

Editorial and Legal Analysis

Return to General Code by August 21, 2015

Town of Hampden, Maine

Project Editor: Deb Tuszynski
dtuszynski@generalcode.com

As Annotated by Thomas A. Russell, Town Attorney

Note: Tom is retiring from the practice of law, but agreed to review this document and provide comments and recommendations. Any recommended action or further review will need to be coordinated with the new Town Attorney.

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General Code
781 Elmgrove Road
Rochester, NY 14624
800-836-8834
www.GeneralCode.com

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INTRODUCTION

Editorial and Legal Analysis

The purpose of the Editorial and Legal Analysis is to give Town officials an overview of the codification project and to guide them in making decisions as to what legislation is or is not to be included in the Code and with what, if any, revisions.

The Editorial and Legal Analysis has been prepared on the basis of a critique of the Town's existing legislation, including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the Town's law.

Legal Advice

Please note that it is not the intent of General Code to give legal advice or opinions by way of the Editorial and Legal Analysis but rather to provide as much information as possible to enable municipal officials to make necessary decisions. Any questions as to validity or legal sufficiency of legislation, or as to interpretation of cases and statutes, will properly remain the responsibility of the Town Attorney.

Manuscript

The Manuscript was prepared using the ordinances provided by the Town. The last ordinance reviewed for the preparation of the Manuscript was the Addressing Ordinance adopted August 19, 2013. These materials were sorted and categorized according to subject and the Manuscript prepared, in accordance with the proposed Table of Contents which was submitted to and approved by the Town.

- The Manuscript has not been edited but represents the Town's current legislation of a general and permanent nature, organized and renumbered in the new Code's format.
- Each piece of legislation in the Manuscript is identified by its adoption date in the "History" included in each chapter.
- Amendments and changes to such legislation have been inserted where appropriate in the text, and superseded and extraneous material has been deleted.
- Such sections as repealer, severability and effective date have been removed. Those provisions will be covered under the Code Adoption Ordinance, and it is not necessary to include them within chapters of the Code.
- Internal references (i.e., a reference to a section number within a law) have been updated to reflect the new numbering.

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Disposition List

The Disposition List, included following the Manuscript, indicates where each ordinance provided by the Town has been incorporated into the Manuscript or the reason for exclusion.

Time Frame

The review and revision phase of the project usually requires the most intensive work on the part of the municipal officials. The Town will have 90 business days (by August 21, 2015) to return this completed Editorial and Legal Analysis and any other revisions to the Code. When all answers are received from the municipality, General Code will schedule preparation of the final draft of the new Code.

Review by Town

This Editorial and Legal Analysis is set up as a workbook. Where the phrase "satisfactory as written" is used, the editor has found that subject to be generally suitable as written. However, those comments do not preclude revisions to any chapter based on the experiences of the Town. We encourage the Town officials to review all chapters of the Manuscript, using this Editorial and Legal Analysis as a guide, paying particular attention to the following:

- ◆ Are certain provisions no longer enforced?
- ◆ Is the legislation the appropriate regulation of the subject matter or would such provisions be enforced under another law or statute?
- ◆ Are the procedures described accurate or should they be changed to reflect current practices? Are there obsolete procedures that can be deleted?
- ◆ Have problems in enforcement of particular provisions arisen in the past? Could the provisions be made more specific?
- ◆ Are the titles of officials and departments up-to-date? Are there other administrative terms that should be changed?
- ◆ Are the amounts of fees and bonds adequate? Will they cover the Town's cost in administering the legislation?

Our experience indicates that the Town may find it helpful to designate one person or a small committee to perform the detailed review work and to report back to the governing body with specific recommendations and any questions needing some type of policy decision. Often at this point the completed workbook is passed on to the Municipal Attorney for his or her review of the decisions. As the governing body will adopt the Code following final publication, we recommend that the governing body be kept informed regarding the project and all proposed changes to the ordinances.

Please make a copy of the completed Editorial and Legal Analysis and any accompanying documents for the Town's records and send General Code the original materials.

Extent of Decisions

It is not necessary for the Town to answer every single question in the Editorial and Legal Analysis. There may be some subjects that require further time for review and revision. You have the option of printing existing legislation as is and revising it in the future. The aim should be to answer as many questions as possible within the time frame.

If the Town wishes to use this approach, either mark the checkbox option indicating "make no change" and/or make a notation of **LEAVE AS IS** at the chapter title in the Editorial and Legal Analysis.

Sample Legislation

In some cases in this Editorial and Legal Analysis, we have suggested sample language or provided sample legislation for review. Sample legislation is included in the Codification Portfolio following the "Samples" tab.

Sample legislation adopted by other municipalities is always available for review and comparison purposes upon request; simply contact the project editor. A number of Maine codes are posted on our website and can be reviewed for samples: <http://www.generalcode.com/ecode360/ME>

It is important to note that **sample legislation is unlikely to meet the Town's requirements without some sort of revision**. The purpose of sample legislation is to give officials an opportunity to see what other municipalities have enacted on certain subject matters and to provide a basis for legislation that the governing body may wish to adopt. Sample legislation should be thoroughly reviewed and revisions made to bring the samples in line with your community's needs before adoption.

Adoption of Samples. Sample legislation may be adopted via the Code adoption process. However, if a particular subject is controversial or requires in-depth research and discussion, we advise that you pursue its adoption separate from the Code project (after the publication of the Code).

Process/Next Steps

Once the Town has completed its review of the Editorial and Legal Analysis and provided all desired changes to the Code, then General Code will schedule preparation of the final draft for delivery within 100 business days. The Town will have 30 business days to review the final draft. Once the final draft is approved, General Code will proceed with final publication of the new Town Code. Deliverables under the terms of the contract are 10 Code volumes and eCode360[®] (the Town's Code on the Internet).

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Adoption of Code

In accordance with 30-A M.R.S.A. § 3004 and the Town Charter, Section 215(b), Codification, the new Town Code should be formally adopted as soon as possible in order to establish the Code as a permanent, practical and enforceable system of law.

We will prepare a draft of the Code Adoption Ordinance and submit this material to the Town for review and adoption by the Town Council. This ordinance will contain provisions designed to repeal prior ordinances of a general and permanent nature not contained in the Code; save certain classes of ordinances from repeal, such as annexations, street openings or vacations, purchases or sales of property, appropriations and bond ordinances; ratify nonsubstantive changes to legislation in the Code; prohibit tampering with the Code; and provide blanket severability, repealer and when effective sections.

GENERAL COMMENTS

Binders

- A. Binder colors. Please choose binder and lettering colors for your new Codes. Binder color options may be reviewed on the Web at <http://www.generalcode.com/codification/binder-colors>.

Binder Color		Lettering
<input type="checkbox"/> Blue	<input type="checkbox"/> Brown	<input type="checkbox"/> White
<input type="checkbox"/> Green	<input type="checkbox"/> Burgundy	<input type="checkbox"/> Gold
<input type="checkbox"/> Gray	<input type="checkbox"/> Black	<input type="checkbox"/> Silver

- B. Seal or logo. If the Town can provide us with a clear, crisp, black-and-white copy of the Town Seal, or the current logo, we will include it on the Code binders.

Decision:

- Clear, crisp, black-and-white copy of the Seal or logo is attached.
- Electronic image of Seal or logo (in .tiff or .jpeg format) has been e-mailed to ezsupp@generalcode.com.
- Seal or logo is not available for reproduction on binders.
- C. Wording. The cover of the binder will read "Charter and Code of the Town of Hampden Maine" unless otherwise requested.

Decision:

- This wording is acceptable
- Use the following:

Fees

The process of codification provides a good opportunity for the Town to review fees for licenses, permits, inspections, hearings, etc., as to possible updating. All fees should be reviewed to ensure that they adequately reflect the current administrative costs of the Town. Each fee which is included in the Town's ordinances is noted in the specific comments which follow.

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CHARTER

Charter

1-17-1972

If the Town elects to make revisions to the Charter as part of this project, the revisions will need to be adopted separately from the rest of the Code, following the amendment procedure in Section 1003 of the Charter. Section 1003(4) authorizes the Town Council to correct typographical errors and misspelled words.

- A. Numbering. No changes will be made to the article and section numbers in the Charter. Within most of the sections in the Charter, the subsections are lettered [(a), (b), (c), etc.]. See for example Sections 207 and 211. There are eight sections where the subsections are numbered [(1), (2), (3), etc.]. See Sections 212, 402, 403, 602, 603, 704, 1002.A and 1003. For consistency, the Town might want to consider changing the subsections in these eight sections from numbers to letters.

Decision:

- Revise subsection numbers as indicated
 Make no change

- B. Style.

- (1) Capitalization. The capitalization of terms in the Charter is inconsistent. For example, in some sections "Town Council," "Town Manager" and "Town Clerk" are capitalized while in others they are lowercased. Our standard practice would be to capitalize proper nouns and to capitalize "Town" when referring specifically to the Town of Hampden. This style has been used in the Town ordinances and could be applied to the Charter.

Decision:

- Standardize capitalization of terms
 Make no change

- (2) Numbers. The presentation of numbers in the Charter is also inconsistent. In some cases the numerical form is used: "failure to qualify for the office within **10** days"; in others the number is written out: "notice shall be given not less than **twelve** hours before the special meeting"; and in others both forms are used: "fails to attend **six (6)** regular or special meetings." Our standard practice is to spell out numbers up to nine; use the numerical form for numbers 10 and up; and to use the numerical form for

fractions, decimals and dollar amounts. This style has been applied to the Town ordinances and could be applied to the Charter.

Decision:

- Standardize presentation of numbers
 Make no change

- (3) Statutory references. We recommend standardizing statutory references to the following format: 1 M.R.S.A. § 405.

Decision:

- Standardize statutory references to M.R.S.
 Make no change

Since Maine now has its own statute database, the Maine courts are now citing M.R.S. (Maine Revised Statutes) instead of M.R.S.A., the annotated statutes published by West Group.

- C. Spelling and typographical errors. We have made the following corrections and would like to confirm that these changes are acceptable:

- (1) In Section 207 we have corrected the misspelling "forefeiture" to "forfeiture." In Section 1002.A we have corrected "forefeit" to "forfeit."
 (2) We have deleted "(11)" from the end of Section 213(b).
 (3) In Section 709(e) we have corrected "tansfer" to "transfer."
 (4) In Section 1003(2) we have revised the reference to "subsection I" to "subsection 1."

Decision:

- These changes are acceptable
 Change back to original text

- D. Punctuation errors. There are a number of punctuation and other minor errors in the Charter that could be corrected. Examples:

- (1) In Section 206 the comma in the following should be deleted: "neither the council nor any member[,] thereof shall give orders to any subordinates of the manager."
 (2) In Section 213(d) the semicolon in the following should be a colon: "As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the town[;]; (1) the ordinance or a brief summary thereof."
 (3) In Section 502 the comma in the following should be deleted: "Two alternates serving staggered terms[,] shall also be appointed."

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- (4) Section 1002 should be revised as follows: "No person shall be appointed to or removed from[,] or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of religion, age, sex, marital status, race, color, ancestry, national origin, or physical or mental handicap."

Decision:

- Correct punctuation errors
 Make no change

E. Revisions. The following additional minor revisions could be made:

- (1) Section 103: "The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or ~~of~~ with the United States or any agency thereof."
- (2) Section 204: "At the first council meeting in January of each year the town's attorney shall, after the swearing in of council members, preside over the town council's election of one of its members as mayor for the ensuing year."
- (3) Section 204: "Should the office of deputy mayor become vacant, the mayor shall, as the next order of council business, preside over the election of a deputy mayor."
- (4) Section 403(2): "The manager shall attend council meetings, except when the manager's removal is being considered, and shall have the right to take part in discussions but may not vote."
- (5) Section 707(a)(1): "The times and places where copies of the capital program are available for inspection by the public[,]; and"
- (6) Sections 801 and 805 (this sentence appears in both sections): "In the event that this charter or Title 21-A ~~do~~ does not address a particular election matter, any relevant election provision of Title 30-A of the Maine Revised Statutes shall apply."
- (7) In the first paragraph of Section 806 the wording "not less than" should read "not fewer than." Example: "A candidate for district councilor must obtain the names of not ~~less~~ fewer than 10, nor more than 25, Hampden voters, who must reside in the candidate's district."
- (8) The correct spelling of "center line" is two words, not one (centerline). Both spellings are used in the district boundary descriptions in Section 807.
- (9) Section 901(a): "provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriations of money, levy of taxes, or salaries of officers or employees."
- (10) Section 901(b): "The qualified voters s shall have the power to propose ordinances."

Changes recommended.

Decision:

- These changes are authorized
- Do not make these changes

F. In Section 203, Compensation, the last sentence reads: "Initially annual salaries shall be twenty dollars (\$20.00) per meeting for each councilor and town counselor and twenty-five dollars (\$25.00) per meeting for council mayor." The Town might want to consider deleting this sentence. The salaries were revised by ordinance in 2005; see Chapter 84, Salaries and Compensation.

Decision:

- Delete this sentence
- Revise as follows:
- Make no change

G. In Section 303, under Personnel Rules, Subsection (c) reads "Methods for determining the merit and fitness of candidates for appointment or promotion, demonstration or dismissal." Is the word "demonstration" supposed to be "demotion"?

Decision:

- Change "demonstration" to "demotion"
- Revise as follows:
- Make no change

H. In Section 501, regarding the Assessor, the last sentence reads "Cause shall not include any disagreement with respect to an assessing practice employed by the assessor where such practice is generally accepted and lawful." This sentence is unconnected to the rest of the section; there is no prior mention of "cause." We question whether wording is missing, such as "The Assessor may be removed by the Town Manager for cause."

Decision:

- Revise as follows:
- Delete indicated sentence
- Make no change

Change sentence to read as follows: "Any disagreement with respect to an assessing practice employed by the assessor, where such practice is generally accepted and lawful, shall not be grounds for removal under Section 301."

I. In Section 502, regarding the Board of Assessment Review, "chairman" could be updated to "chairperson." See Section 603, which refers to the Chairperson of the Planning Board.

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- Change "chairman" to "chairperson"
- Make no change

- J. Section 906 ends with the following: "but the attorney shall not materially change its meaning and effect and cause it to be placed upon a ballot the form of which will be determined by the Town Council." Is this wording correct? It seems like wording could be missing before "and cause it to be placed upon a ballot."

Decision:

- Revise as follows: Put a period after the word "cause", and delete the remainder of the quoted language.
- Make no change

PART I: ADMINISTRATIVE LEGISLATION

Ch. 1, General Provisions

Art. I, Adoption of Code

New

- A. In conjunction with the publication of the new Town Code we will provide an ordinance for adoption of the Code by the Town Council. This article is reserved for the inclusion of that ordinance following its adoption.
- B. The Town might want to consider including general rules for interpretation of the Code in this chapter. Typically called "rules of construction," these rules provide that words in masculine gender include the feminine, words in the singular include the plural, and so on. Two samples are included in the "Samples" portion of the Codification Portfolio.

Decision:

- Add enclosed sample to this chapter
- Town does not want to add rules of construction

- C. Some municipalities also establish a general penalty in this chapter which applies to violations of the Code where no other penalty is prescribed. Sample language is included below. If a general penalty is established, individual penalty sections throughout the Code can be revised, where appropriate, to refer to the general penalty.

Sample 1: Whenever in this Code, or in material adopted by reference in this Code, any act is prohibited or made or declared to be unlawful, or whenever in this Code, or in material adopted by reference by this Code, the doing of any act is required or the failure to do any act is declared to be unlawful, and where no specific penalty is provided therefor, the violation of such provision shall be punishable by a civil penalty ~~fine~~ of not less than \$_____ nor more than \$500-\$_____ plus costs, including attorney's fees. This penalty shall not be deemed to be exclusive of any other appropriate legal or equitable action. Each day any violation of this Code occurs or continues shall constitute a separate offense.

Sample 2: Unless otherwise provided, any person, firm or corporation who or which shall violate any of the provisions of this Code shall be punished by a fine of not less than \$100 nor more than \$2,500. Each day that a violation continues shall be considered a separate offense.

Sample 3: Any person violating or failing to comply with any provision of this Code or committing any act or omission to act declared to be a civil violation or unlawful, where no specific penalty is provided therefor, shall be punished by a civil penalty of not more than

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\$100. All civil penalties collected for violations of the Code shall be paid to the Town, unless the Code specifies otherwise.

Decision:

- Add general penalty using the following sample: **Sample 1, as modified.**
 Do not add general penalty **Policy Issue: Range of civil penalty amounts.**

Ch. 7, Appeals, Board of

6-19-2006

- A. The titles "Board of Appeals" and "Zoning Board of Appeals" are both used. Should one title be used consistently throughout the Charter and Code?

Decision:

- Change "Zoning Board of Appeals" to "Board of Appeals"
 Change "Board of Appeals" to "Zoning Board of Appeals"
 Retain both titles

- B. In § 7-4A(4) is the wording "sewer reviews" correct?

Decision:

- Revise as follows: **Delete "sewer reviews".**
 Make no change

- C. The titles "Chair," "Chairperson" and "Chairman" are all used in this chapter. The Town might want to take this opportunity to make these references consistent throughout the Code.

Decision:

- Use "Chairperson"
 Use "Chair"
 Make no change

- D. In § 7-4C(2) we question whether the references to "this ordinance" should be revised as follows: "to decide in favor of the applicant on any matter on which it is required to act under ~~this~~ the subject code or ordinance, or to effect any variation in the application of ~~this~~ the subject code or ordinance." See the wording of § 7-3.

Decision:

- Revise as indicated
- Change "this ordinance" to "this chapter" (meaning Chapter 7)
- Other:

- E. The following correction should be made in § 7-5B: "any other prejudice that would prevent a Board member from rendering ~~an unfair~~ a fair and/or impartial decision."

Decision:

- Revise as indicated
- Revise as follows:

Ch. 18, Conservation Commission

3-21-2005

- A. Ordaining clauses ("hereby ordains") are not typically included within the body of an ordinance. Accordingly, the following revision could be made in § 18-1B: "Pursuant to the provisions 30-A M.R.S.A. § 3261 and the Charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, ~~the Town of Hampden hereby ordains that there is~~ hereby established a Conservation Commission, to be organized, administered and governed in accordance with the following provisions."

Decision:

- Revise as indicated
- Make no change

- B. In § 18-4E the following correction should be made: "The Commission shall, at least once a year, or at the request of the Town Manager, file a report with the Town Council containing information as to the activities of the Commission in the past year and an outline of the program anticipated in the coming year."

Decision:

- Revise as indicated
- Revise as follows:

- C. In § 18-5A the reference to 30-A M.R.S.A. § 3264 seems incorrect. That section provides for the appointment of park commissioners. It appears that this reference should be to 30-A M.R.S.A. § 3261, Conservation commissions.

Town of Hampden, ME**Decision:**

- Revise reference as indicated
 Make no change

Ch. 26, Elections

Art. I, Board of Registration*1-22-1979*

- A. Is the Board of Registration provided for in this ordinance still functioning, or does the Town now have a Registrar of Voters as provided for in 21-A M.R.S.A. § 101, Registrar?

Decision:

- Ordinance is obsolete; remove **Repeal.**
 Retain ordinance
- B. Title 21, Elections, of the statutes was repealed in 1985 and replaced by Title 21-A. We will update the reference to Title 21 in § 26-6 to Title 21-A.
- C. Section 26-6 includes a specific reference to "Section 72, Title 21, Maine Revised Statutes" regarding the registration of disabled persons. Section 72 of Title 21 was renumbered as Section 153 of Title 21-A. Section 153 was then repealed by L. 2005, c. 196.

Decision:

- Delete the last sentence of § 26-6
 Revise as follows:
 Not applicable; article deleted
- D. Section 26-7 refers to "Sections 631 and 632, Maine Revised Statues Annotated." Sections 631 and 632 of Title 21 were renumbered as Sections 123 and 124 of Title 21-A. Sections 123 and 124 were then repealed by L. 1985, c. 307.

Decision:

- Delete "In addition to Sections 631 and 632, Maine Revised Statutes Annotated"
 Revise as follows:
 Not applicable; article deleted

Ch. 29, Ethics, Code of

5-7-2012

- A. In § 29-3E(6), Disclosure statement, Subsection E(6)(c)[1][d] reads "Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually." Should this amount be \$1,000? The corresponding wording on the disclosure form at the end of the chapter reads "Please include the name of position served, the term of service, and compensation received (if it is more than \$1,000 per year in the aggregate)."

Decision:

- Change \$100 to \$1,000
- Revise as follows:
- Make no change

- B. The following penalties prescribed in this chapter should be reviewed to ensure they are still satisfactory:
 - (1) Section 29-7E(1) provides for a fine of not less than three times the value of any improper gift or kickback paid, solicited, or received or \$500, whichever is greater, for violations of § 29-7, Ethics in contracting.

Decision:

- Revise as follows:
- Make no change

Policy Issue

- (2) Section 29-8 provides for a civil penalty of not less than \$100 and not more than \$500 for violations of this chapter by a Councilor or Council appointee.

Decision:

- Revise as follows:
- Make no change

Policy Issue

Ch. 35, Fire Department

No date

- A. This ordinance does not include an adoption date. If the adoption of this ordinance cannot be verified, the Town might want to consider readopting this ordinance. The Town

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Attorney should be consulted in this regard. We can provide for this ordinance to be readopted as part of the Code Adoption Ordinance.

Decision:

- Provide for ordinance to be readopted
 Ordinance does not need to be readopted

- B. We have added the wording "The functions of the Fire Department are" at the beginning of § 35-3 to provide lead-in wording for Subsections A through D of this section. We have added the wording "The Fire Chief shall" at the beginning of § 35-6 to provide lead-in wording for Subsections A through O of this section.

Decision:

- These changes are acceptable
 Revise as follows:

- C. In § 35-6L the following revisions could be made to clarify this wording and create a complete sentence: "Employees ~~to~~ shall have access to the file and may submit ~~refuta~~ rebuttal information."

Decision:

- Revise as indicated
 Revise as follows:

- D. As it is not clear how old this chapter is, we recommend that it be reviewed by the Fire Chief or other appropriate officials to ensure that it reflects current practice in the Town.

Decision:

- See revisions on enclosed copy
 No other revisions needed

Agree.

Ch. 65, Personnel Rules and Policies

12-19-2011

- A. The following documents have been excluded from the Code but could be added as attachments at the end of this chapter if desired by the Town:

- (1) Welcome letter from Town Manager.
- (2) Employee Acknowledgement Form.

Decision:

- These documents do not need to be included
- Include these documents

B. The cover page for this ordinance refers to the "Personnel Rules and Policies Ordinance." Section 65-2A begins "The purpose of the Town Council in adopting the Personnel Rules and Regulations Ordinance." Which title is correct, "Rules and Policies" or "Rules and Regulations"?

Decision:

- Correct title is "Personnel Rules and Policies Ordinance"
- Correct title is "Personnel Rules and Regulations Ordinance"
- Other:

C. In § 65-1A should the wording "to achieve excellence in communication, work processes" read "to achieve excellence in communication and work processes"?

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

D. In § 65-6, Equal opportunity policy, "political affiliation or belief" is included in Subsection A(1) but not in Subsection A(4). Is this correct?

Decision:

- Add "political affiliation or belief" after "religious belief" in Subsection A(4)
- Make no change

E. In § 65-15A(1) the Town might want to clarify "0001 a.m. on Sunday."

Decision:

- Revise to "1:00 a.m. on Sunday"
- Revise to "12:01 a.m. on Sunday"
- Revise as follows:

F. We have added the word "employees" in § 65-16B(1) as follows: "No employee shall be paid for lunch breaks, but employees are entitled to a fifteen-minute break in the morning

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and in the afternoon." We have added the word "employee" in § 65-31B as follows: "No salaried employee shall accrue more than 80 hours of compensatory time."

Decision:

- These changes are acceptable
 Revise as follows:

- G. In § 65-19B(1)(c) should "Reasonable service tips are actual costs" read "Reasonable service tips are paid at actual costs"? See the wording of § 65-19B(1)(b).

Decision:

- Revise as indicated
 Make no change

- H. In § 65-22A(2) "Workmen's compensation" could be updated to "Workers' compensation." See § 65-26, Workers' compensation.

Decision:

- Revise as indicated
 Make no change

Ch. 70, Public Works Department

3-16-1987

- A. Section 70-1 begins "In accordance with Article II, Sections 212 and 302, of the Town Charter." As Section 302 is part of Article III, not Article II, of the Charter, one of the following revisions should be made:

Option 1: "In accordance with Sections 212 and 302 of the Town Charter..."

Option 2: "In accordance with Article II, Section 212, and Article III, Section 302, of the Town Charter..."

Decision:

- Use Option 1
 Use Option 2
 Other:

- B. In § 70-6A(1) and (3) the Town might want to update "men and equipment" to "personnel and equipment."

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

- C. This chapter has not been revised since its adoption in 1987 and should be reviewed to ensure that it reflects current practice. For example, § 70-5 provides for four divisions in the Public Works Department and § 70-6 provides for appointment of the Highway Foreman and Cemetery Foreman. Are the titles given for the divisions and the division heads up-to-date?

Decision:

- See revisions on enclosed copy Agree
- No revisions needed

Ch. 84, Salaries and Compensation

Art. I, Town Council Compensation*9-19-2005*

This ordinance, which is now almost 10 years old, provides for the Chairman to be paid \$35 per meeting and the other Councilors to be paid \$30 per meeting. Are any updates needed?

Decision:

- See revisions on enclosed copy Policy Issue
- Make no change

Ch. 95, Town Property

Art. I, Sale of Town-Owned Real Estate*11-19-1979*

- A. In § 95-1 the reference to Section 212(b) of the Charter is incorrect and should be to Section 212(6), which reads "Convey or lease or authorize the conveyance or lease of any lands of the town." We will make this correction.
- B. Section 95-3 contains a typographical error: "each landowner within three (300) feet of any property line." We would like to confirm that the correct number is 300.

Town of Hampden, ME

Decision:

- Correct number is 300
- Correct number is 3

C. This article was last amended in 1987 and should be reviewed as to whether it reflects current procedures.

Decision:

- See revisions on enclosed copy Agree
- No other revisions needed

PART II: GENERAL LEGISLATION

Ch. 112, Alcoholic Beverages

Art. I, Special Amusement Permit*10-6-1997*

- A. In § 112-5B the last sentence is missing wording. Based on a comparison with similar ordinances adopted by other towns, the following underlined wording should be included: "provided that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection."

Decision:

- Revise as indicated
 Revise as follows:

- B. Section 112-10 sets the penalty for violations of this ordinance at a fine of up to \$100 for a first offense and up to \$500 for a subsequent offense. Is this penalty still satisfactory?

Decision:

- Revise as follows: Policy Issue
 Make no change

Ch. 120, Animals

Art. I, Animal Control*4-3-2000*

- A. Should the reference to the Commissioner of Agriculture in § 120-3B be updated to the Commissioner of Agriculture, Conservation and Forestry? See 7 M.R.S.A. § 1.

Decision:

- Update reference as indicated
 Make no change

- B. In § 120-7B(1)(f) is the wording "Home fill pipe" correct?

Town of Hampden, ME

Decision:

- Revise as follows:
- Make no change

C. Section 120-9A provides as follows: "Whoever owns or keeps a dog contrary to any provision of this article shall be punished by a fine of not less than \$50 nor more than \$250 for each offense."

- (1) Should "keeps a dog" be changed to "keeps an animal" in this sentence? Some of the provisions in this article apply to animals generally, not just dogs. See §§ 120-4 and 120-5 which deal with nuisances created by animals.

Decision:

- Change "keeps a dog" to "keeps an animal"
- Revise as follows:
- Make no change

- (2) Are the minimum and maximum fine amounts still satisfactory?

Decision:

- Revise as follows:
- Make no change

Policy Issue

Ch. 133, Cable Television

8-18-1997

A. Section 133-14A refers to a Town Administrator: "The Town Administrator, or the Administrator's designee, shall establish deadlines and procedures for responding to the RFP, may seek additional information from the applicant, and shall establish deadlines for the submission of that additional information." Should "Administrator" be changed to "Manager"?

Decision:

- Change "Administrator" to "Manager"
- Revise as follows:
- Make no change

B. The filing fees in § 133-17 are also included in the Fees Ordinance (Chapter 160, Article I). We strongly recommend against having the same fees included in two different ordinances.

A conflict could be created if one ordinance is amended and the other is not. Section 133-17 could be revised to delete the specific fees and refer to the Fees Ordinance.

Decision:

- Remove fees from § 133-17 and refer to Fees Ordinance
- Handle as follows:
- Make no change

- C. Section 133-39A provides for the following fines for violations of this chapter or a franchise agreement: not less than \$50 nor more than \$250; for a second violation within two years, not less than \$100 nor more than \$500. Are these amounts still satisfactory?

Decision:

- Revise as follows: Policy Issue
- Make no change

- D. We will change "City" to "Town" in § 133-52L and M.

- E. The following revision could be made in § 133-74C to make a complete sentence: "A grantee shall provide the Town with any request for protection under bankruptcy laws or any judgment related to a declaration of bankruptcy by the grantee or by any partnership or corporation that owns or controls the grantee directly or indirectly." See similar wording in § 133-74B.

Decision:

- Revise as indicated
- Revise as follows:

- F. In § 133-77B the wording "in conversations with this chapter or a franchise agreement" is incorrect and should read "in connection with this chapter or a franchise agreement." See similar wording in § 133-76. We will make this correction.

Ch. 137, Cemeteries

9-8-1981

- A. Does "Town officer" at the end of § 137-3B refer to the Town Manager? If so, "officer" could be changed to "Manager" to clarify this reference.

Town of Hampden, ME**Decision:**

- Change "Town officer" to "Town Manager"
- Revise as follows:
- Make no change

- B. The following wording at the end of § 137-4B does not make sense: "to remove any floral design or pieces not removed by September 10 of each year, may be removed by the Cemetery Sexton." It would appear that the wording "may be removed by the Cemetery Sexton" could simply be deleted:

The Sexton or his designated assistants have the authority to enter upon any lot with the necessary equipment for the purpose of improving the appearance and condition of any objectionable object that may have been placed contrary to the regulations of the cemetery; to remove any dead or dangerous tree, shrub, vine or neglected fence, railing or enclosures; and to remove any floral design or pieces not removed by September 10 of each year, ~~may be removed by the Cemetery Sexton.~~

Decision:

- Revise as indicated
- Revise as follows:

- C. The specific fees in § 137-5 were removed in 2003 and are now included in the Fees Ordinance (Chapter 160, Article I). Accordingly, we have simplified this section to read as follows:

Price schedule and fees are in accordance with Chapter 160, Article I, Fees. Funerals will pay an hourly fee for services required by the Town beyond 3:00 p.m. There will be a fee for the use of the receiving vault by nonresidents.

Decision:

- § 137-5 is satisfactory
- Revise as follows:

Ch. 144, Concourse Gathering

7-24-1978

- A. The reference to the State Department of Health and Welfare in § 144-5A and the reference to the State Department of Human Services in § 144-8C should be updated to the State Department of Health and Human Services.

Decision:

Revise as indicated

Revise as follows:

- B. Section 144-8C refers to the Town of Hampden Civil Emergency Preparedness Director. Is this title up-to-date?

Decision:

Revise as follows:

Town Question

Make no change

- C. Section 144-23 sets the penalty for violations of this chapter at a fine not exceeding \$500. Is this penalty still satisfactory?

Decision:

Revise as follows:

Policy Issue

Make no change

Ch. 160, Fees and Charges

Art. I, Fees

10-20-1986

- A. In § 160-3, Fees for activities regulated by Town ordinance, we have added a cross-reference after the name of each ordinance to indicate where the ordinance is located in the new Code. Example: "Animal Control Ordinance. (See Chapter 120, Article I.)"

Decision:

This change is acceptable

Revise as follows:

- B. The last amendment to this ordinance was adopted in April 2014. Are any updates to the fees needed?

Decision:

See revisions on enclosed copy

Town Question

No revisions needed

Town of Hampden, ME**Art. II, Service Charge***5-18-1992*

This ordinance appears to have been based on 36 M.R.S.A. § 652(1)(L), Service charges, which is referenced in § 160-11. That section of the statutes was repealed in 2007 (L. 2007, c. 627). The 2007 act established a new section, 36 M.R.S.A. § 508, Service charges. We will update this reference accordingly. Are any other updates needed? The ordinance appears to be consistent with the requirements of 36 M.R.S.A. § 508.

Decision:

- See revisions on enclosed copy **Just update reference to statute.**
- Make no change

Ch. 165, Firearms

Art. I, Firearms Discharge*8-7-1989*

- A. In § 165-3, regarding the license for a firing range, Subsection C provides as follows: "The applicant shall pay the application processing fee established by which costs shall be paid at the time of application."
- (1) This fee is not included in the Fees Ordinance (Chapter 160, Article I). Should it be added to § 160-4, Police Department?

Decision:

- Add the following fee: **Add fee to Section 160-3. Need to determine amount of fee.**
- Do not add this fee

- (2) Is the wording "by which costs shall be paid" correct?

Decision:

- Revise to read "The applicant shall pay the application processing fee at the time of application."
- Revise as follows:
- Make no change
- B. Section 165-6 sets the penalty for violations of this ordinance at a fine of not less than \$50 and not more than \$100. Is this penalty still satisfactory?

Decision:

Policy Issue

- Revise as follows:
- Make no change

- C. If the Town makes revisions to this ordinance, note that 30-A M.R.S.A. 3007(5) now includes the following:

After January 1, 2000, a municipality that adopts or amends a firearm discharge ordinance shall provide the Commissioner of Inland Fisheries and Wildlife with a copy of the new or amended firearm discharge ordinance and a copy of any maps that show the areas in the municipality affected by the new or amended ordinance within 30 days from the date that the ordinance is enacted or amended.

Ch. 169, Fireworks

Art. I, Consumer Fireworks

6-3-2013

- A. Section 169-4 provides for complaints to be handled by the Public Safety Department and Public Safety Director. Section 169-5B then provides that "This article shall be enforced by the Town of Hampden Police Department." We would like to confirm that the Police Department and Public Safety Department are two different agencies. There are references to both departments throughout the Town's ordinances. There are also references to both the Chief of Police and the Public Safety Director. Is this correct?

Decision:

Town Question

- These are different departments; no change needed
- Change Police Department/Police Chief to Public Safety Department/Public Safety Director
- Change Public Safety Department/Public Safety Director to Police Department/Police Chief

- B. Section 169-5A sets the penalty for violations of this ordinance at a fine of not less than \$100 and not more than \$500. This penalty is consistent with 8 M.R.S.A. § 223-A(8), Restrictions on use of consumer fireworks, which provides that "A person who violates this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$500, plus court costs, may be adjudged for any one offense."

Town of Hampden, ME

This ordinance is based on Maine Municipal Association's model ordinance. Do not know if Town has enacted most recent model. Not reviewed by Town Attorney. Proposed changes should be submitted to MMA for review and comment.

Ch. 178, General Assistance

12-2-1996

- A. We will update references in this chapter to the Department of Human Services to the Department of Health and Human Services. It is not clear whether the following references to agencies within this Department need to be updated:

- (1) Support Enforcement Location Unit. See § 178-36C(3).
- (2) Division of Health Engineering. See § 178-37D(2)(d).
- (3) General Assistance Unit. See § 178-37D(6).

Decision:

- See revisions marked above
 Make no change

- B. In § 178-1 the wording "the Town of Hampden hereby ordains that" could be deleted. This wording is not typically included within the body of an ordinance.

In accordance with Article III, Section 302, of the Town Charter, ~~the Town of Hampden hereby ordains that~~ there is hereby established a Public Welfare Department and rules and regulations for the administration of general assistance.

Decision:

- Revise as indicated
 Make no change

- C. In § 178-2 we recommend changing "Welfare Department" to "Public Welfare Department" for consistency with the rest of this chapter: "The Director of Public Welfare shall supervise the entire operation of the Public Welfare Department."

Decision:

- Revise as indicated
 Make no change

- D. Section 178-4 consists of an incomplete sentence. The following revision could be made: "~~Fe~~ The Director of Public Welfare shall perform such other duties as may be prescribed by the Town Manager or any applicable state and local laws and ordinances."

Decision: Revise as indicated Revise as follows:

- E. Section 178-9C(1) includes at the end a reference to 22 M.R.S.A. § 2374, which section was repealed in 1987 (L. 1987, c. 710).

Decision: Delete this reference Revise as follows:

- F. Section 178-9C(2) provides that "Any person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100." This penalty, which is also stated in § 178-32E, is prescribed by 22 M.R.S.A. § 4314 and should not be changed.
- G. In § 178-10, Maintenance of records, the reference to 22 M.R.S.A. § 4303 appears to be a typographical error for § 4306, Records; confidentiality of information. Section 4303, Prosecution and defense of towns, does not mention records.

Decision: Change reference from § 4303 to § 4306 Revise as follows: Make no change

- H. Section 178-14D refers to Title 19 of the statutes and specifically to 19 M.R.S.A. §§ 441 to 443. Title 19, Domestic Relations, was repealed and replaced in 1995 with Title 19-A. We will update the reference to Title 19 accordingly. It is not clear how the specific references to §§ 441 to 443 of former Title 19 should be handled. Note that a reference to 19 M.R.S.A. §§ 441 to 443 also appears in § 178-47, Relatives.

Decision: Delete references to 19 M.R.S.A. §§ 441 to 443 Revise as follows:

- I. In § 178-26A(1) the wording "over the age of 16 years of age or older" does not make sense. This wording should read either "over the age of 16 years" or "16 years of age or older."

Town of Hampden, ME**Decision:**

- Revise to read "16 years of age or older"
- Revise to read "over the age of 16 years"
- Other:

- J. In § 178-26D(7) is the reference to the Maine Employment Security Commission still correct? The corresponding wording in 22 M.R.S.A. § 4316-A(5)(H) reads "Any reason found to be good cause by the Department of Labor."

Decision:

- Change "Maine Employment Security Commission" to "Department of Labor"
- Revise as follows:
- Make no change

- K. Section 178-29B(1) includes the following: "(Note: the federal minimum wage is \$4.75/hour as of October 1, 1996, and shall be increased to \$5.15/hour on September 1, 1997.)" Should this note be deleted or updated? The current federal minimum wage is \$7.25 per hour. Maine has a state minimum wage of \$7.50 per hour. See 26 M.R.S.A. § 664.

Decision:

- Delete this note
- Revise as follows:

- L. Section 178-29C(5) is missing wording and does not make sense. The following corrections could be made:

If some of the workfare first assignments ~~satisfactory~~ are satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment.

Decision:

- Revise as indicated
- Revise as follows:

- M. In § 178-36C(6) it is not clear why "CV 86-436" is included at the end of the subsection. There is a court case cited in this subsection but with a different number: "Boisvert v. Lewiston, CV 80-436, Androscoggin County Superior Court."

Decision: Delete "CV 86-436" Revise as follows:

- N. Section 178-37 provides maximum levels of assistance. Are any revisions needed in this section in light of the appendices adopted by the Town in 2013 that are included at the end of this chapter? Compare the following subsections with the appendices indicated. Should specific amounts be removed from the text and replaced with a reference to the appropriate appendix?
- (1) Subsection A, Overall maximum levels of assistance, with Appendix A, Overall Maximums.
 - (2) Subsection C, Food, with Appendix B, Food Maximums.
 - (3) Subsection D, Housing, with Appendix C, Housing Maximums.
 - (4) Subsection E, Utilities, with Appendix D, Utilities.
 - (5) Subsection F, Fuel, with Appendix E, Heating Fuel.

Decision: See revisions on enclosed copy Make no change

- O. The following subsections in § 178-37 provide amounts that should be reviewed to ensure they are up-to-date. There are no corresponding appendices for these items, and this section has not been revised since the adoption of this ordinance in 1996.
- (1) Section 178-37G, Personal care and household supplies: see schedules in this subsection.
 - (2) Section 178-37H(6) and (7), travel expenses: \$0.28 per mile.
 - (3) Section 178-37H(8)(g), obituary notice: \$75.
 - (4) Section 178-37H(8)(h), burial expenses: \$1,125.
 - (5) Section 178-37H(8)(i), cremation expenses: \$785, plus \$5 for burial urn.

Decision: See revisions on enclosed copy Make no change

Town of Hampden, ME

- P. Section 178-37D(2)(c) provides that "When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments during the calendar year will be issued to the Internal Revenue Code." Should "Internal Revenue Code" read "Internal Revenue Service"?

Decision:

- Revise to Internal Revenue Service
- Make no change

- Q. Section 178-37D(2)(d), regarding a lodging license, refers to 10-144A Code of Maine Regulations, Chapter 201. Is this reference correct? Chapter 201 of 10-144 (not 10-144A) is titled "Rules Relating to the Administration and Enforcement of Establishments Regulated by the Health Inspection Program." Chapter 206 is titled "Rules Relating to Lodging Establishments."

Decision:

- Revise to Chapter 206 of 10-144
- Revise as follows:
- Make no change

- R. In § 178-37D(3)(b) we will make the following correction, based on similar ordinances: "the monthly mortgage obligation is in accordance ~~either~~ with the maximum levels of assistance available for housing appropriate to the applicant's household size."
- S. In § 178-37H(2)(c) should "Ordinary medical supplies, non-prescription drugs" read "Ordinary medical supplies, including non-prescription drugs"?

Decision:

- Revise as indicated
- Revise as follows:

- T. Section 178-37H(3)(b) includes the following: "Any person who cannot pay his/her hospital bill must apply to the hospital for consideration under the hospital's charity care program as provided in 22 M.R.S.A. § 396-F(1)." Section 396-F of Title 22 was repealed in 1995 (L. 1995, c. 653).

Decision:

- Revise as follows:
- Delete "as provided in 22 M.R.S.A. § 396-F(1)"

- U. In § 178-37H(8)(e) the last sentence is awkward and unclear. Based on a comparison of similar ordinances, this sentence should read as follows:

Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit ~~to~~ the aggregate of all pro rata shares ~~or part of a share attributable to a~~ less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation, to the extent of that relative's share.

Decision:

- Revise as indicated
 Revise as follows:

- V. Appendices.

- (1) According to the note on Appendix A, the maximum amounts in Appendix A were in effect from July 1, 2013, to June 30, 2014, and the maximum amounts in Appendices B, C, D and E were effective from October 1, 2013, to September 30, 2014. Does this material need to be replaced with the currently effective appendices?

Decision:

- See new copies enclosed
 Retain existing appendices

- (2) The "Summary Sheet" which precedes Appendix A refers to Appendices B, C, D, E and F. We did not receive a copy of Appendix F.

Decision:

- Appendix F enclosed
 Delete reference to Appendix F
 Other:

- (3) Appendix C, Housing Maximums, includes the complete table with all counties. Is this necessary, or could the amounts for Penobscot County only be included? Also, should the opening paragraph, which contains instructions to municipalities on how to adopt housing maximums, be removed?

Decision:

- Delete first paragraph and all counties except Penobscot County
 Make no change

Town of Hampden, MECh. 184, Harbor

8-20-1984

As this ordinance is now over 30 years old, the Town might want to have it reviewed by the Harbor Master or other appropriate Town officials to ensure that it reflects current practice. We note the following:

Agree. Should be reviewed.

- A. Several different penalties are established in this chapter and should be reviewed to ensure they are still satisfactory: Policy Issues
- (1) Section 184-4A: "Any person who leaves a vessel moored to the public float beyond the allotted time shall be fined for each violation in the sum of not less than \$25 nor more than \$100."
 - (2) Section 184-6H: "Whoever violates any of the above conditions pertaining to moorings shall be liable upon complaint of the Harbor Master in the District Court for a fine of not less than \$25 nor more than \$100. Whoever willfully destroys any channel marker or buoy shall be liable upon complaint of the Harbor Master for a fine of not less than \$100 nor more than \$200."
 - (3) Section 184-6J: "Whoever anchors a boat in an improper location or manner shall be liable upon complaint of the Harbor Master in District Court for a fine of not less than \$25 nor more than \$100."
 - (4) Section 184-8D, any other violation for which no specific penalty is provided: "not less than \$25 nor more than \$100."

Decision:

- See revisions marked above
- Make no change

- B. In § 184-7E we recommend changing "all fees as hereinafter established" to "all fees as herein established." The fees are provided for before this section, not after it, in §§ 184-4 and 184-6.

Decision:

- Revise as indicated
- Make no change

 Ch. 190, Historic Preservation

11-20-1989

- A. Section 190-3I(5), regarding the duties of the Historic Preservation Commission, is missing wording. Based on a comparison with similar ordinances it appears the word "survey" should be included as follows: "Conduct or cause to be conducted a continuing survey of local historic and cultural resources."

Decision:

- Add "survey" as indicated
 Revise as follows:

- B. Section 190-15 sets the penalty for violations of this chapter at a fine of not less than \$100 nor more than \$2,500. Is any revision desired?

Decision:

- Revise as follows: Policy Issue
 Make no change

 Ch. 213, Library

Art. I, Edythe L. R. Dyer Community Library

5-16-1983

- A. We recommend the following revision in § 213-1: "Pursuant to the provisions of the Charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, ~~the Town of Hampden hereby ordains that~~ there is hereby established a public library, to be known as the Edythe L. R. Dyer Community Library, to be organized, administered and governed in accordance with the following provisions." Ordaining clauses are not typically included within the body of an ordinance.

Decision:

- Revise as indicated
 Make no change

- B. Section 213-4A provides that "The Board of Trustees of the Library shall consist of 15 persons, at least 11 of whom shall be residents of the Town of Hampden." The bylaws of the Board of Trustees, included at the end of this chapter, provide as follows: "The Board of

Town of Hampden, ME

Trustees shall consist of no fewer than nine nor more than 15 members, the majority of whom shall be residents of the Town of Hampden."

Decision:

- Revise § 213-4A to match the bylaws
- Revise as follows:
- Make no change

The ordinance controls, and the Trustees do not have the authority to deviate from the ordinance requirement as to the number of Trustees. The Town Council should decide how many Trustees there should be, and the ordinance and bylaws should be consistent. I recommend a fixed number of Trustees and Hampden members, not a range of members (9-15). Do not believe that Bylaws should be in the Code.

- C. The Town might want to consider whether the following wording could now be deleted from § 213-4A: "except that the members of the first Board shall be appointed to the following terms: four members shall serve one-year terms; three members shall serve two-year terms; and four members shall serve three-years terms." This wording indicates a total of 11 members.

Decision:

- Delete this wording
- Make no change

- D. In the bylaws, included at the end of the chapter, in Article IV, Section 2, the following or a similar correction should be made: "In the event of the absence or ~~desirability~~ disability of the Chairman, or of a vacancy in that office, the Vice Chairman shall assume and perform the duties and functions of the Chairman."

Decision:

- Revise as indicated
- Revise as follows:

Art. II, Edythe L. R. Dyer Community Library Endowment Fund

1-21-1997

Provided that it reflects current practice, this article appears satisfactory as written.

Ch. 234, Outdoor Facilities

8-6-2012

This chapter appears generally satisfactory, provided that the penalty in § 234-8 (not less than \$25 nor more than \$150) is still acceptable.

Policy Issue

Decision:

- Revise as follows:
 Make no change

Ch. 240, Peace and Good Order

Art. I, Display of Materials Harmful to Minors*10-6-1997*

This ordinance prohibits the display for sale of a book, magazine or similar item with an obscene cover on premises where minors are permitted, unless covered. It imposes a fine of not less than \$100 nor more than \$1,000. The Town Attorney should be consulted as to whether any revisions are needed in light of 17 M.R.S.A § 2912, Magazines containing obscene material on their covers not to be displayed to minors, which was last amended in 2009. We note that the statute imposes a forfeiture of not more than \$250 for violations. See also 17 M.R.S.A. § 2911, Dissemination of obscene matter to minors.

Decision:

- Revise as follows:
 Make no change

Under First Amendment case law, I am concerned that the ordinance is too broad. I recommend that the ordinance be repealed, and that the Town rely on state law for this subject matter.

Art. II, Paid Sexual Contact*10-6-1997*

This ordinance prohibits sexual contact in return for a pecuniary benefit, subject to a fine of not less than \$500 nor more than \$1,000. We do not typically see local ordinances on this topic; we have only two other clients in Maine with similar ordinances (the City of Bangor and Town of Standish). The Town Attorney should be consulted as to whether this ordinance should be retained.

Decision:

- Revise as follows:
 Remove this ordinance
 Make no change

This ordinance was adopted because the State's prostitution laws in effect at that time did not address this activity. 17-A M.R.S. Section 251 now defines the term "sexual contact" (similar to the ordinance definition), and 17-A M.R.S. Section 851 now defines "prostitution" as "engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact for a pecuniary benefit..." Since the subject activity is now covered under the State's Criminal Code, I recommend that this ordinance be repealed.

Town of Hampden, ME

Ch. 246, Pool

Art. I, Lura Hoit Memorial Pool

5-2-1994

- A. We recommend the following revision in § 246-1: "Pursuant to the provisions of the Charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, ~~the Town of Hampden hereby ordains that~~ there is hereby established a public pool facility, to be known as the Lura Hoit Memorial Pool, to be organized, administered and governed in accordance with the following provisions." Ordaining clauses are not typically included in the body of an ordinance.

Decision:

- Revise as indicated
- Make no change

- B. Section 246-1 gives the name of this pool facility as the "Lura Hoit Memorial Pool." The endowment fund ordinance, adopted in 2002, refers to the Lura E. Hoit Memorial Pool. See Article II of this chapter. Should these references be made consistent?

Decision:

- Use "Lura E. Hoit Memorial Pool" Choose correct name of facility and use that name throughout ordinance.
- Use "Lura Hoit Memorial Pool"
- Make no change; retain both titles

- C. Section 246-4 provides for the Board of Trustees of the pool facility and refers to the Board's bylaws. We received a copy of the bylaws adopted by the Board of Trustees of the library; see Chapter 213. Should the bylaws of the Board of Trustees of the pool facility also be included?

Decision:

- Add bylaws; copy enclosed
- Do not add bylaws

Art. II, Lura E. Hoit Memorial Pool Endowment Fund

1-7-2002

This ordinance appears satisfactory as written.

Ch. 268, Taxation

Art. I, Excise Tax Refund*1-7-2002*

This ordinance appears satisfactory as written.

Ch. 275, Trees

11-5-2007

- A. In § 275-2 the reference to 30-A M.R.S.A. §§ 3280-3281 is incorrect and should be to §§ 3281 to 3284 (Public Shade Trees). There is no § 3280. We will make this correction.
- B. In § 275-5B the wording "the members approved to the first Board" apparently should read "the members appointed to the first Board."

Decision:

- Revise as indicated
- Make no change
- C. Section 275-15A provides that violators "shall be subject to a civil penalty not to exceed \$500 for each separate offense." Is this penalty still satisfactory?

Decision:

- Revise as follows:
 - Make no change
- Policy Issue

Ch. 287, Vehicles and Traffic

Art. I, Parking*7-20-1987*

- A. This article contains two ordinances, both adopted in 1987, establishing no parking areas on Kennebec Road and Main Road (Route 1-A), respectively. The areas described should be reviewed to ensure they reflect current restrictions and signage on these roads.

Town of Hampden, ME

Decision:

For town officials to review.

- See revisions on enclosed copy
- Make no change

B. Section 287-2 includes a penalty and provisions for removal of illegally parked vehicles but § 287-1 does not. Is this correct?

Decision:

- Make § 287-2A, B and C applicable to § 287-1
- Revise as follows:
- Make no change

C. In § 287-2B, regarding the towing of vehicles, the following wording seems incorrect: "and to have it posted in a suitable place or at the expense of the owner of the vehicle." Should this wording read "and to have it stored in a suitable place at the expense of the owner of the vehicle"?

Decision:

- Revise as indicated
- Revise as follows:

D. Section 287-2C provides for a fine of not less than \$25 nor more than \$100. Is any revision desired?

Decision:

Policy Issue

- Revise as follows:
- Make no change

Ch. 290, Vehicles, Junked

8-15-1988

This ordinance appears generally satisfactory, provided that the penalty in § 290-7 (not less than \$100 nor more than \$500) is still acceptable.

Decision:

- Revise as follows:
- Make no change

Policy Issue: Does Town still want this ordinance, or is state law sufficient (30-A M.R.S. Sections 3751-3760)? Town ordinance only applies to Residential A & B Districts, and rest of Town is subject to statute. Major difference between ordinance is number of vehicles that trigger violation. Ordinance: 2 or more unregistered or uninspected vehicles. Statute: 3 or more unregistered or uninspected vehicles.

 Ch. 294, Victualers

4-20-1998

Section 294-6C provides for a civil penalty of \$100 per day for operating as a victualer without a license. Is this penalty still satisfactory?

Decision:

Policy Issue

- Revise as follows:
 Make no change

 Ch. 300, Waste Management

Art. I, Solid Waste Flow Control

6-6-1988

- A. In § 300-2 we will update the reference to 30 M.R.S.A. § 1917 (repealed in 1987) to 30-A M.R.S.A. § 3001.
- B. The definition of "unacceptable waste" in § 300-4 includes the following: "White goods, including discarded stoves, washers, dryers, and refrigerators, which shall be assessed a disposal fee of \$5 per item." Is this amount still correct? Should this fee be included in the Fees Ordinance (Chapter 160, Article I)?

Decision:

- Move fee to Fees Ordinance; current amount: (Insert desired fee)
 Revise as follows:
 Make no change

- C. Section 300-5 designates the Penobscot Energy Recovery Company facility located in Orrington, Maine, as the energy recovery facility and disposal facility for acceptable waste. Does this section reflect current practice? Yes, for present time. Likely to change in future.

Decision:

- Revise as follows:
 Make no change

- D. Section 300-10, Licensing, provides for an application fee of \$10 and an annual license fee of \$25 for each vehicle. These fees are also stated in the Fees Ordinance (Chapter 160, Article I). We recommend that the fees in § 300-10 be removed and replaced with a reference to the Fees Ordinance.

Town of Hampden, ME**Decision:**

- Remove fees and refer to Fees Ordinance
- Revise as follows:

- E. Section 300-14 provides for a civil penalty of not less than \$100 nor more than \$500 for violations of this article. Is any revision desired?

Decision:

- Revise as follows: Policy Issue
- Make no change

Art. II, Waste Disposal Facility Licensing

1-20-1990

- A. In § 300-19, Purpose, we have added the wording " The purpose of this article is:" at the beginning of the section to provide a lead-in for Subsections A and B.

Decision:

- This change is acceptable
- Revise as follows:

- B. The following cross-reference in § 300-22B(1)(e) seems incorrect. Section 300-26B (formerly § 8.2) deals with liability insurance.

Plans for an alternate water supply to replace private wells which could be affected by the solid waste disposal facility, including proof of the availability of an alternate source of supply, and estimates of the cost to develop this alternate source of supply (**as outlined in § 300-26B**).

Decision:

- Revise reference as follows:
- Delete "(as outlined in § 300-26B)"
- Make no change

- C. In § 300-24B the reference to 38 M.R.S.A. § 480-C(9) is incorrect and should be to 38 M.R.S.A. § 480-B(9), the definition of "river, stream or brook." We will make this correction. A similar reference to § 480-C appears in § 300-24C(1)(o) and will be corrected to § 480-B.

- D. The civil penalties in § 300-30 should be reviewed to ensure they are still satisfactory.

Decision:

- See revisions on enclosed copy Policy Issue
- Make no change

Ch. 307, Yard Sales

10-4-1982

- A. We recommend moving the following sentence from the end of the definition of "yard sale" in § 307-2 to § 307-3, Requirements: "The sale of new or used goods purchased or consigned specifically for yard sales is prohibited."

Decision:

- Move sentence as suggested
- Make no change

- B. Section 307-5 sets the penalty for violations of this chapter at a fine of not less than \$10 nor more than \$100. Is any revision desired?

Decision:

- Revise as follows: Policy Issue
- Make no change

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PART III: LAND USE AND DEVELOPMENT

Ch. 318, Building Construction

Art. I, Building Code

9-16-2002

Per instructions from the Town, the Building Code Ordinance has been held out of the Manuscript due to pending revisions.

Decision:

- Revised ordinance enclosed
- This ordinance is still under review

Art. II, Residential Building Code

3-27-2006

Per instructions from the Town, the Residential Building Code Ordinance has been held out of the Manuscript due to pending revisions.

Decision:

- Revised ordinance enclosed
- This ordinance is still under review

Ch. 327, Energy Conservation

Art. I, Property Assessed Clean Energy

8-16-2010

Per instructions from the Town, the Property Assessed Clean Energy (PACE) Ordinance has been held out of the Manuscript due to pending revisions.

Decision:

- Revised ordinance enclosed
- This ordinance is still under review

Ch. 334, Fires and Fire Prevention

Art. I, Life Safety Code

4-5-1993

- A. Section 334-1 adopts the 2003 edition of the Life Safety Code (NFPA 101). Is the 2003 edition the current edition being used in the Town? The most recent edition is the 2015 edition.

Decision:

- Revise as follows:
- Make no change

Policy Issue

- B. Section 334-3I provides for penalties.
 - (1) Should the references in this subsection to "this ordinance" be changed to "the Life Safety Code"? Example: "The requirements of 30-A M.R.S.A. § 4452 shall apply to the determination of penalties for violations of ~~this ordinance~~ the Life Safety Code."

Decision:

- Revise as indicated
- Change "this ordinance" to "this article"
- Other:

- (2) The fines in this subsection were taken from 30-A M.R.S.A. § 4452 and would not appear to require revision: minimum \$100 and maximum \$2,500 or up to \$25,000 when there has been a previous violation within the past two years.

Art. II, Outdoor Wood Boilers

3-19-2007

In § 334-8 the following sentence is included in both Subsection C(2) and Subsection D(3)(e): "The applicant for a permit under this article shall demonstrate that the commercial outdoor wood boiler or outdoor wood boiler with a thermal rating greater than 350,000 Btu/hour 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." Is it necessary for this sentence to be included twice?

Decision:

- Delete this sentence from Subsection C
- Delete this sentence from Subsection D

The quoted language is not related to the subject matter of 334-8(C)(2) or 334-8(D)(3)(e), and appears to be a freestanding requirement. Recommend removal of language from cited provisions, and adding it as a new 334-8(E), with existing 334-8 (E), (F) & (G) being restated as 334-8(F), (G) & (H), respectively.

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Make no change

Art. III, Fire Prevention Code

4-5-1993

Per instructions from the Town, the Fire Prevention Code Ordinance has been held out of the Manuscript due to pending revisions.

Decision:

- Revised ordinance enclosed
- This ordinance is still under review

Ch. 338, Floodplain Management

5-17-2004

Section 338-1F refers to a Flood Insurance Study, Flood Insurance Rate Map and Flood Boundary and Floodway Map all dated September 4, 1987. Does this date reflect the Town's current Flood Insurance Study and maps?

Decision:

- Revise as follows: Town Question
- Make no change

Ch. 356, Mobile Homes

10-12-2004

- A. In § 356-16C(15)(a) should the references to the State of Maine Oil and Solid Fuel Technicians, Board of Licensure and Propane and Natural Gas Technicians, Board of Licensure, be changed to "Maine Fuel Board"? See 32 M.R.S.A. § 18121.

Decision:

- Revise to Maine Fuel Board
 - Revise as follows:
 - Make no change
- B. In § 356-16C(17)(a)[4], the following underlined wording at the end is unconnected to the rest of the sentence and does not make sense:

the replacement of a non-certified mobile home with a certified mobile home shall be permitted if the following conditions are met: [4] The area necessary to comply with this reduced separation provision is not created by moving or replacing an existing mobile home so as to make it more nonconforming with the requirements of § 410-37C(3)(a) of Chapter 410, Zoning, the foregoing reduced separation provision shall prevail.

Decision:

- Delete underlined wording
- Revise as follows:

Ch. 370, Roads

Art. I, Town Ways

2-20-1979

- A. In § 370-4D is the wording "Grade shall not have less than 0.5% nor more than 8%" correct or should this wording read "Grade shall not ~~have~~ be less than 0.5% nor more than 8%"?

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

- B. Section 370-5, Limitation of truck traffic, provides for a civil penalty in the amount of \$50 for the first offense and \$100 for each subsequent offense. Is this penalty still satisfactory?

Decision:

- Revise as follows: Policy Issue
- Make no change

- C. Section 370-6, Use of engine or transmission braking devices, was added in 2003.

- (1) This type of ordinance often includes an exception for use of these devices in emergency situations. Subsection E provides an exception for emergency vehicles, but there is no exception for non-emergency vehicles using engine braking in an emergency to stop the vehicle.

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Decision:

- Add to Subsection E: "or when such devices or methods are used in an emergency to stop the vehicle."
- Revise as follows: Policy Issue
- Make no change

(2) This section includes a penalty of \$100 for a first offense and \$200 for each subsequent offense. Is any revision desired?

Decision:

- Revise as follows: Policy Issue
- Make no change

D. The Town might want to consider moving § 370-5, Limitation of truck traffic, and § 370-6, Use of engine or transmission braking devices, to Chapter 287, Vehicles and Traffic. These sections are quite different from the rest of this article (§§ 370-1 through 370-4), which deals with the construction and acceptance of roads. These sections apply more to vehicles using the roads.

Decision:

- Move sections as suggested
- Do not move sections

Art. II, Addressing

8-19-2013

In § 370-13A(1) is the wording "This process is initiated when a building permit application is pulled" correct or should "pulled" read "filed"?

Decision:

- Change "pulled" to "filed"
- Revise as follows:
- Make no change

Ch. 377, Sewers

Town has an Agreement with the City of Bangor to treat the Town's sewage at the City's treatment plant. The Agreement requires that the Town adopt a sewer ordinance that is consistent with the City's ordinance in order to protect the integrity of the treatment plant. The ordinance adopted on 12/5/11 was intended to make the Town's ordinance consistent with the 2008 amendments to the City's ordinance.

12-5-2011

- A. The Town might want to review the parameters given for BOD/TSS loads and fats, oil and grease in the following three sections of this chapter; note that the numbers given are not the same:
- (1) The term "normal domestic sewage" is defined in § 377-1 to mean "Sewage in which the average concentration of TSS does not exceed 250 mg/l and in which the five-day BOD does not exceed 250 mg/l and fats, oils or greases of animal or vegetable origin or oil and grease and other petroleum or mineral oil products do not exceed 100 mg/l."
 - (2) The definition of "excessive loading" in § 377-1 establishes the following parameters: "Any discharge resulting in a BOD or TSS loading in excess of 350 mg/l or a loading of fats, oils or greases of animal or vegetable origin or oil and grease or other petroleum or mineral oil products in excess of 140 mg/l."
 - (3) Section 377-41B(16) prohibits a discharge of "Fats, oil or greases of animal or vegetable origin or oil and grease and other petroleum or mineral oil products in concentrations greater than 200 mg/l."

Decision:

The above referenced provisions are identical to provisions contained in the City's ordinance.

- Revise as follows:
 Make no change

- B. Section 377-14 includes the following sentence: "Tanks and similar structures shall be removed or broken and filled with minus four inches compacted well-graded granular material." Is the wording "minus four inches" correct?

Decision:

- Revise to "no less than four inches of compacted, well-graded granular material"
 Revise as follows:
 Make no change

- C. In § 377-29A we question whether the word "not" should be included as shown below. See similar wording in § 377-41D:

Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients (except that such interceptors shall not be required for private living quarters or dwelling units).

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Decision:

- Add "not" as indicated
- Revise as follows:
- Make no change

- D. In § 377-34F(2) we will update the reference to the Water Pollution Control Federation to the Water Environment Federation.
- E. Section 377-39, Unlawful deposits and discharges; use of public sewers required, essentially repeats provisions already included in Article II, Use of Public Sewers Required. See the corresponding sets of sections noted below. In some cases the wording is identical, in others there are discrepancies. For example § 377-39D requires connection to a public sewer "provided that said public sewer is within 100 feet (30.5 meters) of the property line." The corresponding wording in § 377-9 reads "provided that said public sewer is located opposite any portion of the frontage of the property to be served by said sewer."

§ 377-39A: It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town, or in any area under the jurisdiction of the Town, any human or animal excrement, garbage or other objectionable waste.

§ 377-7: It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner on public or private property within the Town or in any area under the jurisdiction of the Town any human or animal excrement, garbage, or other objectionable waste. This section shall exclude normal agricultural practices.

§ 377-39B: It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of the Town, any wastewaters, except where suitable treatment has been provided in accordance with this chapter.

§ 377-6: It shall be unlawful to discharge to any watercourse, either directly or through any storm sewer, within the Town or in any area under the jurisdiction of the Town any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with federal, state or local laws.

§ 377-39C: Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of domestic sewage.

§ 377-8: Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, leaching pit, or other facility intended or used for the disposal of sewage.

§ 377-39D: The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Town is hereby required, at the owner's expense, to install suitable plumbing facilities therein, including but not limited to toilets, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line.

§ 377-9: The owner of any house, structure, building or property used for human occupancy, employment, recreation, or other purpose, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the Town, is hereby required, at the owner's expense, to install suitable plumbing facilities therein, including but not limited to toilets, and to connect such facilities to the public sewer, in accordance with the provisions of this chapter, within 90 days after the date of official notice to do so, provided that said public sewer is located opposite any portion of the frontage of the property to be served by said sewer.

Decision:

- Delete § 377-39 as covered by Article II
- Revise as follows:
- Make no change

- F. Section 377-41D, regarding grease, oil and sand interceptors, repeats provisions already stated in § 377-29A.

Decision:

- Revise § 377-41D to read "Grease, oil and sand interceptors shall be provided in accordance with § 377-29A."
- Revise as follows:
- Make no change

- G. In § 377-42D the wording "as the Town may be required to accompany the permit application" does not make sense. Perhaps the following revision could be made: "The user shall provide, with the permit application, at the user's own expense, the results of all

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sampling and analysis of the user's wastewater effluent as the Town may ~~be required~~ require to accompany the permit application."

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

H. In § 377-43H(2)(d) we question if "routine discharge" should read "non-routine discharge":

Requirements for the development and implementation of spill and/or slug control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or **routine** discharge.

Decision:

- Change "routine discharge" to "non-routine discharge"
- Revise as follows:
- Make no change

I. In §§ 377-45A(2) and 377-45B the word "representative" could be added as follows:

Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Town representative will be permitted to enter without delay for the purposes of performing specific responsibilities, such as compliance monitoring.

The warrant, if issued by the District Court, shall be executed pursuant to Maine Rules of Civil Procedure 80E, and the Town representative shall be accompanied by a uniformed Town police officer during said execution.

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

J. The fine amounts in §§ 377-48 and 377-49 should be reviewed to ensure they are still satisfactory. See also Table 1 at the end of the chapter.

(1) Section 377-48G(1), an administrative fine of not more than \$2,500 per day.

- (2) Section 377-49B(2): "not less than \$1,000 per day and not more than \$2,500 per day for each and every day of a violation for a first offense. These fines shall increase to a minimum of \$2,500 per day and a maximum of \$25,000 per day for a second offense of the same or a similar nature occurring within two years of the first offense."
- (3) Section 377-49B(5), damage to POTW: "a minimum fine of \$1,000 for the first offense. A second offense committed within five years shall be punished by a minimum fine of \$10,000."

Decision:

- Revise as follows: **Fines are the same as Bangor's ordinance.**
- Make no change

K. Article VIII, Industrial/Commercial Enforcement Response Plan.

- (1) Section 377-54A refers to the Town of Hampden's Industrial Pretreatment Program. The definitions of "NOV" and "SV" in § 377-57 refer to the City of Bangor's Industrial Pretreatment Program. Is this correct?

Does Town have its own Program? The ordinance should be consistent with the answer to that question.

Decision:

- Revise definitions in § 377-57 to refer to the Town's Industrial Pretreatment Program
- Revise § 377-54A to refer to the City of Bangor's Industrial Pretreatment Program
- Make no change

- (2) The definition of "show cause hearing" in § 377-57 appears to contain duplicate wording: "The meeting may also serve as a forum to discuss corrective actions and corrective actions."

Decision:

- Delete "and corrective actions"
- Revise as follows:

L. Section 377-60 provides as follows: "Any person who fails to comply with the provisions of this chapter, other than those provisions pertaining to the payment of charges for services established herein, shall, upon conviction, be subject to a fine not exceeding \$100 for each offense."

- (1) The Town might want to clarify the applicability of this penalty versus the penalties prescribed in §§ 377-48 and 377-49. Is the intent for the penalties in §§ 377-48 and 377-49 to apply to industrial users, while the penalty in § 377-60 applies to residential users?

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Section 377-60 is problematic, as it is inconsistent with the other penalty provisions of the ordinance. Although the heading of Article IX is "Penalties-Residential", headings are not considered to be part of the ordinance, and the language in the body of the ordinance controls. There is no language in Section 377-60 limiting it to residential users, and there is no language in Sections 377-48 or 377-49, or the Bangor ordinance's counterpart language, limiting those provisions to industrial users. At the very least, Section 377-60 should include language to specify

Decision:

Revise as follows:

Make no change

- (2) Is the maximum fine amount of \$100 still satisfactory?
that it is limited to specified residential users.

Decision:

The fine is a policy issue, but a maximum fine of \$100 is not much of a deterrent.

Revise as follows:

Make no change

Ch. 382, Shoreland Zoning

3-1-2010

- A. In § 382-2 the reference to 38 M.R.S.A. §§ 435 through 449 could be updated to §§ 435 through 448. Section 449 was repealed in 2011 (L. 2011, c. 120).

Decision:

Revise as indicated

Make no change

- B. In the note at the end of § 382-3 it appears that the word "structures" should be added as follows: "The Town of Hampden, Maine, has opted to not govern docks, wharfs, piers or other structures extending or located below the shoreline. Such structures are subject to other regulatory bodies."

Decision:

Add "structures" as indicated

Revise as follows:

- C. Section 382-12A(1) refers to "a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008." Does "the Department" refer to the Department of Environmental Protection?

Decision:

Town Question

Change "the Department" to "the Department of Environmental Protection"

Revise as follows:

Make no change

- D. We will make the following correction in the note at the end of § 382-12E: "Portions of these brooks in association with jurisdictional wetlands, streams or rivers may be in Resource Protection, Limited Residential and General ~~Commercial~~ Development Districts."
- E. In § 382-14I(2) the Town might want to clarify the reference to "Department Chapter 500." The intent appears to be to reference Chapter 500, Stormwater Management, of the Department of Environmental Protection Rules.

Decision:

- Revise to Chapter 500, Stormwater Management, of the Rules of the Department of Environmental Protection
- Revise as follows:
- Make no change

- F. In § 382-14M(1) we will update the reference to the Department of Agriculture to the Department of Agriculture, Conservation and Forestry. This subsection also refers to the Nutrient Management Law, 7 M.R.S.A. § § 4201 to 4209. Section 4209 was repealed in 2003 (L. 2003, c. 688). This reference could be updated as follows: "the Nutrient Management Act (7 M.R.S.A. § 4201 et seq.)."

Decision:

- Revise as indicated
- Revise as follows:

- G. Section 382-16, Definitions.

- (1) The term "Bureau" is defined in this section to mean the State of Maine Department of Conservation's Bureau of Forestry. The term "Bureau" is not used in this chapter. The only instance of the word "Bureau" is in § 382-15I(2)(c), which refers to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection. Also "Department of Conservation" is an outdated title (now the Department of Agriculture, Conservation and Forestry).

Decision:

- Delete definition of "Bureau"
- Retain definition; update title of Department
- Make no change

- (2) In the definition of "forest stand" is the wording "uniform in age class distribution" correct?

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Decision:

- Revise to "uniform in age, class, distribution"
- Revise as follows: Town's definition is identical to the definition in DEP's Chapter 1000 Shoreland Zoning Guidelines.
- Make no change

(3) In the definition of "recreational vehicle" is the reference to the State Division of Motor Vehicles correct?

Decision:

- Revise to Department of Motor Vehicles
- Revise to Bureau of Motor Vehicles Same reference as in DEP's Guidelines.
- Make no change

(4) The definition of "shoreland permit" is awkward and does not make sense; see below. Is wording missing?

Documented municipal authorization of any activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use requiring a permit within the shoreland area in accordance with this chapter.

Decision:

- See revisions marked above
- Revise as follows: Shoreland permit. "Shoreland permit" means a document issued by the duly authorized Town official indicating that the activity or use referenced in the document has received the review and approval required under this chapter. The document shall contain any conditions attached to the approval.

(5) The definition of "significant river segments" begins "See Appendix B." No such appendix was included with this ordinance.

Decision:

- Delete reference to "Appendix B or"
- Include Appendix B; copy enclosed
- Other:

Ch. 389, Storm Drainage System

Art. I, Nonstormwater Discharges

6-18-2007

A. Section 389-4 provides that "The Building Inspector is the enforcement authority who shall administer, implement, and enforce the provisions of this article." Is this designation still

correct? We note that most of the Town's ordinances provide for enforcement by the Code Enforcement Officer.

Town Question

Decision:

- Change Building Inspector to Code Enforcement Officer
- Revise as follows:
- Make no change

- B. This article refers to the State of Maine General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems dated June 3, 2003. Is an update needed? Chapter 393, Article I, Post-Construction Stormwater Management, adopted in 2009, refers to the General Permit effective July 1, 2008. See the definition of "regulated small MS4" in § 393-3.

Town Question. Need to reference most current permit.

Decision:

- Revise date to July 1, 2008
- Revise as follows:
- Make no change

Ch. 393, Stormwater Management

Art. I, Post-Construction Stormwater Management

7-6-2009

- A. In § 393-5B(6) the term "municipal reviewing authority" could be changed to "municipal permitting authority" for consistency with the rest of this article. See the definition of "municipal permitting authority" in § 393-3.

Decision:

- Revise as indicated
- Make no change

- B. The Town might want to clarify the following reference in § 393-8: "under this General Permit, listing as a regulated small MS4 necessitates enactment of this article as part of the municipality's stormwater management program in order to satisfy the minimum control measures required by Part IV H 5 (Post-construction stormwater management in new development and redevelopment)." It is not clear what document "Part IV H 5" is part of.

Town Question

Town of Hampden, ME**Decision:**

- Revise as follows:
- Make no change

Ch. 398, Subdivision of Land

5-17-1982

- A. Sections 398-1, 398-2 and 398-9B(8) refer to the State Subdivision Law as 30 M.R.S.A. § 4956. That section was repealed in 1987 (L. 1987, c. 737). The current law is contained in 30-A M.R.S.A. §§ 4401 to 4408. We will update this reference accordingly.
- B. The text for § 398-4B, Exceptions, appeared in the original ordinance at the end of the definition of "subdivision." As this wording does not really define the term "subdivision" and relates to the applicability of this chapter, we have moved this wording and included it in § 398-4, Applicability.

Decision:

- This change is acceptable
- Move this wording back to the definition of "subdivision"
- C. Section 398-5D sets the penalty for violations of this chapter at a fine of not more than \$1,000. Is any revision desired? Several of the Town's other ordinances relating to land use and development refer to the penalties in 30-A M.R.S.A. § 4452, and the State Subdivision Law also refers to that section in 30-A M.R.S.A. § 4406, Enforcement:

Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable, shall be penalized in accordance with section 4452.

Decision:

- Revise to read "shall be subject to the penalties prescribed in 30-A M.R.S.A. § 4452"
- Revise as follows:
- Make no change
- D. Section 398-8A(2)(e) provides for the following notice of the public hearing on a preliminary plan of a major subdivision: "Said hearing shall be advertised in a newspaper of general circulation in the Town at least 10 days prior to the hearing." The following notice requirement is prescribed by 30-A M.R.S.A. § 4403 and included in this chapter in § 398-9B(7) with respect to the public hearing on a minor subdivision:

The municipal reviewing authority shall have notice of the date, time and place of the hearing: A. Given to the applicant; and B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing.

Decision: Section 398-8A(2)(e) should be amended to comply with 30-A M.R.S. Section

- Revise as follows: 4403(4).
- Make no change

E. Section 398-8A(2)(f) reads "The purpose of the public hearing shall be for the Planning Board to receive testimony from the public and the Town Council relative to any municipal ordinance, standard, or regulation which is applicable to the proposed subdivision." Is the reference to the Town Council in this subsection correct? Similar wording in § 398-8B(1)(g) regarding the hearing on the final plan refers only to "testimony from the public."

Decision:

- Delete "and the Town Council"
- Revise as follows:
- Make no change

F. In § 398-21B(2) we will update the reference to the Soil Conservation Service to the Natural Resources Conservation Service.

G. In § 398-22A(2) should "Hampden Conservation Committee" be revised to "Hampden Conservation Commission"? See Chapter 18, Conservation Commission.

Decision:

- Change "Conservation Committee" to "Conservation Commission"
- Make no change

H. Section 398-22D, Standards for cash in lieu of land, provides that "At the time of final plan submission, the subdivider shall contribute to the Town of Hampden \$400 per lot, \$200 per unit or \$200 per acre, whichever is greatest." Are these amounts up-to-date?

Decision:

- Revise as follows: Policy Issue
- Make no change

I. Regarding the definition of "subdivision" in § 398-37, the Town might want to review this definition against the current definition in 30-A. M.R.S.A. § 4401. For example:

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Subsection A(1): Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in 36 M.R.S.A. § 1102, for a period of at least five years before the second dividing occurs.

Statute: Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division.

Decision:

- See revisions on enclosed copy
- Make no change

Town should compare definitions in ordinance to the definitions in the state statute, and amend ordinance definitions to make them consistent with statute.

Ch. 410, Zoning

3-13-1979

- A. Section 410-5, Zoning districts, does not include the Waterfront 1 District. See § 410-24. Should this district be added?

Decision:

- Add Waterfront 1 District to § 410-5
- Make no change

- B. Section 410-8, Zoning requirements for parcels in more than one district. Subsection B(1) refers first to the Interchange District then to the Business District:

A two-acre lot is comprised of one acre of **Interchange District** and one acre of Industrial District. In this instance, a mixed-use site development could locate a service station in the **Business District** and a self-storage warehouse use in the Industrial District.

Decision:

- Change "Business District" to "Interchange District" Town Question
- Change "Interchange District" to "Business District"
- Other:

- C. Section 410-10, Industrial District.

- (1) In Subsection B we have moved the wording "treatment or warehousing of goods and products" as follows:

Facilities for manufacturing, compounding, processing, packaging, treatment or warehousing of goods and products; essential services; wireless telecommunications

facilities (subject to § 410-46); ~~treatment or warehousing of goods and products;~~
wholesale distribution...

Decision:

- Change is correct
- Revise as follows:

- (2) We have made a similar revision in Subsection C as shown below; however, we question whether the inclusion of this wording in both Subsection B (permitted uses) and Subsection C (conditional uses) is correct:

facilities for manufacturing, compounding, processing, packaging, treatment, or warehousing of good and products; buildings necessary for essential services; ~~or warehousing of goods and products;~~ wholesale distribution...

Decision:

- Delete this wording from Subsection C
- Revise as follows:
- Make no change

Make change as indicated.

Subsection B permits such facilities if they have less than 5,000 square feet of gross floor area. Subsection C elevates review to conditional use approval if the facility has more than 5,000 square feet of gross floor area. The ordinance language does not address a facility of exactly 5,000 square feet. Recommend amending Subsection B by changing "less than" to "up to" 5,000 square feet of gross floor area.

- D. In § 410-14, Interchange District, Subsection D(5) provides that the maximum building height in this district is 50 feet. If that is correct, the provisions in Subsection E(5) regarding building height no longer make sense, as Subsection E(5) is based on the maximum building height being 35 feet.

Decision:

- Delete Subsection E(5)
- Change maximum building height in Subsection D(5) to 35 feet
- Other: *Leave as is. Town amended ordinance to increase building height to 50 feet, but to require additional amount of setbacks for each foot of height above 35 feet to minimize the impact of the increased height on the neighborhood.*

- E. In § 410-18, Seasonal District, Subsection E(1) provides that "All land area and uses in this district shall conform to the standards established in § 410-38 of this chapter." Section 410-38 contained shoreland regulations and was repealed in 2010. Should this wording be revised to read "shall conform to the standards established in Chapter 382, Shoreland Zoning"?

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

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- F. In § 410-21D, the first sentence in the note at the end of this subsection is incomplete and does not make sense; see below. Based on similar wording in § 410-16D (see below) the following revisions could be made

§ 410-21D: Any lawfully existing lot of record situated in a Business B District containing road frontage of 100 feet or less as of June 1, 2014, which is served by public sewer ~~with existing~~ may be developed for single-family dwellings and accessory structures with minimum street yard and other yards of not less than 10 feet each.

§ 410-16D: Any lawfully existing lot of record situated in a Residential B District containing road frontage of 100 feet or less as of July 3, 1991, which is served by public sewer may be developed for single-family dwellings and accessory structures with minimum side yards of not less than 10 feet each.

Decision:

- Revise as indicated
- Revise as follows:

- G. In § 410-24, Waterfront 1 District, the reference in Subsection E(1)(a) to the Commercial Service District is incorrect. We will make the following revision: "By subtracting the base ~~Commercial Service~~ Waterfront 1 District maximum building height from the proposed height the following is the result: 48 feet minus 35 feet equals 13 feet."

- H. Section 410-29B includes provisions relating to nonconforming structures in the shoreland area. Is any revision needed in light of the Shoreland Zoning Ordinance adopted in 2010? See Chapter 382, Shoreland Zoning, particularly § 382-11C, Nonconforming structures.

The nonconformity provisions of the Shoreland Zoning Ordinance and the Zoning Ordinance need to be reviewed and reconciled, especially in light of the conflict provisions of Sections 382-6 and 410-3. It appears that nonconformity provisions from various editions of the DEP Shoreland Zoning Guidelines have been incorporated into the general Zoning Ordinance without appropriate editing to make them generic for non-shoreland properties. It is my recommendation that all nonconformity provisions applicable to the shoreland area be in the Shoreland Zoning Ordinance and that all nonconformity provisions for non-shoreland property be in the general Zoning Ordinance. It should be noted that DEP adopted new Guidelines on January 26, 2015, and some of the shoreland nonconformity provisions have changed, especially those dealing with expansion of nonconforming structures.

Decision:

- See revisions on enclosed copy
- Make no change

- I. Section 410-29D, Nonconforming uses. Subsection D(4) states: "A nonconforming structure or use which has been destroyed by fire or other hazard shall not be rebuilt except in conformity with this chapter." This provision appears to be inconsistent with Subsection B(3), which allows the reconstruction or replacement of damaged or destroyed nonconforming structures under certain conditions.

Decision:

- Revise as follows:
- Make no change

Do not believe this is inconsistent. Subsection D(4) establishes the general rule and recognizes that there are exceptions, and Subsection B(3) establishes an exception. More importantly, Section B(3) is another example of the need to reconcile the nonconformity provisions. Since Subsection B(3) relates to properties with less than the required setback from the water line, the reconstruction or replacement provisions in Subsection B(3) only apply to those properties located in the shoreland area, and not to all properties town-wide.

J. Section 410-31, Off-street parking, loading, drive-through design and bufferyard requirements. In Subsection A(3), Parking setbacks, do any of the zoning district designations in the table require revision?

Decision:

- See revisions on enclosed copy Town Question
- Make no change

K. The term "Code Official" appears multiple times in this chapter. See for example § 410-32, Signs. Should this term be changed to "Code Enforcement Officer"? See the definition of "Code Enforcement Officer" in § 410-57 and § 410-49, which provides for this chapter to be enforced by the Code Enforcement Officer.

Decision:

- Change "Code Official" to "Code Enforcement Officer"
- Revise as follows:
- Make no change

L. Section 410-32, Signs. Subsection C(8), regarding temporary signs, applies to signs related to political campaigns and candidates and includes the following restriction: "Such signs shall be displayed not more than two weeks before the event and shall be removed within one week after the event." In 23 M.R.S.A. 1913-A, Subsection 1H authorizes political signs to be placed within the public right-of-way up to six weeks before the election:

Signs bearing political messages relating to an election, primary or referendum, which may not be placed within the right-of-way prior to 6 weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter;

Decision:

- Revise as follows:
 - Make no change
- Note: Under statute, Town has authority to be more restrictive. However, Town is in the process of amending the sign provisions, and it is my recollection that the subject provision is under consideration to make it consistent with the statute.*

M. It appears the following correction should be made in § 410-33E(4): "The applicant shall submit written approval from the Department of Marine Resources and ~~Fisheries~~ or the Department of Inland Fisheries and Game Wildlife, as applicable, prior to consideration by the Planning Board.

Decision:

- Revise as indicated
- Revise as follows:

Town of Hampden, ME

N. Section 410-37, Mobile homes.

- (1) We recommend the following revision in Subsection A(1) to make a complete sentence: "The purpose of this section is to regulate mobile homes and mobile home parks..."

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

- (2) Subsection B(2)(d) includes the following: "The skirting shall be properly installed in accordance with the BOCA Basic Building Code." Is an update needed in light of the state-wide Building Code established in 2010?

Need to verify with Code Enforcement Officer which Code covers skirting around mobile homes. Also, need to verify which Code governs foundation standards under Subsection B(2)(c).

Decision:

- Change "BOCA Basic Building Code" to "Maine Uniform Building and Energy Code"
- Revise as follows:
- Make no change

- (3) In Subsection B(2)(f) should the reference to the State of Maine Department of Business Regulation be updated to the Department of Professional and Financial Regulation?

Decision:

- Update to Department of Professional and Financial Regulation
- Revise as follows:
- Make no change

O. Sections 410-43C(8) and 410-48H(4) refer to "Hampden Public Safety." Is this meant to be a reference to the Public Safety Department or Public Safety Director?

Decision:

- Revise to "Hampden Public Safety Director"
- Revise to "Hampden Public Safety Department"
- Other:

P. Section 410-45B, Applicability, reads as follows: "Existing structures providing access for persons with disabilities which comply with the design guidelines of 25 M.R.S.A. § 2701,

American National Standards Institute Document A117.1-1986, and Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), as may be amended from time to time."

- (1) This sentence is incomplete. Should the first part read "This section applies to existing structures providing access..."?

Decision:

- Revise as indicated
 Revise as follows:

- (2) The reference to 25 M.R.S.A. § 2701 is no longer correct. Chapter 331, Construction for Physically Disabled, of Title 25 (consisting of §§ 2701 to 2704) was repealed by L. 2011, c. 613.

Decision:

- Delete this reference
 Revise as follows:

Q. Section 410-47, Excavation, gravel pit and quarry.

- (1) Subsection C includes the following: "Examples of exceptions include, but are not limited to, previously issued site location of development permits (38 M.R.S.A. § 480), filed a notice of intent to comply with the performance standards for excavation and/or quarries (38 M.R.S.A. § 490)." This wording is awkward and unclear. In addition, both of the statutory references are incorrect. There is no § 480 in Title 38; Article 6, Site Location of Development, of Title 38 begins with § 481. Section 490 of Title 38 was repealed by L. 2011, c. 653. Article 7, Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt, of Title 38 begins with § 490-A. Perhaps the following revision could be made:

Examples of exceptions include, but are not limited to, previously issued site location of development permits (38 M.R.S.A. § 481 et seq.) which have filed a notice of intent to comply with the performance standards for excavations and/or quarries (38 M.R.S.A. § 490-A et seq.)...

Decision:

- Revise as indicated
 Revise as follows:

- (2) Subsection G(16), Waste disposal, refers to "the rules of the Maine Department of Environmental Protection Chapter 13." We were unable to confirm this reference. The rules of the Department of Environmental Protection posted on the state's

Town of Hampden, ME

website do not include a Chapter 13. Solid waste management rules are contained in Chapters 400 to 425.

Believe Subsection G(16) intended to reference Chapter 13 of Title 38 M.R.S., as that statute deals with solid waste disposal.

Decision:

- Revise as follows: "the provisions of Title 38 M.R.S. Chapter 13, including any rules adopted by the Department of Environmental Protection."
- Make no change

- (3) Subsection I(2) reads "RP and SP Districts and land areas subject to shoreland zoning are further regulated under § 410-38, Shoreland regulations." As these districts are not provided for in this chapter and shoreland regulations are established by separate ordinance, perhaps the following revision could be made: "Resource Protection and Stream Protection Districts and land areas subject to shoreland zoning are further regulated under Chapter 382, Shoreland Zoning."

Decision:

- Revise as indicated
- Revise as follows:
- Make no change

- R. Section 410-48B establishes a separation requirement of 1,000 feet for medical marijuana registered dispensaries, medical marijuana cultivation facilities and methadone clinics from certain other uses, including a preexisting public or private school. State law provides that "A dispensary may not be located within 500 feet of the property line of a preexisting public or private school." See 22 M.R.S.A. § 2428, Subsection 6B. Subsection 10 of that section provides as follows: "A local government may not adopt an ordinance that is duplicative of or more restrictive than the provisions of this Act." The Town Attorney should be consulted as to whether the Town can impose a different separation distance requirement (1,000 feet) than that prescribed by state law (500 feet).

On the date the Town enacted Section 410-48 (3/7/11), Subsection 10 provided that the statute did not prohibit a municipality from limiting the number of dispensaries or enacting reasonable regulations applicable to dispensaries. The sentence quoted above was added by Public Law 2011, c. 407, which became effective on 9/28/11. This sentence places a limitation on the Town's home rule authority on this subject matter. I recommend that the entire Section 410-48 be reviewed against the backdrop of the amended Subsection 10. Quite frankly, I am not sure a municipality has much authority on this subject anymore, as Subsection 10 provides that an ordinance cannot be duplicative of or more strict than the provisions of the statute. Not only is the separation distance more restrictive than the statute, but so is the ordinance's list of properties from which a dispensary must be separated.

Decision:

- Revise as follows:
- Make no change

- S. Section 410-52 sets the penalty for violations of this chapter at a fine of not less than \$100 nor more than \$2,500. The wording of this section is based on 30-A. M.R.S.A. § 4452(3) and would not appear to require revision.
- T. Section 410-54B(3) refers to "a physical or mental handicap under 5 M.R.S.A. § 4553." The Town might want to update this wording to "a physical or mental disability under 5 M.R.S.A. § 4553-A."

Decision:

- Revise as indicated
- Change "handicap" to "disability"; do not change statutory reference
- Make no change

U. Section 410-55, Appeal procedure. There are conflicts between this section and Chapter 7, Appeals, Board of. For example, § 410-55 requires 10 days' notice of public hearings; in § 7-4 this time frame is seven days. Section 410-55 requires appeals to the Superior Court to be taken within 30 days; in § 7-4 this time frame is 45 days. The Town might want to consider whether any of the provisions in § 410-55 could be deleted as covered by Chapter 7.

Decision:

- See revisions on enclosed copy
- Revise time frames in § 410-55 to match § 7-4; no other changes needed
- Other: **It appears that most of Section 410-55 is unnecessary because the matter is covered by Chapter 7. Recommend review of Section 410-55 to see if anything needs to be retained.**

V. Section 410-57, Definitions.

- (1) In the definitions of "bar," "restaurant, small" and "tavern, neighborhood" is the wording "with a gross floor" supposed to read "with a gross floor area"?

Decision:

- Revise to "with a gross floor area"
- Make no change

- (2) In the definition of "community building" is the wording "the municipality RSU22" correct?

Decision:

- Revise as follows: **"the municipality, RSU No. 22 and/or"**
- Make no change

- (3) In the definition of "customary rural businesses" is the wording "tack shop" correct?

Decision:

- Revise to "bait and tackle shop"
- Revise as follows:
- Make no change **"tack shop" is an equestrian supply store**

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- (4) The definition of "dance hall" contains essentially the same wording as the definition of "bar," stating that the primary use of a dance hall is the service of alcoholic beverages. Is this definition correct?

Decision:

- Revise as follows: **Definition should be clarified.**
- Make no change

- (5) In the definition of "essential services" is the wording "but shall include buildings which are necessary for furnishing of such services" supposed to read "but shall not include buildings which are necessary for furnishing of such services"?

Decision:

Town Question- Intent?

- Add "not" as indicated
- Make no change

- (6) In the definition of "hazardous waste" we will update the reference to 38 M.R.S.A. § 1303(5) to 38 M.R.S.A. § 1303-C(15). Section 1303 was repealed by L. 1989, c. 585.

- (7) The definition of "tributary stream" includes the following: "The term stream does not include 'stream' previously defined and only pertains to tributary streams within the shoreland zone." This wording does not make sense in the context of this section, as there is no previous definition of "stream" in this section.

Decision:

Since by definition, this term only applies to tributary streams in the shoreland zone, it should be deleted from the general Zoning Ordinance, as the term is also defined in Chapter 382, Shoreland Zoning. The definition in Section 382-16 is based on the definition in the DEP Guidelines.

- Revise as follows:
- Make no change

- (8) In the definition of "wireless telecommunications facilities, microcell" the second sentence does not make sense. Perhaps the following revision could be made:

Microcell wireless telecommunication facilities shall be co-located on water towers including the tank surfaces in a manner that minimizes and mitigates any adverse impacts upon affected properties, streetscapes, and vistas through careful design, siting, screening, landscaping, and innovative camouflaging techniques and shall be considered accessory to a water tower use.

Decision:

- Revise as indicated
- Revise as follows:

APPENDIX

Ch. A500, Cable Franchise Agreement

9-21-1998

- A. Section A500-2C provides as follows: "The franchise and this franchise agreement shall expire 15 years from the effective date of this agreement, unless the franchise is earlier revoked as provided herein or in the Cable Ordinance." As this agreement was adopted in 1998, it appears to have expired in 2013.

Do not believe the Franchise Agreement should be in the Code. Town is part of a consortium working on a renewal franchise agreement with Time Warner. Verify status with Town Manager.

Decision:

- Franchise has expired; remove this agreement from the Code
- Franchise was extended; see documentation enclosed
- Other:

- B. Section A500-5B(4) and (5) and D refer to an attached Schedule I. The copy we received for this ordinance did not include this schedule.

Do not believe the Franchise Agreement should be in the Code.

Decision:

- Copy of Schedule I enclosed
- Do not include schedule; add note that schedule is on file in Clerk's office
- Other:

- C. Section A500-6B(3) includes the following sentence: "PEG capital support funds, and grantee's \$30,000 I-Net equipment grant under § A500-5B(11) above, shall not be utilized by the municipality for general government or related purposes." The amount in § A500-5B(11) is \$10,000, not \$30,000.

Do not believe the Franchise Agreement should be in the Code.

Decision:

- Change \$30,000 to \$10,000
- Revise as follows:
- Make no change

- D. Section A500-7B refers to "Section 642 of the Cable Act, 47 U.S.C. § 522." Section 522 of Title 47 contains definitions and derives from Section 602 of the Cable Act, not Section 642.

Do not believe the Franchise Agreement should be in the Code.

Town of Hampden, ME**Decision:**

- Change "Section 642" to "Section 602"
- Revise as follows:
- Make no change

- E. Exhibit A, Institutional Network Sites, at the end of this chapter includes the following line: "System Capability per Section 17(b)." This ordinance only contains 10 sections; there is no Section 17. Exhibit A is referenced in Section 5(b), Institutional network (now § A500-5B).

Do not believe the Franchise Agreement should be in the Code.

Decision:

- Change reference to Section 5(b)
- Revise as follows:
- Make no change

WRAP UP

Completeness Check

In order to ensure that the codification project can be scheduled for final editing upon return of this Editorial and Legal Analysis to General Code, please double-check the following items prior to sending:

- ❑ Binder and Seal information on p. 9: Is the table completed? Is the Seal attached (or has it been e-mailed) if required?
- ❑ Throughout the Editorial and Legal Analysis, are all questions answered?
 - The only blank boxes should be for topics that are to be deleted or included "as is."
 - Items marked with a question mark or a note "to be reviewed" cannot be accurately edited and require follow-up. It is most efficient for the Town officials to get the answer now, when the whole document is available.
- ❑ Are all attachments accounted for? If a checkbox indicates "enclosed copy" is there a corresponding document?

Final Review

- ❑ The Municipal Attorney has been consulted about and/or has reviewed and approved the decisions in this document.
- ❑ Sample language and any wording supplied by the municipality has been customized according to your specific requirements (see **Sample Legislation** above, p. 7).

Sending Materials

The entire Codification Portfolio binder does not need to be returned. Only the Editorial and Legal Analysis and any documents with a decision or revised wording should be submitted.

We strongly suggest that you make a photocopy for your records before sending General Code the original materials.

- ✓ If several officials have completed their own copies of the Editorial and Legal Analysis, please compile all responses into one comprehensive version. Any conflicts in responses should be resolved prior to submission.
- ✓ If several officials have worked in the same copy of the Editorial and Legal Analysis, that version can be sent to General Code, as long as there are no conflicts in the responses.

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781 Elmgrove Road
Rochester, NY 14624

E-mail files to:

ezsupp@generalcode.com

