirements of Section 2.0(B).
4. New tower design. Alternative designs shall be considered for new towers, including lattice and single-pole structures. The design of a proposed new tower shall comply with the following:
 - a. Any new tower shall be designed to accommodate future shared use by at least three other telecommunications providers.
 - b. Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
 - c. The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state and/or federal law and/or regulation. The Planning Board at their discretion may

APPENDIX A: TELECOMMUNICATIONS TOWERS

modify this requirement if the applicant can justify the need to exceed this height limitation.

- d. The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for and the design of any new tower, at the applicant's expense pursuant to Section 5.0(G)(2).
 - e. Accessory structures shall maximize the use of building materials, color and textures designed to blend with the natural surroundings.
 - f. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
5. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent practicable. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to the approval of the site plan.
6. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the telecommunications tower and/or telecommunications facility from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.
7. Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
8. Parking. Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.
9. Fencing. The telecommunications tower and telecommunication facilities shall be adequately enclosed by a fence, the design of which shall be approved by the Planning Board.

C. Other Requirements

1. Removal. The applicant shall submit to the Planning Board a letter of intent committing the tower owner and his/her successors in interest to notify the Code Enforcement Officer within 30 days of the discontinuance of use of the tower. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers

APPENDIX A: TELECOMMUNICATIONS TOWERS

and accessory structures shall be removed from any site within four (4) months after such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations, shall be a violation of this section and shall be punishable according to Section 5.0(I), Enforcement.

2. Letter of credit or other security. The applicant and the owner of record of the premises shall be required to execute and file with the Town Clerk of the Town of Wayne a letter of credit or other form of security in an amount sufficient for the faithful performance of the terms and conditions of this section, the conditions of the permit or approval issued hereunder, for the observation of all Town local laws or ordinances to cover the maintenance of the tower during its lifetime, and provide for its removal. The amount required shall be at the applicant's expense as determined by the Planning Board, with the advice of the Code Enforcement Officer, town engineer, and/or town attorney. In the event of default upon the performance of any of such conditions, the letter of credit or security shall be forfeited to the Town of Wayne, which shall be entitled to maintain an action thereon. The letter of credit or security shall remain in full force and effect until the removal of the telecommunications tower and/or telecommunications facility, and site restoration.
3. Intermunicipal notification for new towers. In order to keep neighboring municipalities informed, protect the view sheds of Keuka and Waneta Lake, facilitate the possibility of directing an applicant to an existing tall structure or existing telecommunication tower in a neighboring municipality, and assist in the continued development of county 911 services, the Planning Board shall require that:
 - a. An applicant who proposes a new telecommunication tower shall notify in writing the legislative body of each municipality that borders Keuka or Waneta Lake, the Steuben County Planning Board, and the Director of Steuben County Emergency Services. Notification shall include the exact location of the proposed tower and a general description of the project including but not limited to the height of the tower and its capacity for future shared use, and a request that such municipality contact the Planning Board within thirty (30) days of the date the notification is received if such municipality believes, in its sole discretion, that another location within its municipality would be available for co-location.
 - i. If a municipality contacts the Planning Board within thirty (30) days of the date of the notification regarding a potential co-location opportunity within that municipality, the applicant must demonstrate why such location is not feasible in accordance with Paragraph 6(a), above.
 - b. Documentation of receipt of this notification shall be submitted to the Planning Board at the time of application. The Planning Board shall not approve a site plan for a new tower prior to thirty (30) days from the date such notification is received.

APPENDIX B: SOLAR

A. Definitions. As used in this Appendix, the following terms shall have the meanings indicated.

1. **BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM:** A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.
2. **GROUND-MOUNTED LARGE-SCALE SOLAR ENERGY SYSTEM:** A Ground-mounted Solar Energy System in which 50% or more of the energy produced per year is for offsite sale and/or consumption.
3. **GROUND-MOUNTED SMALL-SCALE SOLAR ENERGY SYSTEM:** A Ground-mounted Solar Energy System in which: (1) less than 50% of the energy produced per year is for offsite sale and/or consumption; and (2) no more than 25 kW is produced per year.
4. **GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity.
5. **NYSERDA:** The New York State Energy Research and Development Authority.
6. **QUALIFIED SOLAR INSTALLER:** A NYSERDA certified solar installer who complies with all licensing and other requirements of the Town of Wayne and the State.
7. **ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.
8. **SOLAR ENERGY EQUIPMENT:** Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with production of electrical energy.
9. **SOLAR ENERGY SYSTEM:** An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.
10. **SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electrical energy.

B. Solar as an Accessory Use or Structure

1. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems

- a. Permitted Districts. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- b. Height. Solar Energy Systems and Building Integrated Photovoltaic Systems shall not exceed the maximum height restrictions of the zoning district within which they are located.
- c. Aesthetics. Roof-Mounted Solar Energy System and Building Integrated Photovoltaic Systems installations shall adhere to the following requirements:
 - i. Panels facing the front yard or lakeside must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
- d. Site Plan Review. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems are exempt from site plan review.
- e. Roof-Mounted Solar Energy Systems and Building Integrated Photovoltaic Systems may only be installed by a Qualified Solar Installer.

2. Ground-mounted Small-Scale Solar Energy Systems

- a. Permitted Districts. Ground-mounted Small-Scale Solar Energy Systems are not permitted in Lakeshore Residential 1, 2, & 3 Districts. Ground-mounted Small-Scale Solar Energy Systems are permitted as accessory structures in all other districts.
- b. Height and Setback. No part of a Ground-mounted Small-Scale Solar Energy System shall exceed twelve (12) feet from the lowest grade when oriented at maximum tilt. Ground-mounted Small-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district.
- c. Lot Coverage. Ground-mounted Small-Scale Solar Energy Systems shall be placed within the buildable portion of a parcel.
- d. Aesthetics. Ground-mounted Small-Scale Solar Energy Systems shall adhere to the following requirements:

- i. Ground-mounted Small-Scale Solar Energy Systems must be placed on a parcel so that the visual impact from public roads is minimized to the greatest extent possible.
 - ii. Ground-mounted Small-Scale Solar Energy Systems must be placed on a parcel so that the visual impact to the Keuka or Waneta Lake viewshed is minimized to the greatest extent possible.
- e. Site Plan Review. Ground-mounted Small-Scale Solar Energy Systems in all permitted districts are exempt from site plan review.
- f. Ground-mounted. Small-Scale Solar Energy Systems may only be installed by a Qualified Solar Installer.

C. Solar as a Primary Use or Structure

1. Ground-mounted Large-Scale Solar Energy Systems

- a. Permitted Districts. Ground-mounted Large-Scale Solar Energy Systems are permitted as a primary or accessory use in the Mixed Use District and Industrial District, subject to the requirements set forth in this Section, including site plan approval. Ground-mounted Large-Scale Solar Energy Systems are not permitted in any other district.
- b. Height and Setback. No part of a Ground-mounted Large-Scale Solar Energy System shall exceed twelve (12) feet from the lowest grade when oriented at maximum tilt. Ground-mounted Large-Scale Solar Energy Systems shall adhere to the setback requirements of the underlying zoning district.
- c. Lot Coverage and Size. Ground-mounted Large-Scale Solar Energy Systems shall not be located on parcels that are greater than five (5) acres and must be placed within the buildable portion of a parcel.
- d. Site Plan Review. All Ground-mounted Large-Scale Solar Energy Systems must undergo site plan review. In addition to the requirements of Section 3.0, site plan applications for Ground-mounted Large-Scale Solar Energy Systems must include:
 - i. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

- ii. Blueprints showing the layout of the Solar Energy System signed by a Professional Engineer shall be required.
 - iii. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - iv. Property Operation and Maintenance Plan. The site plan application shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - v. Any other information the Planning Board deems necessary for its review.
- e. Other Application Requirements.
- i. Fencing: All Ground-mounted Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The type of fencing shall be determined by the Planning Board. The fencing and the system may be further screened by any landscaping needed to avoid adverse aesthetic impacts.
 - ii. Decommissioning Plan: A Decommissioning Plan shall be submitted as part of the application to ensure the proper removal of Ground-mounted Large-Scale Solar Energy Systems. Compliance with this plan shall be made a condition of site plan approval. The Decommissioning Plan must include:
 - iii. A cost estimate detailing the projected cost of executing a decommissioning plan prepared by a Professional Engineer. Cost estimates shall take into account inflation.
 - iv. An expected time line of execution.
 - v. A description of how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.
 - vi. An agreement from the applicant that the applicant and/or subsequent owners shall remove the Ground-mounted Large-Scale Solar Energy System in accordance with the decommission plan within six (6) months of when the Ground-mounted Large-Scale Solar Energy System is no longer in use.

- vii. An agreement from the applicant and property owner that the Code Enforcement Officer may enter the property to inspect the Ground-mounted Large-Scale Solar Energy System if he or she suspects that the system may have been abandoned.
- f. Ground-mounted Large-Scale Solar Energy Systems shall be considered abandoned after six (6) months without electrical energy generation. The Code Enforcement Officer may, upon application from the owner, grant an extension for a period of six (6) months.
- g. If the Town Code Enforcement Officer suspects that a Solar Energy System may be abandoned, he or she shall notify the owner of such assessment and order the decommissioning of same within thirty (30) days. The owner may refute the assessment by producing data or records to the Town Zoning Board of Appeals to prove that the Solar Energy System is active or has been active within six (6) months prior to the notice.
- h. Decommissioning Bond: The applicant or its successors shall provide a continuously maintained fund or bond payable to the Town of Wayne, in a form approved by the Town Attorney, for the removal of the Solar Energy System and to restore the property after abandonment in case the applicant and/or current owner fails to do so as required above. The amount shall be determined by the Town Board and shall be for the period of the life of the Solar Energy System or other plan acceptable to the Town Board. This fund or plan may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning funding requirements shall be met prior to commencement of construction. Proof of this bond or similar surety shall be filed with the Town Clerk no later than February 1st of each year.
- i. The applicant and any subsequent owners shall provide the Town no later than February 1st of each year documents demonstrating that the Ground-mounted Large-Scale Solar Energy System is currently and/or has generated electricity during the previous calendar year.
- j. Ground-mounted Large-Scale Solar Energy Systems may only be installed by a Qualified Solar Installer.

APPENDIX C: SERVICE STATIONS

A. Service Stations.

1. Service station shall be subject to the following requirements:
 - a. No structure or area for use by motor vehicles, except access drives and pump islands, shall encroach upon a yard.
 - b. No fuel pump shall be located closer than twenty (20) feet from a side parcel line nor closer than twenty (20) feet from a road right-of-way.
 - c. No access drive shall enter a road within one hundred (100) feet of and on the same side of the road as a school or fire station.
 - d. No outdoor display of accessory goods for sale shall be allowed except on the pump island and the building island.
 - e. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside.
 - f. Services shall not include: motor repair requiring removal of block head or crankcase, major frame and body work, painting, welding, storage of inoperable vehicles.
 - g. Where a service station abuts a residential district, the latter shall be screened by densely planted evergreens, solid fencing or a combination of both. Failure to maintain such screen in good condition shall constitute a violation of this LUR.

APPENDIX D: SWIMMING POOLS

A. Pools

1. Except for a portable pool less than twenty-four (24) inches deep, a private swimming pool shall comply with the following requirements:
 - a. A pool shall be used primarily by the occupants of the premises; and
 - b. A pool shall be placed within the back or side yard and within buildable portion of a parcel; and
 - c. A pool, or the entire parcel on which it is located, shall be securely enclosed to prevent uncontrolled access by children and animals. Notwithstanding the regulations contained in Section 3.0(C)(4), said enclosure shall not be less than four (4) feet in height and maintained with a self-closing and self-latching gate of fifty-two (52) inches height. However, such enclosure shall not be required for an above ground pool with perimeter deck not less than forty-eight (48) inches above the ground, and with access only by means of a ladder or stairs that can be raised or otherwise blocked to prevent unauthorized entrance.
2. A portable pool twenty-four (24) inches or deeper shall be fenced as stated in A(3) above.