

HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING  
AGENDA

.....  
MONDAY  
.....

JANUARY 4, 2010

7:00 P.M.  
.....

► **5:00 - 7:00 pm – Retirement Reception for Vivian Gresser – Community Room**

- **Swearing in of Councilors At-Large**
- **Election of Mayor, Deputy Mayor**

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

- a. December 21, 2009

3. COMMUNICATIONS

- a. Anthony Mourkas – Application for Reappointment – Library Board
- b. Cheri Condon – Application for Reappointment – Library Board
- c. Richard Jenkins – Application for Reappointment – Library Board
- d. Fred Jones – Application for Reappointment – Library Board
- e. R. Mike Pullen – Application for Reappointment – Historic Preservation
- f. Betsy Bass – Application for Reappointment – Historic Preservation
- g. Cedena McAvoy – Application for Reappointment – Pool Board
- h. Gerry Ouellette – Application for Reappointment – Personnel Appeals
- i. William Devoe – Application for Reappointment – Board of Appeals
- j. Russell Lumley – Application for Reappointment – Board of Appeals
- k. John Clifford – Application for Reappointment – Recreation Committee
- l. EMHS – Move & Improve
- m. Time Warner/Town – Channel Negotiations

4. REPORTS

- a. Pine Tree Landfill – Host Community Benefit – November 2009
- b. Hampden Historical Society Newsletter – 12/09

B. PUBLIC COMMENTS

**NOTE: The Council will take a 5-minute recess at 8:00 pm.**

C. POLICY AGENDA

1. PUBLIC HEARINGS

a. Adoption of Draft Shoreland Zoning Ordinance and Map

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

3. UNFINISHED BUSINESS

a. 2010 Council Committee Appointments

4. NEW BUSINESS

a. Fees Ordinance Amendment re Library Fees – Introduction for Public Hearing

D. COMMITTEE REPORTS

E. MANAGER'S REPORT

F. COUNCILORS' COMMENTS

G. ADJOURNMENT

**TOWN COUNCIL MINUTES**

**December 21, 2009**

The regularly scheduled meeting of the Hampden Town Council was held on Monday, December 21, 2009. The meeting was held at the municipal building council chambers and was called to order by Mayor Arnett at 7:00 p.m.

**Attendance: Councilors:** Mayor Matthew Arnett, Andre Cushing, Thomas Brann, William Shakespeare, Shannon Cox, Jean Lawlis and Janet Hughes

**Town Manager:** Susan Lessard

**Town Counsel:** Thomas Russell was absent

**Department Heads/Staff:** Town Planner Bob Osborne

**A. CONSENT AGENDA**

The Treasurer's Warrants were reviewed and signed by the Finance Committee at its meeting earlier in the evening. Motion by Councilor Cushing, seconded by Councilor Cox to accept the balance of the Consent Agenda – unanimous vote in favor.

**B. PUBLIC COMMENTS**

There were none.

**C. POLICY AGENDA**

**1. PUBLIC HEARINGS**

- a. APPLICATION FOR RENEWAL OF A VICTUALER'S LICENSE RECEIVED FROM DLJJ, LLC d/b/a EDWARDS FAMILY SHOP 'N SAVE AT 77 WESTERN AVENUE

Mayor Arnett explained the procedure for the public hearing and then opened the hearing.

Proponents – none; Opponents – none: General Questions or Comments – None. The hearing was closed.

Motion by Councilor Brann, seconded by Councilor Cushing to approve the application – unanimous vote in favor.

**b. PROPOSED AMENDMENTS TO OUTDOOR WOODFIRED BOILER ANNUAL LICENSING ORDINANCE**

Town Planner Bob Osborne explained that these amendments include definitions for the various types of boilers and the minimum lot size and setback requirements for each type. The amendment prohibits initial licensing of non-EPA qualified outdoor woodfired boilers after the effective date of the amendment (current licensed non-qualified boilers will be grandfathered). Bob pointed out that there is no change in the months of operation as set forth in the current ordinance.

Planning & Development Committee Chair Cushing reported that considerable time and thought has been put into this amendment in order to respect people looking for alternative heating, while at the same time recognizing that there is an obligation to protect the health and safety of abutting residents. Mayor Arnett then opened the hearing.

Proponents – none; Opponents – none: General Questions or Comments – None. The hearing was closed.

Motion by Councilor Cushing, seconded by Councilor Brann to adopt the amended Outdoor Woodfired Boiler Ordinance.

Discussion: Councilor Shakespeare noted that the Town has no experience as to how much smoke these EPA approved boilers produce and he feels that any smoke can be bothersome for people with breathing problems. He said he can not vote for this to pass.

Councilor Hughes said she believes that smoke is measurable by particulate matter emissions and the three phases approved by the EPA are based on the tiered level of those particulate emissions. She pointed out that the Committee has added to that by looking at the lot sizes, the setbacks from residences and the months of operation. She feels that the Town has been more stringent in considering the health and welfare of its citizens and without passage of this amendment, we would fall back to the DEP standards, which are less stringent.

Vote on the motion: 6 in favor; 1 opposed (Shakespeare) – motion carried.

**2. NOMINATIONS-APPOINTMENTS-ELECTIONS**

**a. Services Committee Recommendations:**

1. Katherine Carter – Friends of Dorothea Dix Park
2. Anthony Sangiovanni – Friends of Dorothea Dix Park
3. Dory Sangiovanni – Friends of Dorothea Dix Park
4. Phillip Buckley – Friends of Dorothea Dix Park
5. Jon Simms – Friends of Dorothea Dix Park
6. Susan Simms – Friends of Dorothea Dix Park
7. Pamela Tremblay – Friends of Dorothea Dix Park
8. Judy Markowsky – Friends of Dorothea Dix Park



C-1-b

**TO:** Mayor Arnett and Hampden Town Council  
**FROM:** Robert Osborne, Town Planner  
**SUBJECT:** Draft Outdoor Woodfired Boiler Ordinance Amendments.  
**DATE:** November 5, 2009

At the November 4, 2009 Council Planning and Development Committee meeting the vote was ~~unanimous~~ to return this item to the Council for public hearing.

As you know the committee reviewed this language and recommended that it be sent forward to the Council. Subsequently this language was reviewed by Town Attorney, Tom Russell who recommended the following changes which are incorporated into this draft of the ordinance.

***Proposed Amendments to Outdoor Wood-Fired Boiler Annual Licensing Ordinance***

*As you know, the DEP adopted Chapter 150, entitled "Control of Emissions from Outdoor Wood Boilers", effective November 9, 2007. Chapter 150 has been amended twice since its adoption, the most recent amendments being effective April 7, 2009. Although Section 4(D) provides that Chapter 150 does not preempt any local ordinance, it is my understanding that the proposed amendments are intended to reconcile differences between Chapter 150 and the Town's Ordinance.*

*In my review of the proposed amendments to the Town's ordinance, I noticed that the amendments do not include amending the ordinance definition of "outdoor wood-fired boiler" to coincide with Chapter 150's definition of the term "outdoor wood boiler." Was there a reason for keeping the Town's existing definitions?*

*The terms "EPA Phase-One Qualified OWB" and "EPA Phase-Two Qualified OWB" are not contained in Chapter 150, and are apparently based on the particulate matter emission standards contained in Section 3(A)(1)-(2) of Chapter 150. I recommend that the definition of those two terms be modified to read as follows:*

*"EPA Phase-One Qualified OWB" means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.60 lbs/MMBtu heat input."*

*"EPA Phase-Two Qualified OWB" means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.32 lbs/MMBtu heat input."*

*Chapter 150 did not adopt a separate emission standard for outdoor pellet boilers, but it did adopt separate setback and stack height requirements for outdoor pellet boilers that have been certified to meet a particulate emission limit of 0.06 lbs/MMBtu heat output. The Town's proposed amendments include a definition of "Phase-Three Qualified OWB" that essentially creates a class of outdoor wood boilers (not just outdoor pellet boilers) that have less stringent setback and stack height requirements. Did the Ordinance Committee intend to apply those less stringent standards to all outdoor wood boilers that are certified to meet the 0.06 lbs/MMBtu limit? In any event, I recommend that the "Phase-Three" definition be modified to read as follows:*

*"Phase-Three Qualified OWB" means an OWB (or outdoor pellet boiler if the Town chooses to go with the DEP approach) that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater*

Adopted 12/21/2009  
Effective 1/20/2010

*Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.06 lbs/MMBtu heat input."*

*I also recommend that the term "Non-EPA Qualified OWB" be modified to read as follows:*

*"Non-EPA Qualified OWB" means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limits greater than 0.60 lbs/MMBtu heat input or with no certification."*

*The Town should also include Chapter 150's definition of the term "outdoor pellet boiler" in Section 2.1 of its Ordinance.*

*Since the amendments to Section 4.4 will create "Neighboring residence setbacks", I recommend the inclusion of the following definition in Section 2.1:*

*"Neighboring Residence Setback" means the minimum linear distance that an outdoor wood-fired boiler (or outdoor wood boiler if the Town chooses to replace its definition of "outdoor wood-fired boiler" with the Chapter 150's definition of "outdoor wood boiler") must be sited away from the nearest dwelling that is not on the same property as the boiler."*

TOWN OF HAMPDEN  
Draft

The Town of Hampden Hereby Ordains  
Proposed Amendments to the Outdoor Wood-Fired Boiler Annual Licensing Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

TOWN OF HAMPDEN, MAINE  
OUTDOOR WOOD-~~FIRE~~D BOILER ANNUAL LICENSING ORDINANCE

ADOPTED: Hampden Town Council, March 19, 2007  
Effective Date: April 18, 2007

CERTIFIED BY: Denise Hodsdon  
Name

Town Clerk  
Title Affix Seal

OUTDOOR WOOD-~~FIRE~~D BOILER ANNUAL LICENSING ORDINANCE  
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TOWN OF HAMPDEN, MAINE  
OUTDOOR WOOD-FIRED BOILER ANNUAL LICENSING ORDINANCE

ARTICLE 1  
TITLE AND PURPOSE

1.1. *Title.* This chapter shall be known as the "Town of Hampden, Maine Outdoor Wood-Fired Boiler Annual Licensing Ordinance."

1.2. *Home Rule Authority.* It is adopted pursuant to Municipal Home Rule Law.

1.3. *Purpose.* Although outdoor wood-fired boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This Ordinance is intended to ensure that outdoor wood-fired boilers are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town. Furthermore, this ordinance is intended to comply with the minimum standards contained in DEP Chapter 150. Control of Emissions From Outdoor Wood Boilers.

ARTICLE 2  
DEFINITIONS

2.1. *Definitions.* As used in this chapter, the following terms shall have the meanings indicated:

"Commercial outdoor wood boiler" means any outdoor wood boiler used to service a commercial establishment.

"Outdoor pellet boiler" means an outdoor wood boiler designed and warranted by the manufacturer specifically to burn pellet fuel with metered fuel and air feed and controlled combustion engineering, which is operated according to the manufacturer's specifications and burns only pellet fuel.

"Outdoor wood boiler" (also known as outdoor wood-fired hydronic heater, water stove or outdoor wood furnace) means a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

~~"Outdoor wood fired boiler (OWB)" (same as outdoor wood fired furnace) means an accessory structure or appliance capable of being installed out of doors and designed to transfer or provide heat, via liquid or other means, through the burning of wood or any other non-gaseous or non-liquid fuels for heating spaces other than where such structure or appliance is located, any other structure or appliance on the premises, or for heating domestic, swimming pool, hot tub or Jacuzzi water. "Outdoor wood fired boiler or furnace" but does not include a fire pit, wood fired barbecue, or chiminea.~~

"Outdoor wood boiler Emission Rating" means the EPA's rating system for OWBs which rate the emissions in pounds per million BTU' or lbs/MMBtu.

"EPA Phase-One Qualified OWB" means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.60 lbs/MMBtu heat input.

“EPA Phase-Two Qualified OWB” means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.32 lbs/MMBtu heat input.

“Phase-Three Qualified OWB” means an OWB (or outdoor pellet boiler if the Town chooses to go with the DEP approach) that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.06 lbs/MMBtu heat input.

“Non-EPA Qualified OWB” means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limits greater than 0.60 lbs/MMBtu heat input or with no certification.

“DEP Qualified OWB” means that the manufacturer of the OWB has voluntarily submitted their product for emission rating to a government other than the US government or other testing bodies as deemed acceptable by the DEP and based on the OWB’s emission report the Maine Department of Environmental Protection classifies the OWB to the corresponding EPA standard. For purposes of this ordinance applicants must provide written documentation from the DEP to show evidence that the OWB is in fact DEP qualified.

“Neighboring Residence Setback” means the minimum linear distance that an outdoor wood boiler must be sited away from the nearest dwelling that is not on the same property as the boiler.

“Nuisance” means any odor, emission, or event that prevents the reasonable use and enjoyment of one’s property. For purposes of this ordinance, an OWB shall constitute a nuisance following three or more verified complaints within any 30 day period.

“Firewood” means trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

“Setback” means the minimum linear distance that an outdoor wood boiler must be sited away from a prescribed physical location on the ground.

“Untreated lumber” means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

### ARTICLE 3 ANNUAL LICENSE REQUIRED

*3.1. Annual license required.* In addition to any permit required under the Town’s Fire Prevention Code, no person shall cause, allow or maintain the use of an outdoor wood-fired boiler within the Town of Hampden, Maine without first having obtained an annual license from the Hampden Town Council. Application for annual license shall be made to the Town Clerk on the forms provided. *(Note: The state regulation does not require annual licensing).*

**3.2. Standards for initial license.** The Town Council shall issue an initial license for an outdoor wood-fired boiler if it determines that:

3.2.1 A permit has been issued for the proposed outdoor wood-fired boiler under the Fire Prevention Code; and

3.2.2 The proposed outdoor wood-fired boiler complies with the requirements of Sections 4.2, 4.3, 4.4 and 4.6 of this Ordinance.

3.2.3 The Town of Hampden shall not issue an initial license for a non-EPA qualified OWB or non-Maine Department of Environmental Protection alternative certified OWB after the effective date of this amendment.

**3.3. Standards for renewal license.** The Town Council shall issue a renewal license for an outdoor wood-fired boiler if it determines that:

3.3.1. The code official responsible for enforcement of the Fire Prevention Code provides written documentation to the effect that the outdoor wood-fired boiler is in compliance with the applicable provisions of that Code;

3.3.2 The outdoor wood-fired boiler is in compliance with the requirements of Sections 4.2, 4.3, 4.4, and 4.6 of this Ordinance;

3.3.3. The outdoor wood-fired boiler was operated in compliance with the requirements of Sections 4.1 and 4.5 of this Ordinance during the preceding year; and

3.3.4 None of the conditions set forth in Sections 5.1.1, 5.1.2, 5.1.3, 5.1.4, or 5.1.5 of this Ordinance occurred during the preceding year.

**3.4. Existing outdoor wood-fired boilers.** Any outdoor wood-fired boiler that was installed, connected, and operating as of the effective date of this Ordinance shall be permitted to remain, provided that the owner applies for and receives an annual license from the Town Council within 120 days of such effective date. Provided, however, that upon the effective date of this Ordinance all the provisions of this Ordinance, except Sections 4.2 Permitted Zones, 4.3 Minimum Lot Size, and 4.4 Setbacks in the event and to the extent that the existing outdoor wood-fired boiler in question does not comply with the same, shall immediately apply to any existing outdoor wood-fired boiler. Any existing outdoor wood-fired boiler that is not in compliance with Sections 4.3 and 4.4 shall not be made more nonconforming. If the owner of an existing outdoor wood-fired boiler does not receive a permit within one year of the effective date of this Ordinance, the outdoor wood-fired boiler shall be removed.

#### ARTICLE 4 SPECIFIC REQUIREMENTS

**4.1. Permitted fuel.** Only firewood and untreated lumber are permitted to be burned in any outdoor wood-fired boiler. Burning of any and all other materials in an outdoor wood-fired boiler is prohibited.

**4.2. Permitted zones.** Outdoor wood-fired boilers shall be permitted in all zoning districts except the Resource Protection District as shown on the Town's Zoning Map.

**4.3. Minimum lot size** Outdoor wood-fired boilers shall be permitted only on lots ~~of three acres or more~~ in accordance with the following minimum lot size:

	<u>Minimum Lot Size</u>
<u>Existing Non-EPA Qualified Outdoor Wood Boilers Only</u>	<u>3 Acres</u>
<u>EPA Phase-One Qualified Outdoor Wood Boilers</u>	<u>1 Acre</u>
<u>EPA Phase-Two Qualified Outdoor Wood Boilers</u>	<u>0.5 Acre</u>
<u>Phase-Three Qualified Outdoor Wood Boilers (pellet)</u>	<u>0.25 Acre</u>

The applicant for a permit under this Ordinance shall demonstrate that the Commercial outdoor wood boiler or Outdoor Wood Boiler with a thermal rating greater than 350,000 Btu/hr shall be installed and operated in accordance with Chapter 150 of the Rules of the Maine Department of Environmental Protection, "Control of Emissions from Outdoor Wood Boilers," as the same may be amended from time to time.

*(Note: The state regulation does not set minimum lot sizes but it logically creates them with the required setbacks).*

**4.4. Setbacks.** Outdoor wood-fired boilers shall be set back ~~not less than 150 feet from the nearest lot line from~~ property lines according to the following standards:

<u>Property Line Setback</u>	<u>Minimum</u>
<u>Existing Non-EPA Qualified Outdoor Wood Boilers Only</u>	<u>150 Feet</u>
<u>EPA Phase-One Qualified Outdoor Wood Boilers</u>	<u>100 Feet</u>
<u>EPA Phase-Two Qualified Outdoor Wood Boilers</u>	<u>50 Feet</u>
<u>Phase-Three Qualified Outdoor Wood Boilers (pellet)</u>	<u>20 Feet</u>

*(Note: The state regulation requires these setbacks).*

Additionally, outdoor wood-fired boilers shall be set back ~~not less than 200 feet from~~ neighboring residences according to the following standards:

<u>Neighboring Residence Setback</u>	<u>Minimum</u>
<u>Existing Non-EPA Qualified Outdoor Wood Boilers Only</u>	<u>200 Feet</u>
<u>EPA Phase-One Qualified Outdoor Wood Boilers</u>	<u>120 Feet</u>
<u>EPA Phase-Two Qualified Outdoor Wood Boilers</u>	<u>70 Feet</u>
<u>Phase-Three Qualified Outdoor Wood Boilers (pellet)</u>	<u>40 Feet</u>

*(Note: The state regulation requires these setbacks).*

Stack Height Requirements for New Outdoor Wood Boilers and Outdoor Pellet Boilers

Existing Non-EPA Qualified Outdoor Wood Boilers are not subject to this requirement.

EPA Phase-One Qualified Outdoor Wood Boilers. No person shall install or allow the installation of any EPA Phase-One Qualified Outdoor Wood Boiler unless the outdoor wood boiler or outdoor pellet boiler: (1) has an attached stack with a minimum stack height of 10 feet above ground level; or (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler, if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler.

EPA Phase-One Qualified Outdoor Wood Boilers. No person shall operate any EPA Phase-One Qualified Outdoor Wood Boiler if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler, unless the outdoor wood boiler or outdoor pellet boiler has an

attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler.

EPA Phase-Two Qualified Outdoor Wood Boilers. No person shall install or allow the installation of any EPA Phase-Two Qualified Outdoor Wood Boiler unless the outdoor wood boiler or pellet boiler: (1) has an attached stack with a minimum stack height of 10 feet above ground level; or (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler, if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler.

EPA Phase-Two Qualified Outdoor Wood Boilers. No person shall operate any EPA Phase-Two Qualified Outdoor Wood Boiler, if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler, unless the outdoor wood boiler or outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler.

Phase-Three Qualified Outdoor Wood Boilers. No person shall install or allow the installation of any Phase-Three Qualified Outdoor Wood Boilers, unless the outdoor pellet boiler: (1) has an attached stack with a minimum stack height of 10 feet above ground level; or (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor pellet boiler, if a neighboring residence is located less than 100 feet from the outdoor pellet boiler.

Phase-Three Qualified Outdoor Wood Boilers. No person shall operate any Phase-Three Qualified Outdoor Wood Boilers, if a neighboring residence is located less than 100 feet from the outdoor pellet boiler, unless the outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor pellet boiler.

(Note: The state regulation requires these stack heights).

The applicant for a permit under this Ordinance shall demonstrate that the Commercial outdoor wood boiler or Outdoor Wood Boiler with a thermal rating greater than 350,000 Btu/hr shall be installed and operated in accordance with Chapter 150 of the Rules of the Maine Department of Environmental Protection, "Control of Emissions from Outdoor Wood Boilers," as the same may be amended from time to time.

**4.5. Months of operation.** Outdoor wood-fired boilers shall be prohibited from operation between the dates of May 1 and October 1.

*(Note: The state regulation does not restrict months of operation).*

**4.6. Spark arrestors and rain caps.** All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors. Use of a rain cap on the stack of an OWB is prohibited unless required by the manufacturer specifications.

*(Note: The state regulation does not mandate spark arrestors but does prohibit rain caps).*

**4.7. Continued compliance required.** If an outdoor wood-fired boiler is installed in compliance with Sections 4.3 and 4.4, the outdoor wood-fired boiler may not be used if the lot on which it is situated is altered so that the minimum lot size or setback(s) are no longer met.

## ARTICLE 5 REVOCATION OF LICENSE

**5.1. Revocation of license.** A license issued pursuant to this Ordinance may, after notice and hearing, be revoked as the Town Council may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Hampden if any of the following conditions occur:

5.1.1. Emissions from the outdoor wood-fired boiler exhibit opacity that obscures or partially obscures clear view of structures and trees that lay behind the smoke and haze on either the property where the outdoor wood-fired boiler is located or on adjoining properties. This may be evidenced by photographs that are time dated;

5.1.2. Malodorous air contaminants from the outdoor wood-fired boiler are detectable outside the property boundaries of the land on which the outdoor wood-fired boiler is located. This may be evidenced by Town Public Safety Officials;

5.1.3. The emissions from the outdoor wood-fired boiler interfere with the reasonable enjoyment of life or property;

5.1.4. The emissions from the outdoor wood-fired boiler cause damage to vegetation or property; or

5.1.5. The emissions from the outdoor wood-fired boiler are or may be harmful to human or animal health.

**5.2. Prohibited use after revocation.** If a license is revoked, the outdoor wood-fired boiler in question shall not used or operated.

**5.3. Reinstatement of license.** A revoked license may be reinstated once the condition which resulted in revocation is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in revocation of a license shall be considered a violation of this Ordinance subject to the penalties provided in *Section 7.1 Penalties for offenses* hereof.

## ARTICLE 6 WAIVERS

**6.1. Waivers.** Where the Town Council finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this Ordinance or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the Town Council may impose such conditions and requirements as it deems reasonable and prudent. The Town Council may, at its discretion, hold a public hearing as part of its review. If the Town Council grants the waiver, a license shall be issued for the outdoor wood-fired boiler. If the Town Council denies the waiver, the outdoor wood-fired boiler must either be brought into compliance with this Ordinance or removed. If the Town Council does not take any action with respect to the waiver within 60 days from its receipt of an application for waiver, the waiver shall be deemed denied.

## ARTICLE 7 PENALTIES

**7.1. Penalties for offenses.** Failure to comply with any of the provisions of this Ordinance shall be a violation and, upon conviction thereof, shall be subject to a civil penalty in accordance with Title 30-A

M.R.S. §4452. In addition, any license issued pursuant to this Ordinance shall be revoked upon conviction of a second offense and the subject outdoor wood-fired boiler shall not be eligible for another license. Each day that a violation occurs shall constitute a separate offense. All penalties shall inure to the benefit of the Town of Hampden. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Ordinance. Violators shall also be responsible for any and all court fees, expert witness fees, costs, and reasonable attorney fees if the Town is the prevailing party in an enforcement action.

**ARTICLE 8  
EFFECT ON OTHER REGULATIONS**

*8.1. Effect on other regulations.* Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, Maine Department of Environmental Protection or any other federal, state, regional or local agency. Outdoor wood-fired boilers, and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood-fired boilers, shall be installed, operated and maintained in conformity with the manufacturer's specifications and instructions and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this Ordinance and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

**ARTICLE 9  
SEVERABILITY**

*9.1. Severability.* Should any provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

**ARTICLE 10  
EFFECTIVE DATE**

*10.1. Effective Date.* The effective date of this Ordinance shall be 30 days from the date of adoption by the Town Council.

- 9. Jane Jarvi – Recreation Committee
- 10. David Hawkins – Lura Hoyt Pool Board of Trustees

Services Committee Chair Cox read the full list of applicants for the record and reported that the Services Committee has interviewed all of the applicants and recommends appointment of the full slate.

Motion by Councilor Cox, seconded by Councilor Lawlis to appoint the full slate of nominees – unanimous vote in favor.

### **3. UNFINISHED BUSINESS**

While there were no items of unfinished business on the agenda, Mayor Arnett noted that there are five candidates for the vacant School Board seat as listed on the Consent Agenda. He asked for volunteers to form a committee to interview the candidates and make a recommendation to the Council for appointment at the first meeting in January. Councilors Hughes, Lawlis and Cushing will serve on that committee.

### **4. NEW BUSINESS**

- a. KIWANIS CLUB OF HAMPDEN – GAMES OF CHANCE LICENSE AUTHORIZATION

Motion by Councilor Brann, seconded by Councilor Cushing to approve the license – unanimous vote in favor.

### **D. COMMITTEE REPORTS**

Councilor Cox reported that the Services Committee met last week and reviewed the applications for the various boards and committees. They heard an update about the proposed dog park and talked about replacement of the circulation desk at the library. There was also discussion about how much of the work of the Services Committee ties into what will come out of the work of the Committee on Committees. The Committee continues to work with Staff on an outdoor facilities ordinance. The next meeting of the Services Committee will be January 11, 2010 at 6:00 p.m.

Councilor Cushing reported that the Planning & Development Committee did not meet in December due to a conflict when the Planning Board's meeting being had to be rescheduled because of a snowstorm. He further reported that the Committee on Committees will meet at noon on December 30<sup>th</sup> at Fresh Ginger Restaurant.

Councilor Brann reported that the Infrastructure Committee will meet at 6:00 p.m. on December 28<sup>th</sup>.

Manager Lessard reported that the Finance Committee met earlier in the evening and reviewed an itemization of all Town funds; there was discussion about the landfill closure and that it will mean the end of Host Community Benefits that the Town and some local residents have received during the active life of the landfill. The Committee also discussed the impact of the State budget cuts to both the Town and to SAD #22.

Mayor Arnett reported that the Penobscot Valley Council of Government (PVCOG) has been going through a substantial change and is rethinking its mission. Following a recent meeting of the membership, PVCOG will be going into a state of hibernation for one year and has established a reduced fee structure during that time. Hampden's fee will be \$500.00.

#### **E. MANAGER'S REPORT**

A copy of the Manager's Report is attached hereto.

#### **F. COUNCILOR'S COMMENTS**

Councilor Hughes reminded everyone that the public hearing for the proposed Shoreland Zoning Ordinance will be on January 4, 2010 and urged anyone who has questions or concerns to visit the Town Office prior to the hearing. She wished everyone a Merry Christmas.

Councilor Cox commented that in her work with the Red Cross, they have responded to a house fire a day for the last eight days. She urged everyone to take a few minutes to check their Christmas tree lights, woodstoves, chimneys and furnaces in order to have a safe holiday season. She wished everyone Happy Holidays.

Councilor Cushing and Councilor Brann wished everyone Happy Holidays.

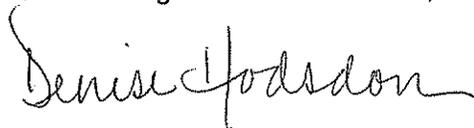
Councilor Lawlis commented that as part of the development of an outdoor facilities ordinance the Services Committee will be soliciting input from the public relative to hours of operation.

Councilor Shakespeare wished Economic Development Director Dean Bennett the best in his recovery and welcomed Town Manager Lessard back after her recent surgery. He wished everyone Happy Holidays.

Mayor Arnett expressed admiration for Manager Lessard's return to work so quickly after her hip replacement and thanked her for her work ethic, wisdom and good spirit. He expressed best wishes to all for a Happy Holiday Season.

#### **G. ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:08 p.m.



Denise Hodsdon  
Town Clerk

## MANAGER'S REPORT

12-21-09

Tree Lighting Party – Thanks to the Kiwanis for sponsoring the annual tree lighting and holiday party with Santa for local children that was held on Sunday, December 6<sup>th</sup>.

Newsletter – According to Editor Annie O'Reilly, the next edition of the newsletter will be set next week and sent off to the printer for distribution within the first two weeks of January. This edition will feature a new column by the Mayor as well as an in-depth feature on the imminent closure of the Pine Tree Landfill.

State Budget Impact – The most recent budget restrictions at the State level will impact SAD #22 in the following ways loss of \$192,000 in 08/09, loss of an additional \$282,000 in 09/10, loss of an additional \$282,000 in 2010/2011, and loss of \$317,000 in Stimulus funds in 2011/2012. That totals an overall reduction in State funding for SAD #22 of \$1, 073,000. On the municipal side, we will see additional reductions in Revenue Sharing, as well as 'pushed' payments for Homestead Exemption and reductions in Tree Growth reimbursement.

Thank you – I would like to thank everyone who took the time to send cards and notes following my hip replacement surgery on December 7<sup>th</sup>. I appreciate the thoughtfulness.

Employee Christmas Lunch – The employee Christmas luncheon held on 12/17/09 went well and was well attended.

Pool Fuel Use Declines – Updated numbers on fuel usage at the pool show that the new boiler installations at the facility are working well. Through the first five months of 2009/2010 fiscal year, the facility used 2,764 gallons less than was used in the same five month period of the 2008/2009 fiscal year.

Assessor Retirement Get Together – A reminder to the Council and any interested residents that we will be having a retirement reception for long time assessor Vivian Gresser at 5 p.m. on Monday, January 4<sup>th</sup> in the Community Room.

Assessor Second Interviews – I will be holding 2<sup>nd</sup> interviews for Assessor Candidates on Tuesday and Wednesday afternoon this week. I am in hopes of having a decision by the end of this work week. Vivian has agreed to be available for the new hire during the first few months of 2010 if necessary.

Landfill Fires – There were several fires at the landfill during the first few weeks of December. One resulted in a request for assistance from the Town's Fire Department. Several small flare ups were in an area where construction activity (road) had taken place to allow the gas well drillers access to the site. The landfill has added additional clay to the area to insure that there is no exposed waste which can cause fires. The other fire was in the area of the landfill had had been capped and finally closed last summer. That was 'drowned' with leachate and landfill personnel – as well as DEP and our own consultants are looking closely at this event to see how/why it may have occurred. I will provide you with update information when we receive it from our consultants.

According to landfill personnel – it is anticipate that the date of actual final delivery will be coincide with the last available date - 12/31/09.

Economic Development Director – Dean Bennett had a post-surgery doctor visit today (His surgery was on 12/5). As of the last email I received, he indicated that he was feeling better and hoping to return to work sometime soon after the beginning of the year.



Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: MOURKAS ANTHONY L
LAST FIRST MI

ADDRESS: 171 PATTERSON ROAD HAMPDEN, ME 04444
STREET TOWN ZIP

MAILING ADDRESS (if different):

TELEPHONE: 207-862-5990 HOME WORK

EMAIL: ANTHONYMOURKAS@MAC.COM

OCCUPATION: STUDENT

BOARD OR COMMITTEE PREFERENCE:
FIRST CHOICE: DYER LIBRARY

SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee?

I HAVE BEEN ASSOCIATED WITH THE DYER LIBRARY BOARD OF TRUSTEES SINCE 1994 AND WISH TO CONTINUE

Are there any issues you feel this board or committee should address, or should continue to address?

- CONSERVATION COMMITTEE
BOARD OF ASSESSMENT REVIEW
PERSONNEL APPEALS BOARD
LURA HOIT MEMORIAL POOL
ECONOMIC DEVELOPMENT COMMITTEE
FRIENDS OF DOROTHEA DIX PARK
3 YEAR
DYER LIBRARY
RECREATION COMMITTEE
ZONING BOARD OF APPEALS
HISTORIC PRESERVATION COMMITTEE
TREE BOARD

5 YEAR PLANNING BOARD

FOR TOWN USE ONLY
Date Application Received: DEC 08 2009
COUNCIL COMMITTEE ACTION: DATE:
COUNCIL ACTION: DATE:
NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:



Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN  
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: Condon Cheri  
LAST FIRST MI

ADDRESS: 461 Wiswell Rd Holden 04429  
STREET TOWN ZIP

MAILING ADDRESS (if different): \_\_\_\_\_

TELEPHONE: 989-9664 478-9893  
HOME WORK CELL

EMAIL: cavuvbgr@roadrunner.com

OCCUPATION: RETIRED

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: Dyer Library

SECOND CHOICE (OPTIONAL): \_\_\_\_\_

How would your experience, education and/or occupation be a benefit to this board or committee? Experiences on the board - rewrite of By-Laws. Coming out of car traffic I have organizational skills. She's established a Reading with Dogs program at Dyer Library.

Are there any issues you feel this board or committee should address, or should continue to address? I believe this board could become more useful to the library if members were willing to do more than meet.

3 YEAR

- CONSERVATION COMMITTEE
- BOARD OF ASSESSMENT REVIEW
- PERSONNEL APPEALS BOARD
- LURA HOIT MEMORIAL POOL
- ECONOMIC DEVELOPMENT COMMITTEE
- FRIENDS OF DOROTHEA DIX PARK

- DYER LIBRARY
- RECREATION COMMITTEE
- ZONING BOARD OF APPEALS
- HISTORIC PRESERVATION COMMITTEE
- TREE BOARD

5 YEAR  
PLANNING BOARD

DEC 14 2009

<b>FOR TOWN USE ONLY</b>		Date Application Received: _____
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____



Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: JENKINS Richard D.
LAST FIRST MI

ADDRESS: 10 ELM ST. WEST Hampden 04444
STREET TOWN ZIP

MAILING ADDRESS (if different): P.O. Bx. 333

TELEPHONE: (207) 862-3077 Retired
HOME WORK

EMAIL: PBSRHPOS@AOL.COM

OCCUPATION: Retired

BOARD OR COMMITTEE PREFERENCE:
FIRST CHOICE: DYER BOARD of Trustees
Library

SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee? Present trustee

Are there any issues you feel this board or committee should address, or should continue to address? increase circulation
endowment fund

- 3 YEAR
CONSERVATION COMMITTEE
BOARD OF ASSESSMENT REVIEW
PERSONNEL APPEALS BOARD
LURA HOIT MEMORIAL POOL
ECONOMIC DEVELOPMENT COMMITTEE
FRIENDS OF DOROTHEA DIX PARK
DYER LIBRARY
RECREATION COMMITTEE
ZONING BOARD OF APPEALS
HISTORIC PRESERVATION COMMITTEE
TREE BOARD
5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY
Date Application Received: 12/14/09
COUNCIL COMMITTEE ACTION: DATE:
COUNCIL ACTION: DATE:
NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:



Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: JONES Fred G.
LAST FIRST MI
ADDRESS: 358 Main Rd. So Hampden 04444
STREET TOWN ZIP

MAILING ADDRESS (if different):

TELEPHONE: 862-4560 947-0313
HOME WORK

EMAIL: fgjjj@aol.com

OCCUPATION: Teacher, author

BOARD OR COMMITTEE PREFERENCE:
FIRST CHOICE: Library
SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee? I have been a teacher of music and English for 49 years. I know books

Are there any issues you feel this board or committee should address, or should continue to address?

- 3 YEAR: CONSERVATION COMMITTEE, BOARD OF ASSESSMENT REVIEW, PERSONNEL APPEALS BOARD, LURA HOIT MEMORIAL POOL, ECONOMIC DEVELOPMENT COMMITTEE, FRIENDS OF DOROTHEA DIX PARK, DYER LIBRARY, RECREATION COMMITTEE, ZONING BOARD OF APPEALS, HISTORIC PRESERVATION COMMITTEE, TREE BOARD

5 YEAR PLANNING BOARD

FOR TOWN USE ONLY
Date Application Received: DEC 28 2009
COUNCIL COMMITTEE ACTION: DATE:
COUNCIL ACTION: DATE:
NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:



A-3-e

Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN  
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: Pullen R. Mike  
LAST FIRST MI

ADDRESS: 260 Back Wapt. Rd. Hampden 04444  
STREET TOWN ZIP

MAILING ADDRESS (if different): \_\_\_\_\_

TELEPHONE: 862-2844 947-4511  
HOME WORK

EMAIL: mike.pullen@wbrcae.com

OCCUPATION: Architect

BOARD OR COMMITTEE PREFERENCE:  
FIRST CHOICE: Historic Preservation Commission

SECOND CHOICE (OPTIONAL): \_\_\_\_\_

How would your experience, education and/or occupation be a benefit to this board or committee? \_\_\_\_\_

The commission would be well served to have an architect familiar with historic structures on board.

Are there any issues you feel this board or committee should address, or should continue to address? \_\_\_\_\_

Continue to identify Hampden's historic resources to facilitate planning decisions.

- CONSERVATION COMMITTEE
- BOARD OF ASSESSMENT REVIEW
- PERSONNEL APPEALS BOARD
- LURA HOIT MEMORIAL POOL
- ECONOMIC DEVELOPMENT COMMITTEE
- FRIENDS OF DOROTHEA DIX PARK

- DYER LIBRARY
- RECREATION COMMITTEE
- ZONING BOARD OF APPEALS
- HISTORIC PRESERVATION COMMITTEE
- TREE BOARD

3 YEAR  
PLANNING BOARD

<b>FOR TOWN USE ONLY</b>		Date Application Received <b>DEC 10 2009</b>
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____





Check One:  Initial Application  
 Reappointment Application

### TOWN OF HAMPDEN APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: McAvey LAST Cedena FIRST S.P. MI

ADDRESS: 59 Monroe Rd. STREET Hampden TOWN 04444 ZIP

MAILING ADDRESS (if different): \_\_\_\_\_

TELEPHONE: 862-4895 HOME 862-3254 WORK

EMAIL: anedec@netscape.com

OCCUPATION: Teacher

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: Lura Hoit Pool Board of Trustees

SECOND CHOICE (OPTIONAL): \_\_\_\_\_

How would your experience, education and/or occupation be a benefit to this board or committee? I have been serving on this board for a couple of years now and have been an active member. I am currently a co-chair of this board.

Are there any issues you feel this board or committee should address, or should continue to address? Fund Raising, facility improvement +/or expansion

- CONSERVATION COMMITTEE
- BOARD OF ASSESSMENT REVIEW
- PERSONNEL APPEALS BOARD
- LURA HOIT MEMORIAL POOL
- ECONOMIC DEVELOPMENT COMMITTEE
- FRIENDS OF DOROTHEA DIX PARK

3 YEAR

- DYER LIBRARY
- RECREATION COMMITTEE
- ZONING BOARD OF APPEALS
- HISTORIC PRESERVATION COMMITTEE
- TREE BOARD

5 YEAR  
PLANNING BOARD

<b>FOR TOWN USE ONLY</b>		Date Application Received <b>DEC 07 2009</b>
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____





A-3-i

Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN  
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: DEVOE WILLIAM B.  
LAST FIRST MI

ADDRESS: 213 Old County Rd. #9 HAMPDEN, ME 04444  
STREET TOWN ZIP

MAILING ADDRESS (if different): \_\_\_\_\_

TELEPHONE: 745-3818 992-4336  
HOME WORK

EMAIL: wdevoe@entonpeabody.com

OCCUPATION: ATTORNEY

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: BOARD OF APPEALS

SECOND CHOICE (OPTIONAL): \_\_\_\_\_

How would your experience, education and/or occupation be a benefit to this board or committee? \_\_\_\_\_

CURRENT CHAIR OF BOARD OF APPEALS.

Are there any issues you feel this board or committee should address, or should continue to address? INCREASED MEMBERSHIP.

CONSERVATION COMMITTEE  
BOARD OF ASSESSMENT REVIEW  
PERSONNEL APPEALS BOARD  
LURA HOIT MEMORIAL POOL  
ECONOMIC DEVELOPMENT COMMITTEE  
FRIENDS OF DOROTHEA DIX PARK

3 YEAR

DYER LIBRARY  
RECREATION COMMITTEE  
ZONING BOARD OF APPEALS  
HISTORIC PRESERVATION COMMITTEE  
TREE BOARD

5 YEAR  
PLANNING BOARD

<b>FOR TOWN USE ONLY</b>		Date Application Received: <b>DEC 16 2009</b>
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____

A-3-j



Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: LUMLEY RUSSELL D
LAST FIRST MI
ADDRESS: 374 KENNEBEC RD HAMPDEN 04444
STREET TOWN ZIP
MAILING ADDRESS (if different): PO Box 656
TELEPHONE: 991-4513 990-6457
HOME WORK
EMAIL: RUSS.LUMLEY@BANGOR.COM

OCCUPATION: MANAGER

BOARD OR COMMITTEE PREFERENCE:
FIRST CHOICE: ZBA
SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee? CURRENT MEMBER

Are there any issues you feel this board or committee should address, or should continue to address?

- CONSERVATION COMMITTEE
BOARD OF ASSESSMENT REVIEW
PERSONNEL APPEALS BOARD
LURA HOIT MEMORIAL POOL
ECONOMIC DEVELOPMENT COMMITTEE
FRIENDS OF DOROTHEA DIX PARK
3 YEAR
DYER LIBRARY
RECREATION COMMITTEE
ZONING BOARD OF APPEALS
HISTORIC PRESERVATION COMMITTEE
TREE BOARD

5 YEAR PLANNING BOARD

FOR TOWN USE ONLY
Date Application Received: 12/14/09
COUNCIL COMMITTEE ACTION: DATE:
COUNCIL ACTION: DATE:
NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:



Check One:  Initial Application  Reappointment Application

A-3-k

TOWN OF HAMPDEN  
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: CLIFFORD John F  
LAST FIRST MI

ADDRESS: 71 MANNING MILL RD Hampden 04444  
STREET TOWN ZIP

MAILING ADDRESS (if different): \_\_\_\_\_

TELEPHONE: 862-3371 973-6180  
HOME WORK

EMAIL: \_\_\_\_\_

OCCUPATION: House Keeping

BOARD OR COMMITTEE PREFERENCE:  
FIRST CHOICE: Rec Committee

SECOND CHOICE (OPTIONAL): \_\_\_\_\_

How would your experience, education and/or occupation be a benefit to this board or committee?  
Currently a member of  
REC COMMITTEE

Are there any issues you feel this board or committee should address, or should continue to address?  
\_\_\_\_\_  
\_\_\_\_\_

- 3 YEAR
- CONSERVATION COMMITTEE
- BOARD OF ASSESSMENT REVIEW
- PERSONNEL APPEALS BOARD
- LURA HOIT MEMORIAL POOL
- ECONOMIC DEVELOPMENT COMMITTEE
- FRIENDS OF DOROTHEA DIX PARK
- DYER LIBRARY
- RECREATION COMMITTEE
- ZONING BOARD OF APPEALS
- HISTORIC PRESERVATION COMMITTEE
- TREE BOARD

5 YEAR  
PLANNING BOARD

<b>FOR TOWN USE ONLY</b>		Date Application Received: <b>DEC 29 2009</b>
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____

4-3-1



EMHS move and improve! SM

What if someone told you that moving more in your day could promote, maintain or improve your health! Move and Improve of Eastern Maine Healthcare Systems offers individuals the chance to increase or maintain physical activity levels to help in this effort through the use of structured goals and helpful tips and information to stay motivated along the way. Organizations have the opportunity to offer the program to their employees/students in a formal way.

We invite you and your organization to participate in our upcoming program.

**Program Cost.....FREE**

**Program Length.....12 weeks (February 28 - May 22, 2010)**

**Program Registration....February - March 26, 2010**

**Program Goals**

30-minutes per day  
4 days per week

~OR~

30-minutes per day  
5 days per week

~OR~

45-minutes per day  
5 days per week

**Program Location.....www.moveandimprove.org**

Is this the year that you and your organization are ready to "move and improve?" If so, register your organization for the program and attend one of the site coordinator training sessions to learn how to implement Move and Improve at your organization.

Please complete the following site entry form and mail it to me using the pre-paid marked envelope no later than January 20, 2010 if you are planning to attend a training session . If you are unable to attend one of the training sessions, fill out the form and return it no later than February 28, 2010 and we will send you the information. If you feel that you would like to have additional training, please contact me to coordinate a time (based on availability).

Please mark your calendar for one of the training sessions listed on the next page, and the following dates:

- Site Registration.....Now - March 26, 2010
- Participant Registration.....February - March 26, 2010
- Program Dates.....February 28 - May 22, 2010
- Goal Accomplishment Entry.....April 25 - June 8, 2010

If you have any questions, feel free to contact me. I invite you to visit our website at [moveandimprove.org](http://moveandimprove.org) for more information. Thanks and I look forward to working with you as we work together to help our fellow citizens of Maine lead healthier lifestyles through physical activity.

Sincerely,

Nicole Hammar  
Move and Improve Coordinator

phone # 207-973-7245 or [nhammar@emh.org](mailto:nhammar@emh.org)

TOGETHER We're Stronger

[www.moveandimprove.org](http://www.moveandimprove.org)

# 2010 Site Entry Form



EMHS move and improve!

Name of Organization \_\_\_\_\_

Please check one  Work Site  School Site  Community Site  Other

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone # \_\_\_\_\_

Email Address \_\_\_\_\_

email address to be used for correspondence by EMHS & Move and Improve only, we will not share your address with any other entity

## Training Sessions

<b>Bangor</b>	Eastern Maine Medical Center - Brandow Auditorium	January 25, 2010 (Monday)	<input type="checkbox"/> 12:00 pm <input type="checkbox"/> 4:00 pm
<b>Brewer</b>	Cianchette Building - 43 Whiting Hill Road - Auditorium	January 21, 2010 (Thursday)	<input type="checkbox"/> 12:00 pm <input type="checkbox"/> 4:00 pm
		February 2, 2010 (Tuesday)	<input type="checkbox"/> 8:00 am
<b>Pittsfield</b>	Sebasticook Valley Hospital - Cianchette Conference Room	February 3, 2010 (Wednesday)	<input type="checkbox"/> 8:00 am
<b>Presque Isle</b>	The Aroostook Medical Center - Conference Room #4	January 29, 2010 (Friday)	<input type="checkbox"/> 7:30 am
<b>Waterville</b>	Inland Hospital - Ford Grant Conference Room	January 27, 2010 (Wednesday)	<input type="checkbox"/> 12:00 pm

*\*In the event we experience inclement weather, training date may need to be cancelled, in this case an email will be sent to registered site coordinators*

I am unable to attend, please send me the training materials

By submitting this entry form, this site agrees that the above named coordinator is able and allowed to promote and recruit Move and Improve within the above identified site. The coordinator is permitted to communicate with the sponsor, EMHS Move and Improve program. Move and Improve will provide the coordinator materials to aid with program implementation.

Signature of Site Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Return this form to Nicole Hammar **prior to the date selected** if attending a training session. Otherwise, please return by **February 28, 2010** to:

EMHS Move and Improve  
43 Whiting Hill, Suite 500  
Brewer, ME 04412

Phone # 207-973-7245  
Fax # 207-973-7849

[www.moveandimprove.org](http://www.moveandimprove.org)



PO Box 8180  
Portland, ME 04104

A-3-M

Dear Town/City Manager,

I am writing to you as part of our ongoing efforts to keep you apprised of developments affecting Time Warner Cable customers in your community.

Time Warner Cable's agreements with programmers and broadcasters to carry their services and stations routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements, but in order to comply with applicable regulations, we must inform you when an agreement is about to expire. The agreements with the programmers/broadcasters on the attached list are due to expire soon and we may be required to cease carriage of one or more of these services/stations in the near future. Conversely, there are also times when we will include the addition of new channels within these ads.

Again, this is a routine notice and we are confident agreements will be reached with these networks. Enclosed is a copy of the ad that will run in the local daily paper; the notice can also be found on our website at: <http://www.timewarnercable.com/newengland/support/policies/channelchange.html>

These ads are placed in the first and third Wednesday of each month. This information is also located on the back of the customer bill.

Please do not hesitate to contact us if you have any questions.

Sincerely,

Melinda Poore  
Melinda.poore@twcable.com  
Ph: (207)253-2217

Mike Edgecomb  
Michael.edgecomb@twcable.com  
Ph: (207) 594-2249 x2181

Shelley Winchenbach  
Shelley.winchenbach@twcable.com  
Ph: (207) 594-2249 x2177

CABLE

HIGH-SPEED ONLINE

DIGITAL PHONE

Time Warner Cable - New England Division's agreements with programmers and broadcasters to carry their services and stations routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements, but in order to comply with applicable regulations, we must inform you when an agreement is about to expire. The following agreements are due to expire soon, and we may be required to cease carriage of one or more of these services/stations in the near future.

E!	Retro Plex
Style	Speed
Erotic Pleasure Networks	Starz!
Encore	Starz Cinema
Encore Action	Starz Comedy
Encore HD	Starz Comedy HD
Encore Love	Starz Edge
Encore Mystery	Starz Edge HD
Encore WAM	Starz In Black
Encore Westerns	Starz Kids & Family
Food Network	Starz Kids & Family HD
Fox Reality	TruTV
Fox Soccer	Great American Country
Fox Sports Espanol	Lifetime
Fuel	Weather Channel
FX	WFFF
I-LIFE (Inspiration Networks)	WVNY
Indie Plex	WFXT
Lifetime	WGBR
Movie Plex	

Please note, some channels listed may not be available in your service area. Please consult for local listings for more details at [www.timewarnercable.com/newengland](http://www.timewarnercable.com/newengland).

The following programming changes are scheduled to take place:  
**Shop NBC moving from Basic to Digital service tier in Aroostook County**

**Bangor : replace PIN on Ch 22 with DEALZ TV**  
**Moving PIN (DEALZ) to digital tier in Presque Isle area**  
**DEALZ TV moving to digital tier**

The following programming services are scheduled to be added throughout our service area (where available) as well:

**Sleuth TV (locations where currently not available)**  
**NBA TV**



Customers can visit our web site at [www.timewarnercable.com/newengland](http://www.timewarnercable.com/newengland) to obtain more details on the above notice.

Time Warner Cable, 118 Johnson Road, Portland, Maine 04102



A-4-a

Operated By  
New England Waste Services of ME, Inc.

December 24, 2009

Susan Lessard  
Town Manager  
Municipal Building  
106 Western Avenue  
Hampden, ME 04444

Dear Susan:

The enclosed host fee payment of \$43,849.29 represents the period November 2009, during which 23,702 tons were disposed at PTL.

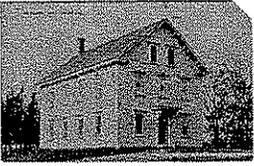
As always, please give me a call if you have any questions about the landfill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald Meagher".

Donald Meagher

Enc: Host community benefit payment



# Hampden Historical Society

## Newsletter – December 2009

### Upcoming Events for 2010

#### Book and Bake Sale - June 19, 2010

Our annual book and bake sale is on for June 19. We discussed having this bi-annually, but decided that we should continue with the annual event. It is rather difficult having fundraisers at Kinsley House due to limited space inside. We are able to hold the book sale inside the barn as well as inside the house. Please, as you tidy up your homes and dispense with unwanted items, save your books for HHS.

#### Heritage Day - September 11, 2010

Heritage Day is held at HHS every other year and 2010 is the year for this fun and exciting event. The Society hosts Heritage Day as a means of giving something back to our town and surrounding communities. This is a great way for children and adults alike to experience the past. We encourage anyone who has children, grandchildren and neighborhood children to bring them and let them participate in cider pressing, shingle making, learning about old tools, spinning, outdoor cooking and many other activities from bygone days. Mark your calendar and plan to enjoy this special day with us.

#### **Barn Windows**

All of the windows in our barn have been replaced except one. If anyone would care to make a donation of a window it would be greatly appreciated. Up to this point, all window replacements were donated as well as labor to install them. Our plan is to try to repair and paint the barn as we can afford to do so. The windows were a must before this project could be accomplished. One of our handyman members has his thoughts on repairing the blacksmith shop and our recently acquired grocery wagon. We are trying desperately to keep our house in order.

### 2009 Gingerbread Christmas Bazaar

Many, many thanks to all of our members who helped to make our annual bazaar such a great success. The bazaar realized \$3,400.75. This amounts to about \$77 more than the 2008 bazaar.

It takes the efforts of each and every member to be able to hold a successful bazaar. This money contributes to the utilities, mowing, plowing and general maintenance of Kinsley House throughout the year. Many of you have been extremely generous in supporting this event. To all of you who worked decorating, cooking, selling goods and raffle tickets, thank you so much for your time and support.

#### Raffle Winners:

Tom Hennessey Print - Polly Levesque  
Group of gift certificates - Janette Taylor

### Archival Activities

by Alice Hawes

An exciting new educational era for the towns of Hampden, Newburgh and Winterport began on September 9, 2009, with the groundbreaking ceremony for the new Hampden Academy. The structure will be located on the site of the current outdoor track and field area, and adjacent to the grounds of Earl C. McGraw School and Reeds Brook Middle School. The anticipated completion date for the new Academy is the summer of 2012.

Once again, the Hampden Historical Society's Katherine W. Trickey Archives is proving to be a resource for researchers. Among their topics of interest: information on the first Hampden Academy (incorporation in 1803, vote to begin erecting the school building in 1806, the Academy destroyed by fire in 1842); the present HA, built in 1843; other high schools in Hampden; the transition from HA as

a private academy to a public high school; and the formation of Maine School Administrative District #22.

One area of special interest to local Academy graduates and to current school students is the collection of Hampden Academy catalogs beginning in 1853, and the school newsletter and yearbook, "The Gossip," from the turn of the century, followed by the yearbook, "The Sedan," beginning post WW I, and continuing today.

When researchers on these and other topics visit the Hampden Historical Society, they find several volunteers busy at specific tasks in the Archives. The Head Archivist, Nadine Hoyt, and Assistant Archivist, Jean London, direct visitors to sites where the information they are seeking is located. Examples: surname files, genealogy folders, town records, school yearbooks, tax records, maps denoting property owners and records of churches and community organizations. An index, which was prepared by the archivists, states the location of material, and is very useful to researchers. In addition to directing work being done by the archive volunteers, the archivists file materials that have been received by the society and follow up on replying to phone calls, written requests and e-mails regarding genealogical and historical information. Tasks of this kind are often undertaken year round and beyond the regular society hours. Another of their activities is ordering materials such as products from archival catalogs, historical journals, and necessary office supplies. In addition to managing the society's website, the assistant archivist is the society librarian in charge of cataloging and documenting our growing library consisting of books by local authors and about Hampden and Maine history.

Functions of other volunteers are an important part of the workings of the archives. One worker scans current newspapers for articles about residents and events, and then working along with another volunteer, they record the articles and add them to the society files. Another person works to organize various files, and is currently preparing a brochure about an important 19<sup>th</sup> century Hampden person. This brochure will be added to several others that volunteers have written about individuals significant to our town. Another important project undertaken by a volunteer consists of cataloging as well as digitizing our large photo/picture collection.

All this work is being done by a group of loyal members who include Evelyn Clisham, Emma Walton, Carroll "Chip" Mattson and Phyllis Bartlett.

Other society members often offer assistance to the archives, some of their activities being transcribing primary documents (journals, ledgers, account books), or helping "make things run smoothly" by assisting in the archives room, and finding areas for volunteers and researchers to work. Because of the limited amount of space in the present K.W. Trickey Archive Room, folding tables and chairs must be set up in the main meeting room of the Society.

As the amount of archival material grows, the archive volunteers recognize their need for updated technological equipment (computers, photocopier, desk space, proper lighting), which are of importance for the future of this facility, dedicated to conserving the history of Hampden.

In 2008, Hampden was one of eight Maine communities selected by the Maine Historical Society to participate in its Maine Community Heritage Project. The HHS will continue to help with this project during this school year. Teachers and students will use material from the HHS archives (photos, books, ledgers, maps), and take field trips to the Kinsley House, the Carriage House and the Law Office. During the year a society member will give presentations on Hampden history at Reeds Brook Middle School. In learning about Hampden's past, students will prepare themselves for the future, watching with anticipation the completion of the new Hampden Academy.

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N.B. The Katherine W. Trickey Archive Room is open from 10:00 AM to 4:00 PM on Tuesdays during the months of April through October.

The website about the new Hampden Academy is [www.sad22.us](http://www.sad22.us). On the right side of the screen is a list of upcoming events. Click on Hampden Academy Project Building, on the next screen will be a title called New Hampden Academy Building Project – Phase I. Click on this title to find a photo of construction of the road from Western Avenue leading to the new school site. The website will be updated as the project progresses.

## Condolences

Nadine Hoyt on the loss of her sister, Joan Recker  
Cynthia Fielding family  
Ken Rowell on the loss of his brother, Richard  
Rowell

## Concerns

Gary & Sue Mock  
Roy Barteaux  
George Miller

## Items for Sale

Echoes From the Past, Book #2 - \$20  
Hampden Montage #2, - \$20  
Historical Sketches of Hampden - \$35/ea or 5 for  
\$30/ea

There is a \$5 shipping charge for any of the books.

## Congratulations, Vivian

Our treasurer, Vivian Gresser, is retiring from the Town of Hampden as tax assessor on December 31, 2009. Vivian has been a faithful employee of the town for many years and she will be greatly missed in that capacity. However, Vivian has alluded to the fact that she might have more time to volunteer for Hampden Historical Society and for that we will be grateful. A reception in her honor will be held on January 4, from 5:00 to 7:00 p.m. at the Hampden Municipal Building. This reception is open to the public.

Best wishes, Vivian, from all of us at the Hampden Historical Society!

## Best Wishes To Our Tenants

Frank and Elthia Sonia will be moving from the Kinsley House apartment some time mid-January. Frank and Elthia have been the best of tenants and they will be greatly missed. All of us at Hampden Historical Society wish them well in their new Academy Apartment.

Hampden Historical Society

## Coconut Macaroons

Preheat oven to 350 degrees. Line two baking sheets with parchment paper or coat generously with nonstick cooking spray.

In a large bowl, whisk together 3 large egg whites, ½ cup sugar and ¼ teaspoon salt until frothy. With a fork, stir in 1 package (14 ounces) sweetened flaked coconut until moistened.

Drop mixture by packed level tablespoons onto prepared sheets (cookies will not spread). Bake, rotating sheets halfway through until lightly golden, 25 to 30 minutes. Transfer to a wire rack to cool completely.

Store in an airtight container at room temperature.

These cookies are easy to make, taste delicious and are naturally gluten free.

*Do you have a favorite recipe you would like to share?*

## Does Anyone Remember Lowe/Parsons/Jones families?

See the following letter requesting information.

October 19, 2009

Hampden Historical Society  
PO Box 456  
Hampden, Maine 04444

Dear Members,

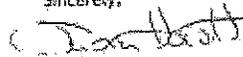
My family and I would like to thank you for your assistance and hospitality when we visited last month. I was doing research and on the Lowe and Parsons families in town. My special thanks to Alice Hawes and Phyllis Bartlett for their time. My thanks to other members who were there that day and whose names I cannot remember.

I would like the Society's help in two areas of my research. First, I would like to know if anyone remembers the Lowe/Parsons/Jones family that I believe lived at 26-28 Main Street. Hattie Lowe Parsons Jones was my grandmother; my mother was Frances Parsons (Fastiggi) who grew up in town. Is there anyone related to the Lowe's that still live in town?

Second, I would like to know if any of the Parsons that live locally can trace their family back to Prince Edward Island. My grandfather was William Parsons, who may have worked in a sawmill nearby. His parents were John and Caroline Parsons of PEI.

Thank you again for your assistance - past, present, and hopefully future.

Sincerely,



Susan Howitt  
148 Camp Hill Road  
Pomona, New York 10970

## Kinsley House Winter Schedule

Kinsley House is now closed for the winter months. We will resume our meetings in March. March 22 will be about the first white settlers on the Penobscot presented by Fran and Guy Grant. Hospitality will be provided by Dot Clukey and Becky Martin.

The Society will reopen on Tuesdays in April. Membership dues were due in May 2009. This is a one-year membership unless you are an Honorary or Life member. If you have not paid your 2009 dues, please submit to HHS, P.O. Box 456, Hampden, ME 04444. Please inform the Society if your address changes.

## Donations

HHS has just received a \$500 donation from the Maine Community Foundation. The grant was made from the Chase Family Fund thanks to member Marjory Chase. This is a donation that she has requested for us for the past several years. Thank you, Marjory!

Several donations have recently been received in memory of our beloved member Joan Recker who passed away last month.

Hampden Historical Society  
PO Box 456  
Hampden, ME 04444

Town of Hampden  
106 Western Ave.  
Hampden, ME 04444

## Moving or Change of Address

We have no way of forwarding our newsletter to members who move unless they notify us of their change of address. Non-profit mailing does not forward mail or return it to sender.

## E-Mail Addresses

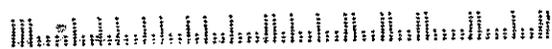
We are compiling a list of members who have a computer and access to the Internet. With that information, we could send out a monthly notice as a reminder of our meeting date and program to be presented. Please send your email address to the following email address: rodstan@tds.net.

## HHS Website

See our website at [www.rootsweb.com/~mehhs/](http://www.rootsweb.com/~mehhs/)

The HHS newsletter will be issued quarterly. Please submit items, articles, suggestions to Janice Von Brook, 121 Miller Road, Hampden, ME 04444, kvf@tds.net, or 207 862-3182.

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**TO:** Hampden Town Council  
**FROM:** Robert Osborne, Town Planner  
**SUBJECT:** Draft Shoreland Zoning Ordinance  
**DATE:** December 2, 2009

**Update.** This is the draft Shoreland Zoning Ordinance and Map that the Planning Board is returning to the Town Council with a unanimous "ought to pass" recommendation at their November 18, 2009 meeting. This document is the culmination of an extensive effort of the Planning and Development Committee, Planning Board, citizens and staff. It has been reviewed by Tom Russell and his recommendations have been incorporated into the document that the Planning Board has returned to the Council. This draft ordinance indicates each proposed addition or deletion change from the referral document that the Council referred the Planning Board for the September 23, 2009 hearing.

**Background.** The Hampden Town Council voted to refer this item to the Planning Board for Public Hearing. Subsequently, the Planning Board voted on August 12, 2009 to set the public hearing for this draft ordinance and map. At 7:00 pm, September 23, 2009 in Community Room the Planning Board held the public hearing on this item. Following the public hearing the Planning Board referred this item to the Planning Board Ordinance Committee for review of the ordinance and the public record and to make recommendations. Please find attached a draft of the Shoreland Zoning Ordinance. This document incorporates the written recommendations from Tom Russell into the ordinance and the recommendations of the Ordinance Committee. The Planning Board Ordinance Committee meetings were held October 7, 14 and 28, 2009 in the Council Chambers.

As you are aware these regulations are mandated by statute, and the Town must adopt them in the form of a local ordinance. The Maine Department of Environmental Protection drafted the "Model Ordinance" Chapter 1000 on which this draft is based.

This draft ordinance is a freestanding ordinance. The shoreland provisions currently found in the Zoning Ordinance would be removed and these regulations would apply.

The primary departure from the model ordinance is the addition of a local stream protection district. The statute requires protection of streams which are below the confluence of two USGS mapped streams. The Council Ordinance Committee, Conservation Commission, Comprehensive Plan Committee and previous Planning Boards and Town Councils have agreed that protection of non-jurisdictional streams such as Reeds Brook is important to the community. This ordinance would expand the list to also include Baker Brook and two unnamed tributaries, Cold Brook, Reeds Brook, Shaw Brook, Sucker Brook and Weber Brook.

12/7/2009 - Introduced for Public Hearing on 1/4/2010

**List of Changes From the Referral Document and Map.** The following is a list of proposed changes to the Draft Shoreland Zoning Ordinance and Map recommended by the Planning Board Ordinance Committee at its October 28, 2009 meeting to the referral documents received in July, 2009.

The following changes to the Draft Shoreland Zoning Map were recommendations by citizens to the Board and or Staff and found to have merit:

Dick Rushmore pointed out that his residence on Mead Road (off Sawyer Road) is on a town way and should be *zoned LR rather than Resource Protection*.

Larry Cliff pointed out that his land on Bog Road is not on a river but a stream and should have *SP rather than RP*.

Alex King pointed out that his land on Ichabod Lane did not properly map wetlands and provided new location provided by Moyse Environmental and *map was adjusted*.

Ray Buchanon requested that his property on Emerson Mill Road at the Souadscook Stream not be RP and staff determined that his property should be a *split zone RP/GD consistent with the other side of the street*.

Don Peletier requested that the *Baker Brook Tributary 2 be shortened* because it did not extend as far as indicated on the original map.

Mr. Frey requested that the town review if the Souadabscook is actually a river. We determined that a *portion of the West Branch Souadabscook Stream is actually a stream* because it did not drain 25 sq. mi.

Mr. Lipincott requested that the town review his residence on Wilbur Drive to see if RP could be changed. *Staff recommended 100 foot rule around all existing residences for LR*.

The following changes were recommended by staff and found to have merit:

The Deighan camps on Hammond Pond changed *LR rather than RP*.

Souadabscook Stream just south of Route 202 changed *LR rather than RP*.

Other Souadabscook Stream areas changed to be consistent with 300 ft. rule from streets thus changing RP to LR.

An extensive list of notes were added to the map changed to identify significant wildlife habitats, great ponds, rivers, streams, local streams, wetlands, etc.

A note was added changed to make all shorelines subject to ground verification.

A note must be added to describe rivers flowing to great ponds to describe West Branch Souadabscook Steam as *Brown Brook to Hammond Pond* rather than Newburgh Line to Hammond Pond.

*A note must be added: Residential dwelling units and the land area within 100 feet of such residential dwelling units subject to shoreland zone regulations at the time of adoption of this ordinance shall be*

included in Limited Residential District. Such Limited Residential Districts shall be limited to the subject property only and not extend to neighboring properties.

Add initials of zoning districts in keeping with the ordinance (SP, RP, etc.).

The following is a list of proposed changes to referral Shoreland Zoning Ordinance draft.

*4C Repeal of Prior Shoreland Zoning Ordinance* - Repeal of Zoning Ordinance shoreland provisions.

*9A 6,7 and 8 Official Shoreland Zoning Map* - Delete unused shoreland districts.

*11 (after)* - Delete note to be used elsewhere.

*12C2 - Non-conforming Structures Relocation* – Substitute Code Enforcement Off. for Planning Board.

*12C3 - Non-conforming Structures Relocation* – Substitute Code Enforcement Off. for Planning Board.

*12D3 – Non-Conforming Uses* – Delete unused shoreland districts.

*13A1 – RP District Waterbodies and Wetlands* – Delete and add wetlands.

*13B - Limited Residential District* – Add existing residences to be included in LR designation.

*13C - Limited Commercial District* (deleted) – Add defunct zone name to 13C.

*13E - General Development District* (deleted) - Add defunct zone name to 13 E.

*13F - Commercial Fisheries/Maritime Activities* (deleted) – Add defunct zone name to 13F.

*13G - Stream Protection District* – Add list of streams.

*13H - Local Stream Protection District* – Delete incorrect stream names.

*14 Table of Land Uses* – Delete unused districts.

- Add notes now appearing after Table 1

*Table 1* – Add LSP Column.

- Delete Limited Commercial Column
- Require Code Enforcement Officer for 3, 4 and 5 in SP, LSP and RP
- Delete footnotes 5 and 11
- Add footnotes 13 and 14
- Delete notes after Table 1.

*15A Minimum Lot Standards (1)(b)(i) & (ii)* – Delete references to CFMA district.

*15B(1) Shoreline Setback* – Delete reference to GD1 and CFMA districts.

*15B(1) Shoreline Setback* – Add note referencing 15B(1)(c).

*15B(1) Shoreline Setback* - Add note from elsewhere to here.

*15B(1)(c) Shoreline Setback* – Add reference to GIS data layer and “Town of Hampden” Board of Appeals.

*15B(2) Height* - Delete reference to Limited Commercial (LC)

*15B(3) Floodplain* – Delete single flood standard and reference Floodplain Management Ordinance.

*15B(4) Lot Coverage* – Delete reference to CFMA.

*15G(1) Parking Areas* – Delete reference to CFMA and GD.

*15M Mineral Exploration...* – Add note after to reference Article 4.23 Zoning Ordinance rules.

*15M(2)* – Delete “classified GPA” references and property line setback regulation and add sentence referencing Zoning Ordinance Article 4.23 property line setback standards.

*15O Timber Harvesting* – Add licensed forester language.

*15P Clearing and Removal...* - Add licensed forester language.

*15P(5)* Add language relaxing requirement for licensed forester for construction of new single-family residence under certain conditions.

*16C Shoreland Permit...* - Add language to allow application for shoreland permit through building permit.

*17 Definitions.*

*Family* – Replace original definition with zoning ordinance definition.

*Forest Management Plan* – Add licensed forester to language.

*Local Stream* – Add streams to list and delete Brown Brook.

*River* – Add list of rivers.

*Significant River Segment* – Add new language per Tom Russell regarding date of adoption.

*Stream* – Add list of streams.

*Tributary Stream* – Delete list of streams.

Town of Hampden, Maine

Draft Shoreland Zoning Ordinance  
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NOTE: This document is based on Chapter 1000 Guidelines for Municipal Shoreland Zoning Ordinances.

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**Town of Hampden, Maine  
Draft Shoreland Zoning Ordinance**

NOTE: Words appearing in *italics* are defined terms that appear in Article 17 Definitions.

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect *commercial* fishing and maritime industries; to protect freshwater and *coastal wetlands*; to control building sites, placement of *structures* and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of *development* in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the *normal high-water line* of any *great pond* or *river*, the upland edge of a *coastal wetland*, including all areas affected by tidal action, the upland edge of a *freshwater wetland*, all land areas within 75 feet, horizontal distance, of the *normal high-water line* of a *stream* and all land areas within 75 feet, horizontal distance, of the *normal high-water line* of certain *local streams*.

NOTE: The Town of Hampden, Maine has opted to not govern docks, wharfs, piers or other extending or located below the shoreline. Such structures are subject to other regulatory bodies.

**4. Effective Date**

**A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the Town of Hampden on \_\_\_\_\_ Date \_\_\_\_\_, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a *shoreland permit* submitted to the Town of Hampden within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

**B. Sections 15(O) and 15(O-1).** Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

**C. Repeal of Prior Shoreland Zoning Provisions.** Upon the effective date of this Ordinance pursuant to Section 4(A) above, Section 4.14 of the "Zoning Ordinance of the Town of Hampden, Maine" shall stand repealed. Provided, however, that said provisions of the Zoning Ordinance shall remain in effect for the prosecution of any violations thereof in existence as of the effective date of this Ordinance."

5. **Availability.** A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the Town of Hampden, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the Town Council. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town of Hampden and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a *shoreland permit* submitted to the Town of Hampden within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Shoreland Districts and Shoreland Zoning Map**
  - A. **Official Shoreland Zoning Map.** The *shoreland zone* areas to which this Ordinance is applicable are hereby divided into the following shoreland districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
    - (1) Resource Protection also identified by the initials RP
    - (2) Limited Residential also identified by the initials LR
    - (3) General Development also identified by the initials GD
    - (4) *Stream* Protection also identified by the initials SP
    - (5) *Local Stream* Protection also identified by the initials LSP
    - ~~(6) Limited Commercial also identified by the initials LC~~
    - ~~(7) General Development II also identified by the initials GDII~~
    - ~~(8) Commercial Fisheries and Maritime Activities also identified by the initials CFMA~~
  - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
  - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the municipal office.
  - D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days

after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

**10. Interpretation of Shoreland District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, edge of pavement of streets, *roads* and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of shoreland district boundary lines, the Board of Appeals shall be the final authority as to location.

**11. Land Use Requirements.** Except as hereinafter specified, no building, *structure* or land shall hereafter be used or occupied, and no building or *structure* or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

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NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

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## **12. Non-conformance.**

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that *non-conforming conditions* that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a *non-conforming condition* shall not be permitted to become more non-conforming.

### **B. General**

- (1) Transfer of Ownership. *Non-conforming conditions* may be transferred, and the new owner may continue the *non-conforming use* or continue to use the *non-conforming structure* or *non-conforming lot*, subject to the provisions of this Ordinance.
- (2) Repair and Maintenance. This Ordinance allows, without a *shoreland permit*, the normal upkeep and maintenance of *non-conforming uses* and *structures* including repairs or renovations that do not involve *expansion* of the *non-conforming use* or *structure*, and such other changes in a *non-conforming use* or *structure* as federal, state, or local building and safety codes may require.

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NOTE: See Section 17 for the definitions of non-conforming *structures*, *non-conforming uses* and *non-conforming lots*.

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### **C. Non-conforming Structures**

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

- (a) After January 1, 1989 if any portion of a *structure* is less than the required *shoreline setback* from the *shoreline*, that portion of the *structure* shall not be expanded, as measured in *floor area* or *volume of a structure*, by 30% or more, during the lifetime of the *structure*. If a replacement *structure* conforms with the requirements of Section 12(C)(3), and is less than the required *setback* from the *shoreline*, the replacement *structure* may not be expanded if the original *structure* existing on January 1, 1989 had been expanded by 30% in *floor area* and *volume of a structure* since that date.
- (b) Whenever a new, enlarged, or replacement *foundation* is constructed under a *non-conforming structure*, the *structure* and new *foundation* must be placed such that the *shoreline setback* requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed *foundation* does not extend beyond the exterior dimensions of the *structure*, except for *expansion* in conformity with Section 12(C)(1)(a) above, and the *foundation* does not cause the *structure* to be elevated by more than three (3) additional feet, as measured from the uphill side of the *structure* (from original ground level to the bottom of the first floor sill), it shall not be considered to be an *expansion* of the *structure*.
- (2) Relocation. A *non-conforming structure* may be relocated within the boundaries of the parcel on which the *structure* is located provided that the site of relocation conforms to all *setback* requirements to the greatest practical extent as determined by the Code Enforcement Officer Planning Board or its designee, and provided that the applicant demonstrates that the present *subsurface wastewater disposal system* meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a *replacement system* can be installed in compliance with the law and said Rules. In no case shall a *structure* be relocated in a manner that causes the *structure* to be more non-conforming.

In determining whether the building relocation meets the *shoreline setback* to the greatest practical extent, the Code Enforcement Officer Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other *structures* on the property and on adjacent properties, the location of the *subsurface wastewater disposal system* and other on-site soils suitable for *subsurface wastewater disposal systems*, and the type and amount of *vegetation* to be removed to accomplish the relocation. When it is necessary to remove *vegetation* within the *shoreline setback* area in order to relocate a *structure*, the Code Enforcement Officer Planning Board shall require replanting of *native vegetation* to compensate for the destroyed *vegetation*. In addition, the area from which the relocated *structure* was removed must be replanted with *vegetation*. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a *structure* must be replanted with at least one *native tree*, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the *shoreline* than the trees that were removed.

Other woody and herbaceous *vegetation*, and *ground cover*, that are removed or destroyed in order to relocate a *structure* must be re-established. An area at least the same size as the area where *vegetation* and/or *ground cover* was disturbed, damaged, or

removed must be reestablished within the *shoreline setback* area. The *vegetation* and/or *ground cover* must consist of similar *native vegetation* and/or *ground cover* that was disturbed, destroyed or removed.

- (b) Where feasible, when a *structure* is relocated on a parcel the original location of the *structure* shall be replanted with *vegetation* which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any *non-conforming structure* which is located less than the minimum required *shoreline setback* and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the *market value* of the *structure* before such damage, destruction or removal, may be reconstructed or replaced provided that a *shoreland permit* is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the *shoreline setback* requirement to the greatest practical extent as determined by the Code Enforcement Officer Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a *structure* be reconstructed or replaced so as to create an *increase in non-conformity of a structure*. If the reconstructed or replacement *structure* is less than the minimum required *shoreline setback* it shall not be any larger than the original *structure*, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming *floor area* and volume of the reconstructed or replaced *structure* at its new location. If the total amount of *floor area* and volume of the original *structure* can be relocated or reconstructed beyond the minimum required *shoreline setback* area, no portion of the relocated or reconstructed *structure* shall be replaced or constructed at less than the minimum *shoreline setback* requirement for a new *structure*. When it is necessary to remove *vegetation* in order to replace or reconstruct a *structure*, *vegetation* shall be replanted in accordance with Section 12(C)(2) above.

Any *non-conforming structure* which is located less than the minimum required *shoreline setback* and which is removed by 50% or less of the *market value*, or damaged or destroyed by 50% or less of the *market value* of the *structure*, excluding normal maintenance and repair, may be reconstructed in place if a *shoreland permit* is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the *shoreline setback* to the greatest practical extent the Code Enforcement Officer Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of *foundation* present, if any.

- (4) Change of Use of a Non-conforming Structure. The use of a *non-conforming structure* may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the *water body*, *tributary stream*, *local stream*, or *wetland*, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain

management, archaeological and historic resources, and *commercial* fishing and maritime activities, and other *functionally water-dependent uses*.

#### D. Non-conforming Uses

- (1) Expansions. *Expansions* of *non-conforming uses* are prohibited, except that non-conforming residential uses may, after obtaining a *shoreland permit* from the Planning Board, be expanded within existing residential *structures* or within *expansions* of such *structures* as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or *structure* in or on which a *non-conforming use* is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a *non-conforming use* except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential *structure* provided that the *structure* has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) Change of Use. An existing *non-conforming use* may be changed to another *non-conforming use* provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, ~~including *functionally water-dependent uses* in the CFMA district,~~ than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

#### E. Non-conforming Lots

- (1) Non-conforming Lots: A *non-conforming lot* of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except *lot area*, *minimum lot width* and *shore frontage* can be met. Variances relating to *shoreline setback* or other requirements not involving *lot area*, *minimum lot width* or *shore frontage* shall be obtained by action of the Board of Appeals.
- (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the *dimensional requirements* of this Ordinance, and if a *principal use* or *structure* exists on each lot, the *non-conforming lots* may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more *principal uses* or *structures* existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the *dimensional requirements* of this Ordinance.

- (3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the *dimensional requirements* of this

Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no *principal structure* the lots shall be combined to the extent necessary to meet the *dimensional requirements*.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on December 16, 1991 and recorded in the registry of deeds if the lot is served by a municipal sanitary sewer or can accommodate a *subsurface wastewater disposal system* in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of *shore frontage* and at least 20,000 square feet of *lot area*; or
- (b) Any lots that do not meet the *shore frontage* and *lot area* requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of *shore frontage* and 20,000 square feet of *lot area*.

### 13. Establishment of Shoreland Districts

**A. Resource Protection District.** The Resource Protection District includes areas in which *development* would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the *Stream* Protection District, except that areas which are currently developed and areas which meet the criteria for the General Development District need not be included within the Resource Protection District.

- (1) Water bodies and Wetlands. Areas within 250 feet, horizontal distance, of the *shoreline* of *freshwater wetlands* and *wetlands* associated with *great ponds* and *rivers*, (depicted on the Town of Hampden Fresh-Water Wetlands Map prepared by the DEP and dated 1989) which have Wetland Identification Number: 3, 118, ~~121~~, 123, 136, 137, 138, 139, 147, 148, 149, 153 and 157 are rated as moderate or high value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "*wetlands* associated with *great ponds* and *rivers*" shall mean areas characterized by non-forested wetland *vegetation* and hydric soils that are contiguous with a *great pond* or *river*, and have a surface elevation at or below the water level of the *great pond* or *river* during the period of normal high water. "*Wetlands* associated with *great ponds* or *rivers*" are considered to be part of that *great pond* or *river*.
- (2) Floodplains. Floodplains along *rivers* defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps *s*. This district shall also include 100 year floodplains adjacent to *tidal waters* as shown on FEMA's Flood Insurance Rate Maps.
- (3) Slopes. Areas of two or more contiguous acres with *sustained slopes* of 20% or greater.
- (4) Other Smaller Wetlands. Areas of two (2) or more contiguous acres supporting *wetland vegetation* and hydric soils, which are not part of a freshwater or *coastal wetland* as defined,

and which are not surficially connected to a *water body* during the period of normal high water.

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NOTE: These areas usually consist of *forested wetlands* abutting *water bodies* and non-forested *wetlands*.

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- (5) Bluffs and River Bank Erosion. Land areas along *rivers* subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to *tidal waters* which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- B. Limited Residential District.** The Limited Residential District includes those areas within 250 feet, horizontal distance, of the *shoreline* suitable for residential and recreational *development*. It includes areas other than those in the Resource Protection District, Stream Protection District or Local Stream Protection District and areas which are used less intensively than those in the General Development District. Residential dwelling units and the land area within 100 feet of such residential dwelling units subject to shoreland zone regulations at the time of adoption of this ordinance shall be included in Limited Residential District. Such Limited Residential Districts shall be limited to the subject property only and not extend to neighboring properties.
- C. (Limited Commercial District). Deleted.**
- D. General Development District.** The General Development District includes areas within the *shoreland zone* containing the following types of existing, intensively developed areas:
- (1) Areas of two or more contiguous acres devoted to *commercial, industrial* or intensive recreational activities, or a mix of such activities, including but not limited to the following:
- (a) Areas devoted to manufacturing, fabricating or other *industrial* activities;
- (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other *commercial* activities; and
- (c) Areas devoted to intensive recreational *development* and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive *commercial, industrial* or recreational uses.
- E. (General Development II District). Deleted.**
- F. (Commercial Fisheries/Maritime Activities District). Deleted.**
- G. Stream Protection District.** The *Stream* Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the *shoreline* of a *stream* exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the *shoreline* of a *great pond*, or *river*, or freshwater or *coastal wetland*. The three following waterways are streams: the portion of the West Branch Souadabscook Stream southwest of its confluence with Brown Brook, Brown Brook and Burnt Swamp Stream. Where a *stream* and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or

wetlands, that land area shall be regulated under the terms of the shoreland district associated with that *water body* or *wetland*.

**H. Local Stream Protection District.** The Local Stream Protection District shall include all land areas within seventy-five (75) feet horizontal distance of the shoreline of the following *local waterways* including: Baker Brook (and two unnamed tributaries of Baker Brook), ~~Brown Brook,~~ Cold Brook, Reeds Brook, Shaw Brook, Sucker Brook, and Weber Brook ~~and an unnamed brook in the southwest corner of Town.~~

**14. Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

- Yes - Allowed (no *shoreland permit* required but the use must comply with all applicable land use standards.)
- No - Prohibited
- PB - Allowed with *shoreland permit* issued by the Planning Board.
- CEO - Allowed with *shoreland permit* issued by the Code Enforcement Officer
- LPI - Allowed with *shoreland permit* issued by the Local Plumbing Inspector

Abbreviations:

- RP - Resource Protection
- LR - Limited Residential
- GD - General Development
- SP - Stream Protection
- LSP - Local Stream Protection
- ~~LC - Limited Commercial~~
- ~~GDII - General Development II~~
- ~~CFMA - Commercial Fisheries and Maritime Activities~~

The following notes are applicable to the Land Uses Table on the following page:

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NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, *great pond, river, stream* or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, *vegetation* or other materials;
  - B. Draining or otherwise dewatering;
  - C. Filling, including adding sand or other material to a sand dune; or
  - D. Any construction or alteration of any permanent *structure*.
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NOTE: A person performing any activities in a Shoreland Area shall also be subject to the Town of Hampden, Maine Zoning Ordinance which also governs land use activities. The most restrictive standards shall apply.

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**TABLE 1. LAND USES IN THE SHORELAND ZONE**

<u>LAND USES</u>	<u>DISTRICT</u>				
	SP	LSP	RP	LR	GD
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	Yes CEO	Yes CEO	CEO	Yes <sup>13</sup>	Yes <sup>13</sup>
4. Timber harvesting	CEO	CEO	CEO	Yes <sup>14</sup>	Yes <sup>14</sup>
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO	CEO <sup>1</sup>	Yes <sup>14</sup>	Yes <sup>14</sup>
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	no	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
10. Mineral extraction including sand and gravel extraction	no	no	PB <sup>3</sup>	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	yes	PB	yes	yes
14. Aquaculture	PB	PB	PB	PB	yes
15. Principal structures and uses					
A. One and two family residential, including driveways	PB <sup>4</sup>	PB <sup>4</sup>	PB <sup>9</sup>	CEO	CEO
B. Multi-unit residential	no	no	no	PB	PB
C. Commercial	no	no	no <sup>10</sup>	no <sup>10</sup>	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	no	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB <sup>4</sup>	PB	CEO	CEO
16. Structures accessory to allowed uses	PB <sup>4</sup>	PB <sup>4</sup>	PB	CEO	yes
17. Deleted					
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	PB	yes
20. Private subsurface wastewater disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>12</sup>	yes <sup>12</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB <sup>6</sup>	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
D. Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no	no <sup>7</sup>	PB	PB
26. Road construction	PB	PB	no <sup>8</sup>	PB	PB
27. Land management roads	yes	yes	PB	yes	yes
28. Parking facilities	no	no	no <sup>7</sup>	PB	PB
29. Marinas	PB	PB	no	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	CEO	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	PB	CEO	CEO
32. Signs	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO shoreland permit	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB shoreland permit	PB	PB	PB	PB	PB

<sup>1</sup>In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

<sup>2</sup>Requires shoreland permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup>In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup>Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>5</sup>Reserved. Functionally-water-dependent uses and uses accessory to such water-dependent uses only.

<sup>6</sup>See further restrictions in Section 15( L)(2).

<sup>7</sup>Except when area is zoned for resource protection due to floodplain criteria in which case a shoreland permit is required from the PB.

<sup>8</sup>Except as provided in Section 15(H)(4).

<sup>9</sup>Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Single Family, Special Exceptions. Two-family residential structures are prohibited.

<sup>10</sup>Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>11</sup>Reserved. Excluding bridges and other crossings not involving earthwork, in which case no shoreland permit is required.

<sup>12</sup>Shoreland permit not required but must file a written "notice of intent to construct" with CEO.

<sup>13</sup>Forest Management Activities must be carried out consistent with a forest management plan prepared and submitted by a licensed forester.

<sup>14</sup>All timber harvesting and clearing activities shall be supervised by a licensed forester.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:  
 A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;  
 B. Draining or otherwise dewatering;  
 C. Filling, including adding sand or other material to a sand dune; or  
 D. Any construction or alteration of any permanent structure.

NOTE: A person performing any activities in a Shoreland Area shall also be subject to the Town of Hampden, Maine Zoning Ordinance which also governs land use activities. The most restrictive standards shall apply.

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit Within the Shoreland Zone		
(i) Adjacent to Tidal Areas on well and septic	30,000	150
(ii) Adjacent to Non-Tidal Areas on well and septic	40,000	200
(iii) Adjacent to Tidal Areas on municipal sewer and water	18,000	125
(iv) Adjacent to Non-Tidal Areas on municipal sewer and water	18,000	125
(b) Governmental, Institutional, Commercial or Industrial per principal structure Within the Shoreland Zone		
(i) Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities <u>Deleted.</u>	<del>NONE</del>	<del>NONE</del>
(iii) Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities Within the Shoreland Zone		
(i) Adjacent to Tidal and Non-Tidal Areas	40,000	200
(2) Certain Land Not Included Toward Lot Area. Land below the <i>normal high-water line</i> of a <i>water body</i> or <i>upland edge of a wetland</i> and land beneath <i>roads</i> serving more than two (2) lots shall not be included toward calculating minimum <i>lot area</i> .		
(3) Lots Bisected By Roads. Lots located on opposite sides of a public or private <i>road</i> shall be considered each a separate tract or parcel of land unless such <i>road</i> was established by the owner of land on both sides thereof after September 22, 1971.		
(4) Minimum Lot Width. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the <i>normal high-water line</i> of a <i>water body</i> or <i>upland edge of a wetland</i> shall be equal to or greater than the <i>shore frontage</i> requirement for a lot with the proposed use.		
(5) Group Developments. If more than one <i>residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use</i> , or combination thereof, is constructed		

or established on a single parcel, all *dimensional requirements* shall be met for each additional dwelling unit, *principal structure*, or *use*. (Please note that there are additional standards for group developments contained in the Zoning Ordinance).

**B. Principal and Accessory Structures**

- (1) Shoreline Setback. All new *principal* and *accessory structures* shall be set back at least one hundred (100) feet, horizontal distance, from the *shoreline* which is the *normal high-water line* of *great ponds* and *rivers* that flow to *great ponds*, and seventy-five (75) feet, horizontal distance, from the *normal high-water line* of other *water bodies*, *tributary streams*, local streams or the *upland edge of a wetland*—~~except that in a General Development I District the shoreline setback from the normal high water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback.~~ In the Resource Protection District the *shoreline setback* requirement shall be 250 feet, horizontal distance, except for *structures*, *roads*, parking spaces or other regulated objects specifically allowed in that district in which case the *shoreline setback* requirements specified above shall apply.

Minimum Shoreline setback requirements

RP District except for specifically permitted structures	250 feet
Great Ponds	100 feet
Rivers that flow to Great Ponds	100 feet
Rivers	75 feet
Streams, Tributary Streams <sup>1</sup> and Local Streams	75 feet
Wetlands	75 feet
In addition:	
Unstable & Highly Unstable Coastal Bluffs	Required shoreline setback measured from top of bluff. <u>(See section 15B(1)(c) below)</u>

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<sup>1</sup>NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

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- (a) Exception for Water-Dependent Uses. The *shoreline setback* provision shall neither apply to *structures* which require direct access to the *water body* or *wetland* as an operational necessity, such as piers, docks and retaining walls, nor to other *functionally water-dependent uses*.
- (b) deleted.
- (c) Coastal Bluff Setback. For *principal structures*, the *shoreline setbacks* established in 15B(1) shall be measured in horizontal distance starting at and away from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. The Maine Office of GIS Data Catalog provides a data layer titled “coastal bluff hazards” (<http://megis.maine.gov/catalog>) which is also acceptable as source information for coastal bluffs. If the specific location of a “highly unstable” or “unstable” bluff, or where the top

of the bluff is located is in question, the applicant must at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement by the permitting official is not reached in regard to the location of the top of the bluff the applicant may appeal the matter to the Town of Hampden Board of Appeals.

- (d) Exception for Accessory Structures. On a *non-conforming lot* of record on which only a residential *structure* exists, and it is not possible to place an *accessory structure* meeting the required *shoreline setbacks*, the code enforcement officer may issue a *shoreland permit* to place a single *accessory structure*, with no utilities, for the storage of yard tools and similar equipment. Such *accessory structure* shall not exceed eighty (80) square feet in area nor eight (8) feet in *height of a structure*, and shall be located as far from the *shoreline* as practical and shall meet all other applicable standards, including lot coverage and *vegetation* clearing limitations. In no case shall the *structure* be located closer to the *shoreline* than the *principal structure*.
  
- (2) Height. *Principal* or *accessory structures* and *expansions* of existing *structures* which are permitted in the Resource Protection, Limited Residential, ~~Limited Commercial~~ and *Stream Protection* Districts, shall not exceed thirty-five (35) feet in *height of a structure*. This provision shall not apply to *structures* such as transmission towers, windmills, antennas, and similar *structures* having no *floor area*.
  
- (3) Floodplain. ~~The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils. Accessory structures may be placed in accordance with the standards of the Town of Hampden Floodplain Management Ordinance and need not meet the elevation requirements of this paragraph. All development located in the special Flood Hazard Area as depicted on Flood Insurance Rate Maps shall comply with the Town of Hampden Floodplain Management Ordinance.~~
  
- (4) Lot Coverage. The total footprint area of all *structures*, parking lots and other non-vegetated surfaces, within the *shoreland zone* shall not exceed twenty (20) percent of the lot or a portion thereof, located within the *shoreland zone*, including land area previously developed, except in the General Development District adjacent to *tidal waters* and *rivers* that do not flow to *great ponds*, ~~and in the Commercial Fisheries/Meritime Activities District, where lot coverage shall not exceed seventy (70) percent.~~
  
- (5) Retaining Walls. Retaining walls that are not necessary for erosion control shall meet the *structure shoreline setback* requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the *normal high-water line* of a *water body, tributary stream, local stream* or *upland edge of a wetland*;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring *vegetation*, and which cannot be stabilized with vegetative plantings;

- (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
- (e) Retaining walls are located outside of the 100-year floodplain on *rivers, streams, coastal wetlands*, local streams and *tributary streams*, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as *recent floodplain soils*.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural *development* will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the *normal high-water line* of a *water body, tributary stream*, local stream or *upland edge of a wetland* when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (i) The buffer must include shrubs and other woody and herbaceous *vegetation*. Where natural *ground cover* is lacking the area must be supplemented with leaf or bark mulch;
  - (ii) *Vegetation* plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (iii) Only *native* species may be used to establish the buffer area;
  - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the *normal high-water line* or *upland edge of a wetland*;
  - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Structures For Shoreline Access. Notwithstanding the requirements stated above, stairways or similar *structures* may be allowed with a *shoreland permit* from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the *structure* is limited to a maximum of four (4) feet in width; that the *structure* does not extend below or over the *normal high-water line* of a *water body* or *upland edge of a wetland*, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property. All applications for structures for shoreline access shall be accompanied by an engineering report that contains an analysis of soil conditions, addresses stormwater analysis for the installation area, contains installation details and necessary best management practices to assure stable soil conditions both during construction and thereafter.

**C. Deleted.**

**D. Campgrounds.** *Campgrounds* shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) **Minimum Size.** *Campgrounds* shall contain a minimum of five thousand (5,000) square feet of land, not including *roads* and *driveways*, for each site. Land supporting *wetland vegetation*, and land below the *normal high-water line* of a *water body* shall not be included in calculating land area per site.
- (2) **Shoreline Setback.** The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the *normal high-water line* of a *great pond* or a *river* flowing to a *great pond*, and seventy-five (75) feet, horizontal distance, from the *normal high-water line* of other water bodies, *tributary streams*, *local streams*, or the *upland edge of a wetland*.

**E. Individual Private Campsites.** *Individual private campsites* not associated with *campgrounds* are allowed provided the following conditions are met:

- (1) **Minimum Size.** One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of *lot area* within the *shoreland zone*, whichever is less, may be permitted.
- (2) **Shoreline Setback.** Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the *normal high-water line* of a *great pond* or *river* flowing to a *great pond*, and seventy-five (75) feet, horizontal distance, from the *normal high-water line* of other water bodies, *tributary streams*, *local streams* or the *upland edge of a wetland*.
- (3) **Recreational Vehicles.** Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent *foundation* except for a gravel pad, and no *structure* except a canopy shall be attached to the recreational vehicle.
- (4) **Vegetation Clearing.** The clearing of *vegetation* for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) **Sewage Disposal Plan Required.** A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) **After 120 Days.** When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential *structures* shall be met, including the installation of a *subsurface wastewater disposal system* in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**F. Prohibited Commercial and Industrial Uses.** The following new *commercial* and *industrial* uses are prohibited within the *shoreland zone* adjacent to *great ponds*, and *rivers* and *streams* which flow to *great ponds*:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) *Commercial* painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a municipal sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with *marinas*
- (11) Photographic processing
- (12) Printing

#### G. Parking Areas

- (1) Shoreline Setback. Parking areas shall meet the *shoreline setback* requirements for *structures* for the district in which such areas are located, ~~except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty five (25) feet, horizontal distance, from the shoreline.~~ The *shoreline setback* requirement for parking areas serving public *boat launching facilities* in ~~Districts other than the General Development District~~ shall be no less than fifty (50) feet, horizontal distance, from the *shoreline* if the Planning Board finds that no other reasonable alternative exists further from the *shoreline*.
- (2) Design. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a *water body, tributary stream, local stream* or *wetland* and where feasible, to retain all runoff on-site.
- (3) Compliance With Zoning Ordinance. In determining the appropriate size and minimum number of proposed parking spaces, the parking layouts and handicap parking configurations shall comply with the Town of Hampden Zoning Ordinance standards contained in Article 4.7.
  - (a) Parking Space Exception: Parking spaces for a vehicle and attached boat trailer shall be forty (40) feet long.
  - (b) Deleted.

**H. Roads and Driveways.** The following standards shall apply to the construction of *roads* and/or *driveways* and drainage systems, culverts and other related features.

- (1) **Shoreline Setback.** *Roads* and *driveways* shall be set back at least one-hundred (100) feet, horizontal distance, from the *normal high-water line* of a *great pond* or a *river* that flows to a *great pond*, and seventy-five (75) feet, horizontal distance from the *normal high-water line* of other *water-bodies*, *tributary streams*, *local stream* or the *upland edge of a wetland* unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the *road* and/or *driveway setback* requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the *water-body*, *tributary stream*, *local stream* or *wetland*. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the *water body*, *tributary stream*, *local stream* or *wetland*.

On slopes of greater than twenty (20) percent the *road* and/or *driveway shoreline setback* shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to *water crossings* or to *roads* or *driveways* that provide access to permitted *structures* and facilities located nearer to the *shoreline* due to an operational necessity, excluding temporary docks for recreational uses. *Roads* and *driveways* providing access to permitted *structures* within the *setback* area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the *road* or *driveway* necessary for direct access to the *structure*.

- (2) **Existing Public Roads.** Existing public *roads* may be expanded within the legal *road* right of way regardless of their *shoreline setback* from a *water body*, *tributary stream*, *local stream* or *wetland*.
- (3) Deleted.
- (4) **Roads in the RP District.** New *roads* and *driveways* are prohibited in a Resource Protection District except that the Planning Board may grant a *shoreland permit* to construct a *road* or *driveway* to provide access to permitted uses within the district. A *road* or *driveway* may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a *road* or *driveway* is permitted in a Resource Protection District the *road* and/or *driveway* shall be set back as far as practicable from the *normal high-water line* of a *water body*, *tributary stream*, *local stream* or *upland edge of a wetland*.
- (5) **Road Side Slope.** *Road* and *driveway* banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (6) **Road Grades.** *Road* and *driveway* grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

- (7) **Drainage Buffers.** In order to prevent *road* and *driveway* surface drainage from directly entering water bodies, *tributary streams*, *local streams* or *wetlands*, *roads* and *driveways* shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the *normal high-water line* of a *water body*, *tributary stream*, *local stream* or *upland edge of a wetland*. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (8) **Stormwater Management.** Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the *road*, *driveway*, or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the *road*, or *driveway* at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the *road* or *driveway*.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (9) **Stormwater Maintenance.** Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with *roads* and *driveways* shall be maintained on a regular basis to assure effective functioning.

**I Signs.** Conformance With Zoning Ordinance. Signs locations, size, configuration and lighting shall comply with the Town of Hampden Zoning Ordinance standards contained in Article 4.8.

**J. Storm Water Runoff**

- (1) **Stormwater Management.** All new construction and *development* shall be designed to minimize storm water runoff from the site in excess of the natural *predevelopment*

conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

- (2) Stormwater Maintenance. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning. Stormwater runoff control systems shall be in compliance with Department Chapter 500 and applicable Postconstruction Ordinance, Zoning Ordinance and Subdivision Ordinance standards.

#### **K. Subsurface Wastewater Disposal Systems**

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

#### **L. Essential Services**

- (1) Expansions. Where feasible, the installation of *essential services* shall be limited to existing public ways and existing service corridors.
- (2) Limitations in the RP and SP Districts. The installation of *essential services*, other than *road-side* distribution lines, is not allowed in a Resource Protection or *Stream* Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such *structures* and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Replacement. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a *shoreland permit*.

**M. Mineral Exploration and Extraction.** *Mineral exploration* to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A *shoreland permit* from the Code Enforcement Officer shall be required for *mineral exploration* which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

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NOTE: Mineral Exploration and Extraction are also regulated in the Town of Hampden, Maine Zoning Ordinance in Article 4.23.

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Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a *shoreland permit* is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the *normal high-water line* of a *great pond classified-GPA* or a *river* flowing to a *great pond classified-GPA*, and within seventy-five (75) feet, horizontal distance, of the *normal high-water line* of any other *water body, tributary stream*, or the *upland edge of a wetland*. ~~Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property. Minumim distances from property lines for extraction operations are established in the Hampden Zoning Ordinance in Article 4.23.~~
- (3) ~~(Significant River Segments). Deleted. When gravel pits must be located within the shoreland zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy five (75) feet and screened from the river by existing vegetation.~~
- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
  - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with *vegetation native* to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with *mineral extraction* operations on surrounding uses and resources.

#### N. Agriculture

- (1) **Manure Spreading.** All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) **Manure Stockpiling.** Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a *great pond* or a *river* flowing to a *great pond*, or within seventy-five (75) feet horizontal distance, of other *water-bodies, tributary streams, local stream* or *wetlands*. All manure storage areas within the *shoreland zone* must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

- (3) Tillage Requiring Conservation Plan. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the *shoreland zone* shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) Tillage Shoreline Setbacks. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the *normal high-water line* of a *great pond*; within seventy-five (75) feet, horizontal distance, from other *water-bodies* and *coastal wetlands*; nor within twenty-five (25) feet, horizontal distance, of *tributary streams*, *local streams* and *freshwater wetlands*. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Grazing Shoreline Setbacks. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the *normal high-water line* of a *great pond*; within seventy-five (75) feet, horizontal distance, of other *water-bodies* and *coastal wetlands*, nor; within twenty-five (25) feet, horizontal distance, of *tributary streams*, *local streams* and *freshwater wetlands*. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above *shoreline setback* provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

**O. Timber Harvesting.** All Shoreland Districts are subject to this Timber Harvesting section. Timber Harvesting shall be supervised by a licensed forester. Supervision shall include marking of trees for cutting and written verification by the licensed forester post-cut stating that the cutting was in keeping with the original markings.

- (1) In a Resource Protection District abutting a *great pond*, *timber harvesting* shall be limited to the following:
  - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the *normal high-water line*, *timber harvesting* may be conducted when the following conditions are met:
    - (1) The ground is frozen;
    - (2) There is no resultant soil disturbance;
    - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
    - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural *vegetation* remains; and
    - (5) A licensed professional forester has marked the trees to be harvested prior to a *shoreland permit* being issued by the Town of Hampden.
  - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, *timber harvesting* is permitted in accordance with paragraph 2 below except that in no case shall the average *residual basal area* of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

- (2) Except in areas as described in Section 15(O)(1) above, *timber harvesting* shall conform with the following provisions:
- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
    - (i) Within one-hundred (100) feet, horizontal distance, of the *normal high-water line* of a *great pond* or a *river* flowing to a *great pond*, and within seventy-five (75) feet, horizontal distance, of the *normal high-water line* of other *water-bodies*, *tributary streams*, *local streams* or the *upland edge of a wetland*, there shall be no clearcut openings and a well-distributed stand of trees and other *vegetation*, including existing *ground cover*, shall be maintained.
    - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a *great pond* or a *river* flowing to a *great pond*, and greater than seventy-five (75) feet, horizontal distance, of the *normal high-water line* of other *water-bodies* or the *upland edge of a wetland*, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest *canopy*. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to *basal area*.
  - (b) *Timber harvesting* operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
  - (c) No accumulation of *slash* shall be left within fifty (50) feet, horizontal distance, of the *normal high-water line* of a *water body*. In all other areas *slash* shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the *normal high-water line* of a *water body* or *tributary stream* shall be removed.
  - (d) *Timber harvesting* equipment shall not use stream channels as travel routes except when:
    - (i) Surface waters are frozen; and
    - (ii) The activity will not result in any ground disturbance.
  - (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
  - (f) *Skid trail* approaches to *water crossings* shall be located and designed so as to prevent water runoff from directly entering the *water body* or *tributary stream*. Upon completion

of *timber harvesting*, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

- (g) Except for *water crossings*, *skid trails* and other sites where the operation of machinery used in *timber harvesting* results in the exposure of mineral soil shall be located such that an unscarified strip of *vegetation* of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the *normal high-water line* of a *water body* or *upland edge of a wetland*. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the *water body* or *wetland*, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the *normal high-water line* of a *water body* or *upland edge of a wetland*.

**O-1. Timber Harvesting – Statewide Standards [Effective on effective date established in Section 4(B)]**

- (1) Shoreline integrity and sedimentation. Persons conducting *timber harvesting and related activities* must take reasonable measures to avoid the *disruption of shoreline integrity*, the occurrence of sedimentation of water, and the disturbance of *water body* and *tributary stream* banks, *water body* and *tributary stream* channels, shorelines, and soil lying within water bodies, *tributary streams* and *wetlands*. If, despite such precautions, the *disruption of shoreline integrity*, sedimentation of water, or the disturbance of *water body* and *tributary stream* banks, *water body* and *tributary stream* channels, shorelines, and soil lying within water bodies, *tributary streams* and *wetlands* occurs, such conditions must be corrected.
- (2) Slash treatment. *Timber harvesting and related activities* shall be conducted such that slash or debris is not left below the *normal high-water line* of any *water body* or *tributary stream*, or the *upland edge of a wetland*. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from *timber harvesting and related activities* otherwise conducted in compliance with this section.
  - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  - (b) Adjacent to *great ponds, rivers* and *wetlands*:
    - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the *normal high-water line* or *upland edge of a wetland*; and
    - (ii) Between 50 feet and 250 feet, horizontal distance, of the *normal high-water line* or *upland edge of a wetland*, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) *Timber harvesting and related activities* must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
  - (a) Option 1 (40% volume removal), as follows:
    - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches *DBH* or greater in any 10 year period is allowed. Volume may be considered to be equivalent to *basal area*;
    - (ii) A well-distributed stand of trees which is *windfirm*, and other *vegetation* including existing *ground cover*, must be maintained; and,
    - (iii) Within 75 feet, horizontal distance, of the *normal high-water line* of *rivers, streams*, and *great ponds*, and within 75 feet, horizontal distance, of the upland edge of a freshwater or *coastal wetlands*, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the *normal high-water line* of a *river* or *great pond* or *upland edge of a wetland*, *timber harvesting and related activities* must not create single cleared openings greater than 14,000 square feet in the forest

canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to *basal area*.

(b) Option 2 (60 square foot *basal area* retention), as follows:

(i) The *residual stand* must contain an average basal area of at least 60 square feet per acre of *woody vegetation* greater than or equal to 1.0 inch *DBH*, of which 40 square feet per acre must be greater than or equal to 4.5 inches *DBH*;

(ii) A well-distributed stand of trees which is *windfirm*, and other *vegetation* including existing *ground cover*, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the *normal high-water line* of water bodies and within 75 feet, horizontal distance, of the upland edge of *wetlands*, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the *normal high-water line* of a river or great pond, or *upland edge of a wetland*, *timber harvesting and related activities* must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average *basal area*. Volume may be considered equivalent to *basal area*.

(c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a *Licensed Forester* or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (*Bureau*) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, *timber harvesting and related activities* may not begin until the *Bureau* has approved the alternative method.

The *Bureau* may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the *harvest area*.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(a) Equipment used in *timber harvesting and related activities* shall not use *river, stream* or *tributary stream* channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a *water body, tributary stream, or wetland*. Upon termination of their use, skid trails and yards must be stabilized.

(c) *Setbacks:*

- (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any *water body, tributary stream, or wetland*. On slopes of 10 percent or greater, the *setback* for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot *setback* is required.
  - (ii) Where such *setbacks* are impracticable, appropriate techniques shall be used to avoid sedimentation of the *water body, tributary stream or wetland*. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the *water body, tributary stream, or wetland*. If, despite such precautions, sedimentation or the *disruption of shoreline integrity* occurs, such conditions must be corrected.
- (5) Land Management Roads. *Land management roads*, including approaches to crossings of water bodies, *tributary stream* channels, and *freshwater wetlands*, ditches and other related *structures*, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the *water body, tributary stream or wetland*. Surface water on or adjacent to *water crossing* approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or *wetland*. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the *setback* requirements in Section 15(O-1)(7) of this rule.
- (a) *Land management roads* and associated ditches, excavation, and fill must be set back at least:
    - (i) 100 feet, horizontal distance, from the *normal high-water line* of a *great pond, river* or freshwater or *coastal wetland*;
    - (ii) 50 feet, horizontal distance, from the *normal high-water line* of *streams*; and
    - (iii) 25 feet, horizontal distance, from the *normal high-water line* of *tributary streams*
  - (b) The minimum 100 foot *setback* specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot *setback* specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the *water body, tributary stream, or wetland*. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the *water body, tributary stream or wetland*. If, despite such precautions, sedimentation or the *disruption of shoreline integrity* occurs, such conditions must be corrected.

- (c) On slopes of 10 percent or greater, the *land management road setback* must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New *land management roads* are not allowed within the shoreland area along a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the *normal high-water line* and screened from the *river* by existing *vegetation*.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage *structures* shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the *setback* requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the *water body, tributary stream, or wetland*. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the *water body, tributary stream, or wetland*. If, despite such precautions, sedimentation or the *disruption of shoreline integrity* occurs, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage *structures* at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing *roads*. Extension or enlargement of presently existing *roads* must conform to the provisions of Section 15(O-1). Any nonconforming existing *road* may continue to exist and to be maintained, as long as the *non-conforming conditions* are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing *roads* need not conform to the *setback* requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the *water body, tributary stream, or wetland*. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the *water body, tributary stream, or wetland*. If, despite such precautions, sedimentation or the *disruption of shoreline integrity* occurs, such conditions must be corrected.
- (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of *roads* and *river, stream* and *tributary stream* crossings must take reasonable measures to avoid sedimentation of surface waters.

- (6) Crossings of waterbodies. Crossings of *rivers*, *streams*, and *tributary streams* must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining *water crossing* sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - (b) Upgrading existing *water crossings*. Extension or enlargement of presently existing *water crossings* must conform to the provisions of Section 15(O-1). Any nonconforming existing *water crossing* may continue to exist and be maintained, as long as the *non-conforming conditions* are not made more nonconforming; however, any maintenance or repair work done below the *normal high-water line* must conform to the provisions of Section 15(O-1).
  - (c) Other Agency Permits. Any *timber harvesting and related activities* involving the design, construction, and maintenance of crossings on waterbodies other than a *river*, *stream* or *tributary stream* may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
  - (d) Any *timber harvesting and related activities* involving the design, construction, and maintenance of crossings of *freshwater wetlands* identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
  - (e) Notice to Bureau of Forestry. Written notice of all *water crossing* construction maintenance, alteration and replacement activities in shoreland areas must be given to the *Bureau* prior to the commencement of such activities. Such notice must contain all information required by the *Bureau*, including:
    - (i) a map showing the location of all proposed permanent crossings;
    - (ii) the GPS location of all proposed permanent crossings;
    - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
    - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
  - (f) *Water crossing* standards. All crossings of *rivers* require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g) below. *Streams* and *tributary streams* may be crossed using temporary *structures* that are not bridges or culverts provided:
    - (i) concentrated water runoff does not enter the *stream* or *tributary stream*;
    - (ii) sedimentation of surface waters is reasonably avoided;
    - (iii) there is no substantial disturbance of the bank, or *stream* or *tributary stream* channel;
    - (iv) fish passage is not impeded; and,
    - (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of *streams* and *tributary streams* when channels of such *streams* and *tributary streams* are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary *structures*.

- (g) Bridge and Culvert Sizing. For crossings of *river*, *stream* and *tributary stream* channels with a bridge or culvert, the following requirements apply:
- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and *structure* to accommodate 10 year frequency water flows or with a *cross-sectional area* at least equal to 2 1/2 times the *cross-sectional area* of the *river*, *stream*, or *tributary stream* channel.
  - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the *water body* or *tributary stream* is avoided. Such crossing *structures* must be at least as wide as the channel and placed above the *normal high-water line*. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
    - 1. use of temporary skidder bridges;
    - 2. removing culverts prior to the onset of frozen ground conditions;
    - 3. using water bars in conjunction with culverts;
    - 4. using *road* dips in conjunction with culverts.
  - (iii) Culverts utilized in *river*, *stream* and *tributary stream* crossings must:
    - 1. be installed at or below *river*, *stream* or *tributary stream* bed elevation;
    - 2. be seated on firm ground;
    - 3. have soil compacted at least halfway up the side of the culvert;
    - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
    - 5. have a headwall at the inlet end which is adequately stabilized by *riprap* or other suitable means to reasonably avoid erosion of material around the culvert.
  - (iv) *River*, *stream* and *tributary stream* crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a *water crossing* may be required to pass a 100-year flood event.
  - (v) Exception. Skid trail crossings of *tributary streams* within shoreland areas and *wetlands* adjacent to such *streams* may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided *persons* conducting such activities take reasonable measures to avoid the *disruption of shoreline integrity*, the occurrence of sedimentation of water, and the disturbance of *stream*

banks, *stream* channels, shorelines, and soil lying within ponds and *wetlands*. If, despite such precautions, the *disruption of shoreline integrity*, sedimentation of water, or the disturbance of *stream* banks, stream channels, shorelines, and soil lying within ponds and *wetlands* occurs, such conditions must be corrected.

- (h) Skid trail closeout. Upon completion of *timber harvesting and related activities*, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
- (i) Bridges and culverts installed for *river, stream* and *tributary stream* crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for *land management roads* in Section 15(O-1)(6)(i) below.
  - (ii) *Water crossing structures* that are not bridges or culverts must either be removed immediately following *timber harvesting and related activities*, or, if frozen into the *river, stream* or *tributary stream* bed or bank, as soon as practical after snowmelt.
  - (iii) *River, stream* and *tributary stream* channels, banks and approaches to crossings of water bodies and *tributary streams* must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the *disruption of shoreline integrity* occurs, such conditions must be corrected.
- (i) *Land management road* closeout. Maintenance of the water control features must continue until use of the *road* is discontinued and the *road* is put to bed by taking the following actions:
- (i) Effective installation of water bars or other adequate *road* drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the *road* surface.
  - (ii) *Water crossing structures* must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the *water body* or *tributary stream*.
  - (iii) Any bridge or *water crossing* culvert in *roads* to be discontinued shall satisfy one of the following requirements:
    - 1. it shall be designed to provide an opening sufficient in size and *structure* to accommodate 25 year frequency water flows;
    - 2. it shall be designed to provide an opening with a *cross-sectional area* at least 3 1/2 times the *cross-sectional area* of the *river, stream* or *tributary stream* channel; or
    - 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the *river, stream* or *tributary stream*.

If, despite such precautions, sedimentation or the *disruption of shoreline integrity* occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail *setbacks*, and *land management road setbacks* must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

**P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting All Shoreland Districts are subject to this Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting section. Clearing or removal of vegetation for activities other than timber harvesting shall be supervised by a licensed forester. Supervision shall include marking of trees for cutting and written verification by the licensed forester post-cut stating that the cutting was in keeping with the original markings.**

- (1) Resource Protection Cutting Limits. In a Resource Protection District abutting a *great pond*, there shall be no cutting of *vegetation* within the strip of land extending 75 feet, horizontal distance, inland from the *normal high-water line*, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of *vegetation* shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, and except to allow for the *development* of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the *normal high-water line* of a *great pond* or a *river* flowing to a *great pond*, and seventy-five (75) feet, horizontal distance, from any other *water body, tributary stream, local stream* or the *upland edge of a wetland*, a buffer strip of *vegetation* shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest *canopy* (or other existing *woody vegetation* if a forested *canopy* is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural *vegetation* is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a *great pond* or a *river* or *stream* flowing to a *great pond*, shall be defined as maintaining a rating score of 24 or

more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 < 4 in.	1
4 < 8 in.	2
8 < 12 in.	4
12 in. or greater	8

Adjacent to other *water-bodies, tributary streams, local streams* and *wetlands*, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

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NOTE: As an example, adjacent to a *great pond*, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

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The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no *vegetation* removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have *vegetation* removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural *vegetation*" is defined as retaining existing *vegetation* under three (3) feet in height and other *ground cover* and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- (c) In order to protect water quality and wildlife habitat, existing *vegetation* under three (3) feet in height and other *ground cover*, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of *vegetation*, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with *native* tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a *great pond* or a *river* flowing to a *great pond*, and seventy-five (75) feet, horizontal distance, from the *normal high-water line* of any other *water body*, *tributary stream*, *local streams* or the *upland edge of a wetland*, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the *development* of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to *basal area*.

In no event shall cleared openings for any purpose, including but not limited to, *principal* and *accessory structures*, *driveways*, lawns and sewage disposal areas, exceed in the aggregate, 25% of the *lot area* within the *shoreland zone* or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development District.

Notwithstanding the general requirement that clearing and removal of vegetation be supervised by a licensed forester clearing for construction of a new single-family residence does not require supervision by a licensed forester if the home builder adheres to a maximum limit of 25% of the lot area in the shoreland zone or ten thousand (10,000) square feet, whichever is greater.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other *woody vegetation* shall be regulated under the provisions of Section 15(P).

#### Q. Erosion and Sedimentation Control

- (1) Filling, Grading and Excavation Requires *Shoreland Permit* and Plan. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a *shoreland permit* shall also require a written soil erosion and sedimentation control plan. The plan must reference and conform to the Maine Erosion and Sedimentation Control Best Management Practices Handbook. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization *structures* such as retaining walls or *riprap*.
- (2) Avoid Steep Slopes. In order to create the least potential for erosion, *development* shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and Sedimentation Control. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Stabilization. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of *riprap*, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of *vegetation* is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Drainageways. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with *vegetation* or lined with *riprap*.
- R. Soils.** All land uses shall be located on soils in or upon which the proposed uses or *structures* can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring *subsurface wastewater disposal systems*, and *commercial* or *industrial development* and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified *persons* may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other *persons* who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

- S. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the *water body, tributary stream, local stream or wetland*.
- T. Archaeological Site.** Any proposed land use activity involving structural *development* or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## 16. Administration

### A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

**B. Shoreland Permits Required.** After the effective date of this Ordinance no *person* shall, without first obtaining a *shoreland permit*, engage in any activity or use of land or *structure* requiring a *shoreland permit* in the district in which such activity or use would occur; or expand, change, or replace an existing use or *structure*; or renew a discontinued *non-conforming use*. A *person* who is issued a *shoreland permit* pursuant to this Ordinance shall have a copy of the *shoreland permit* on site while the work authorized by the *shoreland permit* is performed.

- (1) Exception Road Culvert Replacement. A *shoreland permit* is not required for the replacement of an existing *road* culvert as long as:
  - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
  - (b) The replacement culvert is not longer than 75 feet; and
  - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) Exception Archaeological Excavations. A *shoreland permit* is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

- (3) Other Permits May Be Required. Any *shoreland permit* required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **C. Shoreland Permit Application**

- (1) **Application and Plan Required.** Every applicant for a *shoreland permit* shall submit a written application, including a scaled site plan, on a form provided by the Town of Hampden, to the Code Enforcement Officer as indicated in Section 14. Applications for activities also required to obtain a building permit under the Town of Hampden, Maine Zoning Ordinance may apply for said permit concurrent with a building permit. Such a building permit shall substitute the required shoreland permit upon clear demonstration that all aspects of this ordinance have been satisfied.
- (2) **Legal Standing and Certification of Information.** All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a *shoreland permit* hereunder, certifying that the information in the application is complete and correct.
- (3) **Date Stamp Applications.** All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) **Plumbing and Subsurface Permits Required.** If the property is not served by a municipal sanitary sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed *structure* or use would require the installation of a *subsurface wastewater disposal system*.
- (5) **Other Information as Required.** The Code Enforcement Officer and the Planning Board shall have the authority to require additional information which may reasonably be necessary for them to make their decision and inform the facts of the application.

**D. Procedure for Administering Shoreland Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or *structure* is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Deleted;
- (8) Will avoid problems associated with floodplain *development* and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a *shoreland permit* is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a *structure* if the *structure* would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the Town.

**E. Single Family Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting *structure setback* requirements, the Planning Board may approve a *shoreland permit* for a single *family* residential *structure* in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the *structure* can be built.
- (2) The lot on which the *structure* is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District or no later than July 1, 2009.
- (3) All proposed buildings, *subsurface wastewater disposal systems* and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) Located outside the *floodway* of the 100-year floodplain along *rivers* and artificially formed *great ponds* along *rivers* and outside the *velocity zone* in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including *basements*, are elevated at least one foot above the 100-year floodplain elevation; and the *development* is otherwise in compliance with the Town of Hampden, Maine Floodplain Management Ordinance.

If the *floodway* is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all *principal* and *accessory structures* is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All *structures*, except *functionally water-dependent structures*, are set back from the *normal high-water line* of a *water body*, *tributary stream*, *local stream* or *upland edge of a wetland* to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of *vegetation* to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value *wetlands*.

**F. Expiration of Shoreland Permit.** *Shoreland permits* shall expire one year from the date of issuance if a *substantial start* is not made in construction or in the use of the property during that period. If a *substantial start* is made within one year of the issuance of the *shoreland permit*, the applicant shall have one additional year to complete the project, at which time the *shoreland permit* shall expire.

**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new *structure* located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

## H. Appeals

- (1) Powers and Duties of the Board of Appeals. A Board of Appeals is hereby established in accordance with the state law and the provisions of this Ordinance. The Board of Appeals shall be governed by the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The Board of Appeals shall have the following powers with regard to this Ordinance:
  - (a) Administrative Appeals: All administrative appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The Board of Appeals shall hear and decide administrative appeals. An administrative appeal is an appeal: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an *aggrieved party* that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an *aggrieved party* that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a *shoreland permit* application under this Ordinance. Any order, requirement, decision or determination

made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance and the Town of Hampden Board of Appeals Ordinance.

(2) Variance Appeals. All variance appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The Board of Appeals shall hear and decide variance appeals. A variance from the provisions of the Ordinance may only be granted by the Board of Appeals in accordance with the following conditions:

(a) Variances may be granted only from *dimensional requirements* including, but not limited to, *minimum lot width, maximum structure height*, percent of lot coverage, *shoreline setback requirements, lot area*, and shore frontage.

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

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed *structure* or use would meet the provisions of Section 15, Land Use Standards, except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

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

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

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

(d) Disability Variance. Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a *residential dwelling* for the purpose of making that dwelling accessible to a *person* with a *disability* who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of *structures* necessary for access to or egress from the dwelling by the *person* with the *disability*. The board may impose conditions on the variance, including limiting the variance to the duration of the *disability* or to the time that the *person* with the *disability* lives in the dwelling. The term "*structures* necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the *structure*.

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals.

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an *aggrieved party* from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and *structures* and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The *person* filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

(5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any *aggrieved party* who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

(6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## I. Enforcement

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the *person* responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or *structures*, or work being done, removal of illegal buildings or *structures*, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
  - (b) The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
  - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal *structure* or use to continue unless there is clear and convincing evidence that the illegal *structure* or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the *structure* or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) Fines. Any *person*, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

**17. Definitions.**

*Accessory structure or use.* "Accessory structure or use" means a use or *structure* which is incidental and subordinate to the *principal use* or *structure*. Accessory uses, when aggregated, shall not subordinate the *principal use* of the lot. A deck or similar extension of the *principal structure* or a garage attached to the *principal structure* by a roof or a common wall is considered part of the *principal structure*.

*Aggrieved party.* "Aggrieved party" means an owner of land whose property is directly or indirectly affected by the granting or denial of a *shoreland permit* or variance under this Ordinance; a *person* whose

land abuts land for which a *shoreland permit* or variance has been granted; or any other *person* or group of *persons* who have suffered particularized injury as a result of the granting or denial of such *shoreland permit* or variance.

*Agriculture*. "Agriculture" means the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include *forest management* and *timber harvesting* activities.

*Aquaculture*. "Aquaculture" means the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

*Basal Area*. "Basal Area" means the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

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

*Boat Launching Facility*. "Boat Launching Facility" means a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

*Bureau*. "Bureau" means the State of Maine Department of Conservation's Bureau of Forestry

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

*Canopy*. "Canopy" means the more or less continuous cover formed by tree crowns in a wooded area.

*Coastal wetland*. "Coastal wetland" means all tidal and subtidal lands; all lands with *vegetation* present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. The line defining the limits of the subject term is defined by the term *shoreline*.

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

*Cross-sectional area*. "Cross-sectional area" means the cross-sectional area of a *stream* or *tributary stream* channel is determined by multiplying the *stream* or *tributary stream* channel width by the average *stream* or *tributary stream* channel depth. The *stream* or *tributary stream* channel width is the straight line distance from the *normal high-water line* on one side of the channel to the *normal high-water line* on the opposite side of the channel. The average *stream* or *tributary stream* channel depth is the average of the vertical distances from a straight line between the *normal high-water lines* of the *stream* or *tributary stream* channel to the bottom of the channel.

*DBH*. "DBH" means the diameter of a standing tree measured 4.5 feet (breast height) from ground level.

*Development.* “Development” means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

*Dimensional requirements.* “Dimensional requirements” means numerical standards relating to spatial relationships including but not limited to shoreline setback, lot area, shore frontage and height of a structure.

*Disability.* “Disability” means any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

*Disruption of shoreline integrity.* “Disruption of shoreline integrity” means the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

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

*Emergency operations.* “Emergency operations” means operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

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

*Expansion of a structure.* “Expansion of a structure” means an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

*Expansion of use.* “Expansion of use” means the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

*Family:* “Family” means one (1) or more persons related by blood, adoption or marriage occupying a premises and living as a single housekeeping unit. A family may contain no more than two (2) individuals not related by blood, adoption or marriage except for "community living facilities" as defined by Title 30-A, Section 4357 which shall be considered a family. ~~“Family” means one or more persons occupying a premises and living as a single housekeeping unit.~~

*Floodway.* “Floodway” means the channel of a *river* or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

*Floor area.* “Floor area” means the sum of the horizontal areas of the floor(s) of a *structure* enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a *structure* such as porches and decks.

*Forest management activities.* “Forest management activities” means timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of *forest stands*, and other similar or associated activities, exclusive of *timber harvesting* and the construction, creation or maintenance of *roads*. All proposed forest management activities shall require a forest management plan prepared and submitted by a licensed forester.

*Forested wetland.* “Forested wetland” means a *freshwater wetland* dominated by *woody vegetation* that is six (6) meters tall (approximately twenty (20) feet) or taller.

*Forest stand.* “Forest stand” means a contiguous group of trees sufficiently uniform in age class distribution, composition, and *structure*, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

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

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

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface *water body*, excluding any *river*, *stream* or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of *wetland vegetation* typically adapted for life in saturated soils.

*Freshwater wetlands* may contain small *stream* channels or inclusions of land that do not conform to the criteria of this definition. The line defining the limits of the subject term is defined by the term *shoreline*.

*Functionally water-dependent uses.* “Functionally water-dependent uses” means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to *commercial* and recreational fishing and boating facilities, (excluding recreational boat storage buildings) finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, *marinas*, navigation aids, basins and channels, retaining walls, *industrial* uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

*Great pond.* “Great pond” means any inland body of water which in a natural state has a surface area in excess of ten acres. (*Great pond in* is Hampden, Maine includes Hermon Pond, Patten Pond, Hammond Pond and Ben Annis Pond). The line defining the limits of the subject term is defined by the term *shoreline*.

*Ground cover.* “Ground cover” means small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

*Harvest area.* “Harvest area” means the area where *timber harvesting and related activities*, including the cutting of trees, skidding, yarding, and associated *road* construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

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

*Home occupation.* “Home occupation” means an occupation or profession which is customarily conducted on or in a residential *structure* or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) *persons* other than *family* members residing in the home.

*Increase in nonconformity of a structure.* “Increase in nonconformity of a *structure*” means any change in a *structure* or property which causes further deviation from the *dimensional requirement(s)* creating the nonconformity such as, but not limited to, reduction in *shoreline setback* distance, increase in lot coverage, or increase in *height of a structure*. Property changes or *structure expansions* which either meet the *dimensional requirement* or which cause no further increase in the linear extent of nonconformance of the existing *structure* shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the *shoreline setback* requirement for *water-bodies, wetlands, local streams* or *tributary streams* if the *expansion* extends no further into the required *shoreline setback* area than does any portion of the existing *non-conforming structure*. Hence, a *structure* may be expanded laterally provided that the *expansion* extends no closer to the *water body, tributary stream, local stream* or *wetland* than the closest portion of the existing *structure* from that *water body, tributary stream, local stream* or *wetland*. Included in this allowance are *expansions* which in-fill irregularly shaped *structures*.

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

*Industrial.* “Industrial” means the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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

*Land management road.* “Land management road” means a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized

vehicles and used primarily for *timber harvesting and related activities*, including associated log yards, but not including *skid trails* or *skid roads*.

*Licensed forester* "Licensed forester" means a forester licensed under 32 M.R.S.A. Chapter 76.

*Local stream*. "Local stream" means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial *vegetation* or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock. This definition does not include the term "*stream*" or *tributary stream* as defined elsewhere in this Ordinance, and in Hampden, Maine only applies to Baker Brook, Baker Brook Tributary 1 and Baker Brook Tributary 2, ~~Brown Brook~~, Cold Brook, Reeds Brook, Shaw Brook, Sucker Brook and Weber Brook.

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

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

*Market value*. "Market value" means the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

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

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

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

*Multi-unit residential*. "Multi-unit residential" means a residential *structure* containing three (3) or more *residential dwelling units*.

*Native*. "Native" means indigenous to the local forests.

*Non-conforming condition*. "Non-conforming condition" means a *non-conforming lot*, *non-conforming structure* or *non-conforming use* in lawful existence at the time this Ordinance or subsequent amendment took effect.

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

*Non-conforming structure.* “Non-conforming structure” means a *structure* which does not meet any one or more of the following *dimensional requirements; shoreline setback, height of a structure, or lot coverage*, but in lawful existence at the time this Ordinance or subsequent amendments took effect.

*Non-conforming use.* “Non-conforming use” means use of buildings, *structures*, premises, land or parts thereof which is not allowed in the district in which it is situated, but in lawful existence at the time this Ordinance or subsequent amendments took effect.

*Normal high-water line (non-tidal waters).* “Normal high-water line (non-tidal waters)” means that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in *vegetation*, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with *rivers* and *great ponds* that support non-forested *wetland vegetation* and hydric soils and that are at the same or lower elevation as the water level of the *river* or *great pond* during the period of normal high-water are considered part of the *river* or *great pond*.

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

*Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.* Piers, docks, wharves, bridges and other *structures* and uses extending over or beyond the *normal high-water line* or within a *wetland* are divided into two categories:

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

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

*Principal structure.* “Principal structure” means a building other than one which is used for purposes wholly incidental or *accessory* to the use of another building or use on the same premises.

*Principal use.* “Principal use” means a use other than one which is wholly incidental or *accessory* to another use on the same premises.

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

*Recent floodplain soils.* “Recent floodplain soils” means the following soil series as described and identified by the National Cooperative Soil Survey:

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

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

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

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

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

*Residual basal area.* “Residual basal area” means the average of the basal area of trees remaining on a harvested site.

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

*Residual stand* “Residual stand” means a stand of trees remaining in the forest following *timber harvesting and related activities*

*River.* “River” means a free-flowing body of water including its associated floodplain *wetlands* from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. The line defining the limits of the subject term is defined by the term *shoreline*. In Hampden, Maine “river” includes: Penobscot River, Souadabscook Stream and West Branch Souadabscook Stream beginning north at its confluence with Brown Brook.

*Road.* “Road” means a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a *driveway* as defined.

*Service drop.* “Service drop” means any utility line extension which does not cross or run beneath any portion of a *water body* provided that:

1. in the case of electric service
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

*Shore frontage.* “Shore frontage” means the length of a lot bordering on a *water body* or *wetland* measured in a straight line between the intersections of the lot lines with the shoreline.

*Shoreland permit.* “Shoreland permit” means documented municipal authorization of any activity or use would occur; or expand, change, or replace an existing use or *structure*; or renew a discontinued *non-conforming use* requiring a permit within the shoreland area in accordance with this ordinance.

*Shoreland zone.* “Shoreland zone” means the land area located within two hundred and fifty (250) feet; horizontal distance, of the *normal high-water line* of any *great pond* or *river*; within 250 feet, horizontal distance, of the upland edge of a *coastal wetland*, including all areas affected by tidal action; within 250 feet of the upland edge of a *freshwater wetland*; or within seventy-five (75) feet, horizontal distance, of the *normal high-water line* of a *stream* and specified *tributary streams*.

*Shoreline.* “Shoreline” means the *normal high-water line*, or *upland edge of a wetland* whichever is greater.

*Shoreline setback.* “Shoreline setback” means the required minimum horizontal distance from the *shoreline* to the nearest part of a *structure*, *road*, parking space or other regulated object or area.

*Significant River Segments.* “Significant River Segments” means See Appendix B or 38 M.R.S.A. section 437. (As of the date of adoption of this ordinance as of this time the Statute does not identify any Significant River Segments in Hampden, Maine.)

*Skid Road or Skid Trail.* “Skid road or skid trail” means a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

*Slash.* “Slash” means the residue, e.g., treetops and branches, left on the ground after a timber harvest.

*Stream.* “Stream” means a free-flowing body of water from the outlet of a *great pond* or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a *river* or flows to another *water body* or *wetland* within the shoreland area. In Hampden, Maine “stream” applies to Brown Brook, Burnt Swamp Stream and West Branch Souadabscook Stream southwest of its confluence with Brown Brook.

*Structure.* “Structure” means anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

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

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

*Tidal waters.* “Tidal waters” means all waters affected by tidal action during the highest annual tide.

*Timber harvesting.* “Timber harvesting” means the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

*Timber harvesting and related activities.* “Timber harvesting and related activities” means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

*Tributary stream.* “Tributary stream” means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial *vegetation* or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural *vegetation* cover has been removed by human activity.

This definition does not include the term “*stream*” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving *water body* or *wetland*. ~~The subject term shall also include Baker Brook, Brown Brook, Cold Brook, Reeds Brook, Shaw Brook, Sucker Brook, Weber Brook and an unnamed brook in the southwest corner of town.~~

*Upland edge of a wetland.* “Upland edge of a wetland” means the boundary between upland and *wetland*. For purposes of a *coastal wetland*, this boundary is the line formed by the landward limits of the salt tolerant *vegetation* and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a *freshwater wetland*, the upland edge is formed where the soils are not saturated for a duration sufficient to support *wetland vegetation*; or where the soils support the growth of *wetland vegetation*, but such *vegetation* is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

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

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

*Volume of a structure.* “Volume of a structure” means the volume of all portions of a *structure* enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

*Water body.* “Water body” means any *great pond, river* or *stream*. Water body also includes *local streams*.

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

*Wetland.* “Wetland” means a *freshwater wetland* or *coastal wetland*.

*Windfirm.* “Windfirm” means the ability of a *forest stand* to withstand strong winds and resist windthrow, wind rocking, and major breakage.

*Woody vegetation.* “Woody vegetation” means live trees or woody, non-herbaceous shrubs.

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STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)

**LEGEND**

**INFRASTRUCTURE**

- Town Road
- Private Road
- State Road
- Unimproved Road
- Railroad
- Pipeline US Government
- Pipeline ExxonMobil

**SHORELAND ZONING DISTRICTS**

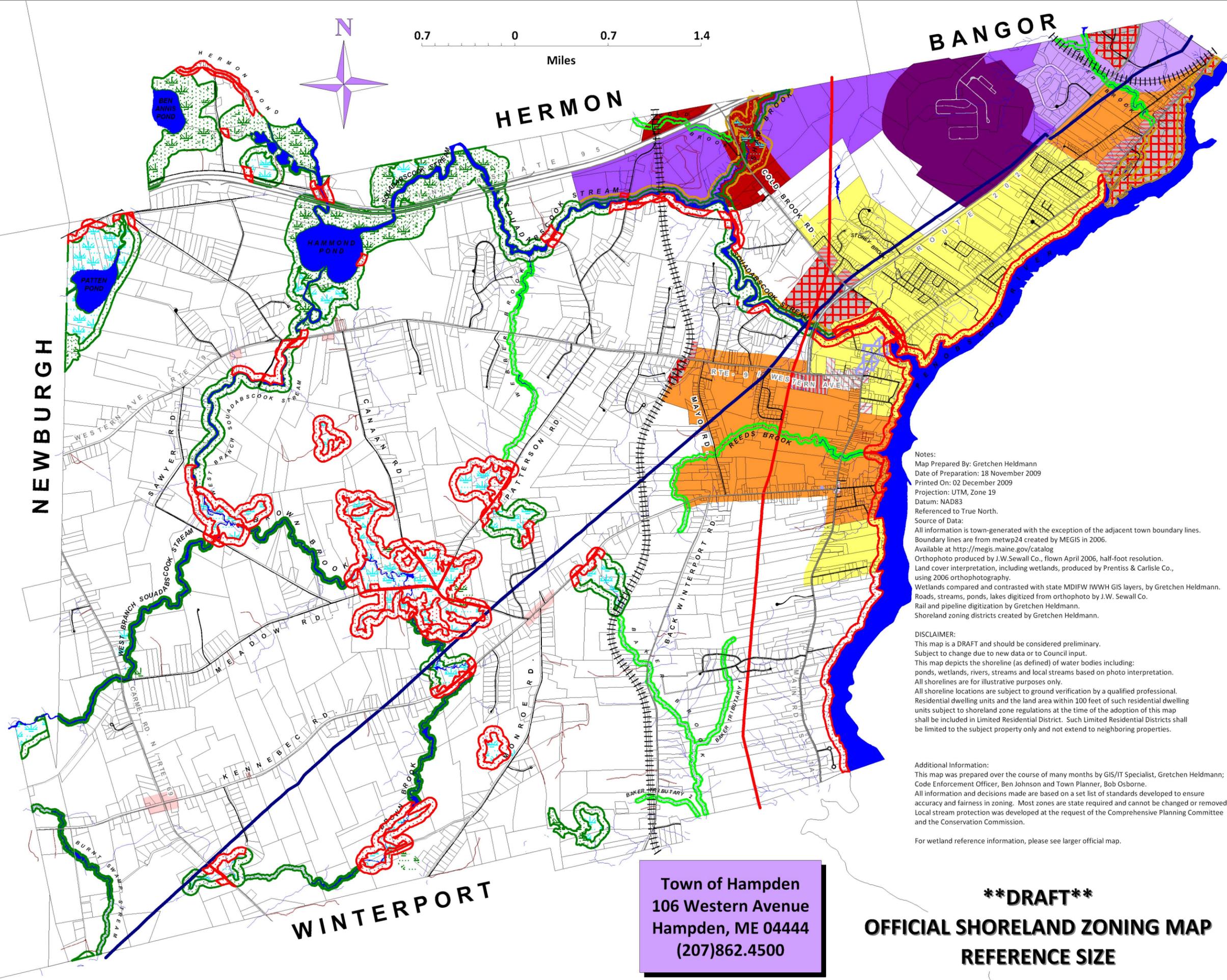
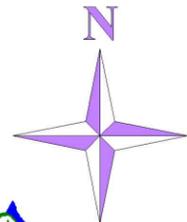
- 75ft Stream Protection or up to 250ft Resource Protection
- 75ft Local Stream Protection
- Limited Residential
- General Development

**WETLAND CLASSIFICATION**

- Non Forested
- Forested

**ZONING DISTRICTS**

- Historical
- Business (B)
- Business B (BB)
- Rural Business (BR)
- Commercial Service (CS)
- Village Commercial (VC)
- Village Commercial II (VCII)
- Interchange (INT)
- Industrial 2 (I2)
- Industrial (I)
- Industrial Park (IA)
- Rural (R)
- Residential A (RA)
- Residential B (RB)

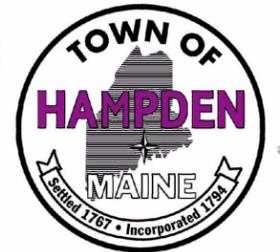


**Notes:**  
 Map Prepared By: Gretchen Heldmann  
 Date of Preparation: 18 November 2009  
 Printed On: 02 December 2009  
 Projection: UTM, Zone 19  
 Datum: NAD83  
 Referenced to True North.  
 Source of Data:  
 All information is town-generated with the exception of the adjacent town boundary lines. Boundary lines are from metwp24 created by MEGIS in 2006. Available at <http://megis.maine.gov/catalog>  
 Orthophoto produced by J.W.Sewall Co., flown April 2006, half-foot resolution. Land cover interpretation, including wetlands, produced by Prentiss & Carlisle Co., using 2006 orthophotography.  
 Wetlands compared and contrasted with state MDIFW IWWH GIS layers, by Gretchen Heldmann. Roads, streams, ponds, lakes digitized from orthophoto by J.W. Sewall Co. Rail and pipeline digitization by Gretchen Heldmann. Shoreland zoning districts created by Gretchen Heldmann.

**DISCLAIMER:**  
 This map is a DRAFT and should be considered preliminary. Subject to change due to new data or to Council input. This map depicts the shoreline (as defined) of water bodies including: ponds, wetlands, rivers, streams and local streams based on photo interpretation. All shorelines are for illustrative purposes only. All shoreline locations are subject to ground verification by a qualified professional. Residential dwelling units and the land area within 100 feet of such residential dwelling units subject to shoreland zone regulations at the time of the adoption of this map shall be included in Limited Residential District. Such Limited Residential Districts shall be limited to the subject property only and not extend to neighboring properties.

**Additional Information:**  
 This map was prepared over the course of many months by GIS/IT Specialist, Gretchen Heldmann; Code Enforcement Officer, Ben Johnson and Town Planner, Bob Osborne. All information and decisions made are based on a set list of standards developed to ensure accuracy and fairness in zoning. Most zones are state required and cannot be changed or removed. Local stream protection was developed at the request of the Comprehensive Planning Committee and the Conservation Commission.

For wetland reference information, please see larger official map.



Town of Hampden  
 106 Western Avenue  
 Hampden, ME 04444  
 (207)862.4500

**\*\*DRAFT\*\***  
**OFFICIAL SHORELAND ZONING MAP**  
**REFERENCE SIZE**

**HAMPDEN TOWN COUNCIL  
COMMITTEE ASSIGNMENTS**

**2010**

**FINANCE:**

Mayor, Chair  
Shannon Cox  
Bill Shakespeare

**PLANNING & DEVELOPMENT:**

Janet Hughes, Chair  
Bill Shakespeare  
Jean Lawlis  
\*Mayor

**SERVICES:**

Jean Lawlis, Chair  
Tom Brann  
Andre Cushing  
\*Mayor

**INFRASTRUCTURE:**

Bill Shakespeare, Chair  
Shannon Cox  
Janet Hughes  
\*Mayor

\*Ex Officio Member

**COMP PLAN IMPLEMENTATION:**

Tom Brann, Chair  
Shannon Cox  
Andre Cushing  
Janet Hughes  
Jean Lawlis  
Bill Shakespeare  
Matt Arnett

**COMMUNICATIONS:**

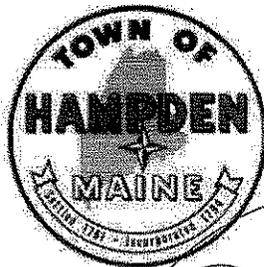
Andre Cushing, Chair  
Matt Arnett  
Jean Lawlis

**COMMITTEE ON COMMITTEES:**

Shannon Cox, Chair  
Andre Cushing  
Jean Lawlis

**COMMITTEE SCHEDULE**

Finance	Before every Regular Council Meeting at 5:45 pm
Planning & Development	1 <sup>st</sup> & 3 <sup>rd</sup> Wednesdays at 6:00 pm
Services	2 <sup>nd</sup> Monday at 6:00 pm
Infrastructure	4 <sup>th</sup> Monday at 6:00 pm



Handwritten initials, possibly "DL", are written in a cursive style and circled with a hand-drawn line.

**Memorandum**

TO: Hampden Town Council  
FROM: Debbie Lozito, Library Director  
DATE: December 28, 2009  
RE: Proposed Amendments to Fees  
Ordinance re Library Fees

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I am proposing the following amendments to the Town of Hampden Fees Ordinance relative to Library fees:

7.1.2. Non-Resident Annual Fee—this fee has not changed since it was instituted in September of 1989. Hampden residents pay a bit more than \$30.00 per capita for Library service. Non-Residents who have used the Library since institution of the fee know that it has not increased in all that time; people moving here from other states are often surprised that the fee is only \$20.00. 140 non-resident cards are active—meaning those cards have been paid for and items have been checked out on those cards.

Overdue fines—I propose fines for all library materials should be the same amount—10¢ per day. Fines on audio and video materials originally were higher than that of books because of the difference in cost of those items. While audio costs remain higher, video and DVD's cost less than books now.

## TOWN OF HAMPDEN

### Draft

The Town of Hampden Hereby Ordains  
Proposed Amendments to the Fees Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

### ARTICLE 7 LIBRARY Amended 11-17-03

#### 7.1. *Library Fees*

7.1.1. Resident Annual Fee	Free
7.1.2. Non-Resident Annual Fee	<del>\$20.00</del> <u>\$35.00</u> /year
7.1.3. Overdue Fees	
7.1.3.1. Books and Periodicals	<del>\$0.05</del> <u>\$0.10</u> /day
7.1.3.2. Audio or Video	<del>\$0.50</del> <u>\$0.10</u> /day
7.1.3.3. Maximum Overdue Fee	\$3.00/item

#### 7.2. *Self-service Photocopies*

7.2.1. 8 <sup>1</sup> / <sub>2</sub> x 11 or smaller	\$0.10/page
7.2.2. 8 <sup>1</sup> / <sub>2</sub> x 14	\$0.10/page
7.2.3. 11 x 17	\$0.10/page

#### 7.3. *Self-service Printer Pages*

7.3.1. 8 <sup>1</sup> / <sub>2</sub> x 11 or smaller	\$0.10/page
7.3.2. 8 <sup>1</sup> / <sub>2</sub> x 14	\$0.10/page