

Planning and Development Committee
May 20, 2015
6:00 PM
Conference Room
AGENDA

1. Approval of May 6, 2015 Minutes
2. Committee Applications:
3. Updates:
4. Old Business:
 - A. Draft Private Ways Ordinance Review
 - B. Subdivision Ordinance Review
 - C. Codification Portfolio
 - D. Downtown Planning Initiative Outline
 - E. Sign Ordinance Review
5. New Business:
6. Comprehensive Plan Implementation:
7. Citizens Initiatives:
8. Public Comments:
9. Committee Member Comments:
10. Adjourn

Planning and Development Committee
May 6, 2015
6:00 PM
Conference Room
DRAFT MINUTES

Attendees:

Committee

Bill Shakespeare
David Ryder
Stephen Wilde
Terry McAvoy
Dennis Marble

Staff

Bob Osborne, Town Planner
Dean Bennett, Director of Com/Econ Development

1. Approval of April 15, 2015 Meeting Minutes:

David Ryder made a motion to approve the minutes. Dennis Marble seconded the motion which was passed unanimously.

2. Committee Applications: None

3. Updates:

4. Old Business:

A. Draft Private Ways Ordinance

The Committee discussed whether there was consensus to move forward with continued review of the draft document. It was the consensus that providing exploring greater alternatives to development, utilizing private roads, warranted consideration. The Committee decided to begin review of the draft Private Ways Ordinance at the next meeting.

B. Codification Portfolio

Town Planner presented the Committee with the recently received draft of the Codification Portfolio, as prepared by General Code of Rochester, New York. The next step in the process is to review the 700 pages of the documents and respond to the 35 pages of questions by August of 2015. Community and Economic Development Director (CEDD) suggested that whereas he would be assuming the Planning duties moving forward, he would do the

initial review of the document, and address those questions that he could, then present the remaining questions to the Committee along with his draft responses at a future meeting. Committee concurred with the suggested approach.

C. On-Street Parking Main Road North

Town Planner advised the Committee on the necessary steps to pursue permission from the MDOT to create on-street parking along Main Road North. Town Planner suggested that additional consideration be given prior to moving forward such as a traffic analysis to determine unintended consequences of additional parking along Route 1A.

CEDD suggested that a more strategic approach should be considered. CEDD requested of the Committee that they allow him to present, at a future meeting, a strategic approach to the development of a downtown plan and downtown TIF district that would allow and empower the community with strategic direction and potential resources to implement such a plan. The Committee agreed to the CEDD doing so at a future meeting.

D. Municipal Parking Lot – Kiwanis Hall

Councilor Ryder indicated that although he supported the strategic approach, the community should move forward with the concept of the creation of public parking adjacent to the Town's Kiwanis Hall Building. The Committee supported moving forward with investigating the potential for creation of a public parking area.

5. New Business

A. Downtown Planning Initiative

CEDD indicated, consistent with the Committee wishes, he will present, at a future meeting, a proposal for moving forward with a downtown planning initiative.

6. Comprehensive Plan Implementation: None.
7. Citizens Initiatives: None.
8. Public Comments: None.
9. Committee Member Comments: None
10. Adjourn: The meeting was adjourned at 7:20pm.

**TOWN OF HAMPDEN, MAINE
DRAFT PRIVATE ROAD ORDINANCE**

ADOPTED: Hampden Town Council, _____
Effective Date: _____

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

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**TOWN OF HAMPDEN
DRAFT PRIVATE ROAD ORDINANCE**

The Town Of Hampden Hereby Ordains:

An Ordinance under the provisions of Maine Home Rule enabling act 30 M.R.S.A. §1917 as amended, to regulate the construction, maintenance and use of Private Streets and Roads within Town of Hampden, the use thereof by traffic, the parking of vehicles thereon, the administration and enforcement hereof, to establish fees to defray the administrative and enforcement costs incident thereto, and to ensure that residences and buildings within the Town of Hampden may be accessible to police and fire protection, and for other purposes, as follows:

**ARTICLE 1
PURPOSE**

The unobstructed, safe, and continuous access to lots and parcels of real estate by police, fire, ambulance and other emergency services is necessary to promote and protect the health, safety and welfare of the public through police and fire protection and ambulance service. The purpose of this ordinance is to insure access that such services can safely and quickly enter and exit private property at all times. Access to the interior of various sections within Town should be promoted through the orderly development of the Town, and such access should meet minimum standards and specifications to permit the subsequent upgrading and public dedication of such access rights of way to the Town of Hampden when public dedication is desirable or required, and without future undue or unnecessary costs to abutting property owners. The procedures, standards and specifications hereinafter set forth are determined to be the minimum procedures, standards and specifications necessary to meet the intention of this Ordinance

**ARTICLE 2
GENERAL REQUIREMENTS**

All lots or parcels in Town of Hampden, whether improved or not, shall have access for ingress and egress suitable for all vehicular traffic including fire, police, ambulance service and other emergency vehicles by means of a Town way, state highway or private road meeting the requirements of this ordinance. No private road or street shall be constructed in Town of Hampden unless it complies with the requirements of this ordinance either pursuant to a permit under the terms of this ordinance or a properly issued waiver from the terms of this ordinance issued from the Planning Board.

In any Zoning District every use, building, or structure established after the effective date of adoption or amendment of this ordinance shall be on a lot or parcel which adjoins a public or private road. Such public and/or private road to be at least sixty six (66) feet wide.
(See Article 15 herein, for language dealing with requirements for existing pre-ordinance, non-conforming private roads).

ARTICLE 3
APPROVAL AUTHORITY

The Town of Hampden Planning Board shall have the authority to approve or deny applications for private roads. The Planning Board may refer such application to the Town Attorney or other appropriate body for review, comment and recommendation. If the facts do not establish that the proposed or existing easement and roadway conforms to the standards and specifications of this Ordinance, the Planning Board shall not grant a permit. In the approval of any permit, the Planning Board shall impose such conditions as it deems necessary to meet the intent and to achieve the objectives of this Ordinance. The breach of any such condition shall automatically invalidate the permit therefore. A schedule of fees to defray the costs of inspection, administration and enforcement of this Ordinance are established in the Hampden Fees Ordinance. An applicant for a private road permit under this Ordinance shall pay all costs and expenses incurred by the Town to process the application, including reasonable attorney fees where applicable. In addition to an application fee, the Planning Board may require that the applicant for a private road permit deposit with the Code Enforcement Officer of the Town a sum of money, or in lieu thereof a performance bond, upon such conditions as determined by the Public Works Director, which shall insure that the applicant shall perform the terms and conditions of the private road permit, including the payment of any administrative or enforcement costs. Upon completion of the easement and roadway the applicant shall be entitled to a refund of such portions of the deposit which have not been expended for such administrative or enforcement costs.

The private road permit shall be in a form as approved by a finding of the Planning Board. The permit shall be signed and issued to the applicant by the Planning Board. The Planning Board shall not issue the permit until all fees and deposits have been paid.

ARTICLE 4
APPLICATION REQUIREMENTS

The application shall be made in writing and accompanied by the following information:

- 4.1. Legal description of easement.** A legal description of the lot or parcel to be served by the easement. A legal description of the easement, the names and addresses of all persons or parties owning an interest in the title to the lots, parcels, and easement area.
- 4.2. Survey.** A survey drawing showing the outline of the proposed easement, the dimensions and bearings thereof, the existing topographical contours at two (2) foot intervals of the easement area and all adjacent land within ten (10) feet thereof, soil characteristics, wet areas, trees, streams, and all other bodies of water within 100 feet of the easement area, existing buildings within twenty (20) feet of the proposed easement, the proposed easement in relation to the nearest property lines and the location of all proposed improvements to the easement area. The survey drawings shall be prepared by a Maine Professional Land Surveyor and shall bear the seal of the same.
- 4.3. Engineering drawings.** The plans and profile drawings and cross sections of the proposed improvements showing clearly all materials, grades, and dimensions. Such drawings and cross sections shall be prepared by a Maine Licensed Professional Engineer and shall bear the seal of the same. The

engineer shall also prepare a drainage analysis that will analyze on and off-site impacts of the stormwater and the design shall be compliant with Chapter 500 and shall take particular attention regarding erosion control and a maintenance plan.

4.4. Responsible parties. A statement of the applicant detailing the parties who shall be responsible for the maintenance of the easement and roadway and the means by which such maintenance shall be accomplished.

4.5. Terms and conditions of easement. A complete statement of all of the terms and conditions of the proposed easement, including all agreements or intended agreements regarding the maintenance and improvements of the easement and roadway.

4.6. Fees. The fee as established by the Hampden Fees Ordinance.

4.7. Applicants and agents. The application shall be signed by the applicant or his agent, in which case, it shall be accompanied by a signed letter authorizing the agent to serve in that capacity and shall represent that the applicant is making the application on behalf of all persons having an interest in the easement of the abutting lots or real estate, and shall be made under penalties of perjury.

4.8. Environmental permitting. Evidence of all required environmental permitting shall be submitted before final approval by the Town.

4.8. MDOT permitting. For private roads connecting to MDOT highways evidence of all required MDOT permitting shall be submitted before final approval by the Town.

ARTICLE 5 SPECIFICATIONS

5.1. Intersections and site distances. The following minimum requirements and specifications shall apply to private roads:

1. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
2. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.

5.2. Design and Construction Standards. All private roads shall be designed and constructed to meet the following standards.

Design and Construction Standards for Streets

<u>Item</u>	<u>Minor</u>
1. Minimum right-of-way width	66 ft.
2. Minimum travelway width	20 ft.
3. Minimum grade	1.0%
4. Maximum grade	8%
5. Maximum grade at intersection 3% Within feet from intersection	50 ft.
6. Minimum centerline radii on curves	100 ft.
7. Minimum tangent length between	100 ft.

reverse curves

<u>Item</u>	<u>Minor</u>
8. Depth of subgrade grading	22 in.
9. Sub base gravel depth	18 in.
10. Upper base gravel	4 in.
11. Pavement (where required)	
A. Grade B	2-1/2 in.
B. Grade C	1-1/2 in.
C. Total thickness	4 in.
12. Minimum road crown-centerline to edge of travelway.	3 in.
13. Minimum shoulder width on each side of road.	2 ft.
14. Dead-end or cul-de-sac streets	
A. Completely paved Radii of turn around at enclosed end	
i. Right-of-way boundary minimum	50 ft.
ii. Outside pavement radius - min.	35 ft.
B. With island (see #26)	
i. Right-of-way boundary – min.	55 ft.
ii. Inside pavement radius	25 ft.
iii. Outside pavement radius	49 ft.
iv. Minimum pavement width	24. ft.
C. Temporary (See #27)	
i. Radii at Right-of-way - min.	50 ft.
ii. Gravel turn around minimum	40 ft.
15. Minimum pavement curb radii at intersections and where road meets cul-de-sac	20 ft.
16. Grade of roads should conform as closely as possible to the original relief of the land.	
17. All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of two hundred (200') feet.	
18. Side slopes shall not be steeper than three (3') feet horizontal and one foot vertical, graded, loamed (six [6] inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.	
19. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches.	
20. In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Town Manager.	
21. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The subbase gravel shall meet the specifications for aggregate subbase courses as	

contained in the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation". The upper base gravel shall meet the specifications for aggregate base courses in the same standards.

22. After the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation".
23. Where a green space is planned in the interior of a cul-de-sac, existing vegetation should be preserved where possible. Any proposed landscaping shall be of a type which requires limited maintenance.

5.3. Utilities in Streets. The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

5.4. Street Names

1. Proposed street names shall be substantially different from existing street names so as not to be confused in sound or spelling.
2. If proposed streets are extensions of existing streets they shall carry the same name.
3. Generally no street should change direction by more than ninety (90) degrees without a change in street name.
4. In general, streets shall have names, not numbers or letters.

5.5. Gravel installation. Aggregate base material shall be placed in two (2) courses of equal thickness. Each course shall be thoroughly compacted. The minimum width of the base shall be sufficient to meet the finished width of a gravel road. If the roadway is paved, the base shall extend an additional four (4) feet beyond the pavement upon each side of the roadway.

5.6. Paving threshold requirement: lot count. Private roads that serve more than ten (10) single-family units shall be paved.

5.7. Paving threshold requirement: lot size. Private roads that serve lots that are less than one (1) acre in size shall be paved.

5.8. Dead end road length. The maximum length of a dead end access shall be sixteen hundred (1,600) feet for developments of up to sixteen (16) lots. For developments that are greater than sixteen (16) lots, the maximum length of a dead end access shall be one thousand (1,000) feet. The minimum length of a dead end access shall be one hundred forty (140) feet, as measured from the centerline of the public street to which it connects to the centerline of the turning circle or turnaround area. The turning area shall be provided at the end of a dead end access easement which shall be sufficient to permit the quick and

unobstructed change in direction of police and fire vehicles. The turning circle, where used, shall have a minimum radius of seventy-five (75) feet for the easement and a minimum radius of fifty (50) feet for the roadway surface. A "T" type turn-around may be substituted for a turning circle, if the applicant can show that it will meet the standards herein before set forth for a turning circle.

5.9. Road alignment. The roadway surface and turning area shall be centered within the easement area unless a waiver is approved by the Town of Hampden Board.

5.10. Connection with public street. The connection between the private road and public street shall conform to the standards and specifications of the Hampden Subdivision Ordinance and the applicant shall obtain a permit issued by the Public Works Director prior to the approval of any access easement by the Town of Hampden Board.

5.11. Cross road drainage. Underground cross-road drainage shall be provided where the proposed private road crosses a stream or other drainage course. Necessary culverts and erosion treatments shall be provided in accordance with the specifications and recommendations of Maine Department of Transportation and Maine Department of Environmental Protection.

5.12. Drainage requirements. The private road shall be adequately drained so as to prevent flooding or erosion of the roadway. Ditches shall be located within the private road easement and shall have minimum grade of five-tenths (0.5) percent. Grades of five tenths (0.5) percent to four (4) percent shall be sodded or otherwise stabilized. Front and back slopes shall have a minimum slope of one (1) on four (4). Grades exceeding four (4) percent shall be rip-rapped. Roadway drainage shall be constructed so that the run-off water shall be conveyed to existing water courses. The discharged water shall not be cast upon the land of another property owner unless the water is following an established water course. Connection to roadside ditches within public road right of ways shall be approved by the Public Works Director prior to the issuance of a permit under this Ordinance. Drainage easements shall be required across lots to guarantee uninterrupted continuance of road and lot drainage to the ultimate discharge point off-site. The site shall comply with the current standards of Chapter 500 regarding site detention and off-site discharge of developed storm water.

5.13. Driveway culverts. Driveway culverts are to be a minimum length of thirty (30) feet and a minimum diameter of fifteen (15) inches.

5.14. Limitation on drainage devices. Private roads shall be constructed in such a way as to avoid incorporation of prohibitively expensive bridges and/or culverts. The purpose of this rule is to avoid future costs that cannot be met by those private landowners that may depend upon passing over said bridges or culverts.

ARTICLE 6 INSPECTIONS

6.1. Inspections Required. Roadway improvements shall be inspected by the Town of Hampden Engineer or his agent at various stages of construction. The owner shall retain and pay for a testing agency to test and document all roadway materials, test roadway earthwork densities, and sub-base, base, and asphalt density.

The Town Engineer or his agent shall make a final inspection upon completion of the construction and he/she shall certify the fact of completion in accordance with the terms and provisions of the permit. No final certificate of compliance or certificate of occupancy shall be issued by the Town of Hampden for buildings upon lots or parcels of real estate which are to be provided access by means of a private roadway until the final inspection and certification by the Town Engineer has been given. The results of the final inspection shall be in writing. The certificate of completion by the Town Engineer shall be provided to the Town of Hampden Board. One copy of the Certificate of Completion shall also be delivered to the Town Clerk and the applicant. The costs of inspection including compensation of the Town Engineer shall be paid by the applicant prior to the issuance of the certificate of completion. The Public Works Director shall establish and determine the costs of inspection. If the applicant does not directly pay the costs of inspection, the same shall be paid from the deposit established by the Planning Board and held by the Town, and the balance if any shall be returned to the applicant.

6.2. Required Inspections. The following inspections are required:

1. Sub-grade or rough grade; proof rolling will be required;
2. Sub-base;
3. Aggregate base;
4. Surface grade, if other than aggregate; and
5. Final site stabilization.

The Contractor shall notify Town of Hampden and the Town Engineer 72 hours in advance of road construction. and must coordinate the activities with the Engineer's inspector.

ARTICLE 7 INSURANCE POLICIES

The contractor shall secure and maintain insurance policies to protect the contractor, subcontractor(s), Town of Hampden, and the Town Engineer and his agent from all claims for bodily death or property damage which may arise during the project, whether such operations are made by contractor or by subcontractor (s) or anyone employed by them directly or indirectly. The following insurance policies are required.

7.1. Workers compensation. Statutory Workers Compensation in accordance with provisions of the Maine Worker's Compensation Act;

7.2. Professional liability insurance. Professional Liability Insurance in the amount of not less than \$1,000,000 for injuries including accidental death of any one (1) person;

7.3. Property insurance. Property Damage Liability Insurance in the amount of not less than \$1,000,000;

7.4. Vehicle liability insurance. Vehicle Liability Insurance in the amount of not less than \$500,000. The insurance certificates shall be filed with the Town giving satisfactory evidence of insurance as stipulated above, before work begins. Certificates shall be maintained until final approval and acceptance of the private road by the Township. All insurance certificates shall name Town and its employees and agents as additionally insured parties.

ARTICLE 8
TESTING AND REPORTS

8.1. Required testing reports. The owner(s) shall be required to retain an independent testing consultant who must provide the following services and who will furnish testing reports to the Town Engineer,

1. Testing of all aggregate material must be completed and approved prior to construction.
2. Soil density testing for embankment construction (fills) exceeding one (1) foot in depth;
3. Sub-base and base density testing; and
4. Asphalt extraction testing if applicable.

8.2. Post construction products required. Upon completion of construction and prior to final inspection of the project, the following must be accomplished.

1. Three (3) sets of blueprint as-built drawings
2. Recorded utility easements must be submitted;
3. Completion of the initial punch list must be accomplished; and
4. Completion of the final punch list which will be developed after all grading, all paving and all street landscaping is complete.

ARTICLE 9
PRE-CONSTRUCTION MEETING

A pre-construction meeting will be held with the Town Public Works Director, Town Planner the developer, and The Town Engineer(s) prior to the start of construction. The meeting will be held to discuss the construction schedule, shop drawings, insurance requirements, activities, and permit status. Evidence of all required environmental permitting shall be submitted before final approval by the Town.

ARTICLE 10
EXPIRATION OF APPROVAL

The private road permit shall be valid for a period on two years from the date of issuance. If the improvement has not been completed upon the expiration of said two years, then the permit shall be void and of no force and effect and all deposits shall be forfeited to the Town.

ARTICLE 11
RECORDING

All private road easements shall be recorded in the office of the Register of Deeds for Penobscot County prior to issuance of a final certificate of completion, or the issuance of any zoning permit, including a final certificate of zoning compliance or a certificate of occupancy.

ARTICLE 12
BUILDING PERMITS

No zoning or building permit shall be issued for any lot or parcel of real estate subject to the provisions of this Ordinance.

ARTICLE 13
WAIVERS

13.1. Waivers. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, such as topographical and other physical characteristics of a parcel, the Planning Board shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance shall be observed, public safety secured and substantial justice done. Any applicant may apply for a waiver from any provision of the Ordinance.

13.2. Notification procedure. The Planning Board shall hold a public hearing upon such application within a reasonable period of time from its filing. The Code Enforcement Officer shall give notice of the hearing to the owners of all property abutting and/or having access for ingress and egress of traffic by means of the private road described in the waiver application, as well as police, fire and emergency service officials known by the Town to serve such property. The notice shall be mailed to each such party and published in a newspaper of general circulation in the Township not later than seven (7) days prior to the bearing. Upon the hearing, any party may appear in person or by agent, or by attorney. The Township Board shall keep a record of said hearing and shall render a written decision.

13.3. Conditions on waivers. The Planning Board may attach reasonable conditions in granting any waiver from any provision of the Ordinance, and the breach of any conditions or the failure of any applicant to comply with the conditions shall void the waiver. It is the intent of this provision of the Ordinance that easements and rights-of-way which have been established, recorded, constructed, or maintained prior to the date of adoption of this Ordinance and which can not be brought into conformity with the provisions of this Ordinance without unnecessary hardship or where such rights-of-way and easements by reason of soil conditions, topographical considerations, or other factors can not be brought into conformance with the Ordinance without practical difficulties, that waivers shall be granted and conditions attached to the variance to facilitate the upgrading of such prior nonconforming easements and rights-of-way as is reasonably practical to the standards of the Ordinance.

13.4. Waiver procedures. Waiver procedures. The following apply to all waiver requests under this Ordinance.

13.4.1. Waiver Application. Applicant shall file an application for waiver to the Code Enforcement Officer for a waiver for a pre-ordinance private road. (Use Private Road Waiver Application.)

13.4.2. Fees. Application shall be accompanied by a fee according to the Town Fee schedule.

13.4.3. Submission to Town Engineer and Fire Department. Application will be submitted to Town Engineer and Fire Department for evaluation and recommendation. Recommendations will be based upon safety and reasonableness.

13.4.4. Minimum Waiver Requirements. Minimum requirements for waivers will include:

1. Follow the recommendations of the Town Engineer and Fire Department as accepted by the Planning Board.
2. Provide sufficient passing and turnaround space to accommodate emergency vehicles.

3. A recorded maintenance agreement signed by all property owners provided access along the road.
4. A recorded 66 foot easement which includes the existing roadbed.
5. Approval of the Public Works Director for access to the public road.
6. A road name with a private road sign and stop sign that comports with the uniform system of traffic signs installed at access to public roads and Town Ordinance.
7. Safety improvements as recommended by the Town Engineer, Fire Department, and approved by the Planning Board.

ARTICLE 14
PRIVATE ROAD MAINTENANCE AGREEMENTS

Continued maintenance of private roads and road drainage facilities shall be the responsibility of the property owners served by such roads. Prior to issuance of construction permits, such property owners shall enter into a legally binding private road maintenance agreement, which shall be subject to review and approval by the Town attorney. At a minimum the easement maintenance agreement shall contain the following:

14.1. Maintenance costs. The private road maintenance agreement shall acknowledge that the road surface and easement area are privately owned, and therefore, all maintenance work, construction and improvements within the easement will be contracted and paid for by the signatories to the agreement.

14.2. Apportioning maintenance costs. Method of apportioning maintenance costs.

14.2.1. Original users. The agreement shall describe the method by which maintenance costs and costs of improvements will be apportioned among the original users of the private road.

14.2.2. Subsequent users.

1. The agreement shall describe the method for apportioning new users for a proportionate share of the maintenance costs and costs of improvements of the private road.
2. The agreement shall indicate that the method of apportioning costs applies whether the new users are a result of: Extension of the private road beyond its initial length, Connection to another private road, or Division of property which is served by the private road.
3. The apportionment formula may be designed to apportion costs in relation to the benefit to be derived from the private road, and therefore, shall include two variables: the number of parcels to be served, and the amount of frontage that each parcel has along the private road. For example, the formula could apportion 50 percent of the costs on the basis of the number of parcels being served, and apportion the remaining 50 percent of cost on the basis of frontage for each parcel
4. The apportionment formula may include provisions to reduce the cost for parcels that have existing access to another public or private road, and therefore, would not derive full benefit from the private road.

14.3. Limitation of Town Responsibility. Town not responsible. The provisions of the private road maintenance agreement shall in no way be construed to obligate the Town to perform regular inspections of the private road or to provide necessary repairs or maintenance. The Town may intercede in maintenance of a private road only if a potential health or safety hazard is brought to the attention of Town officials, or if the road is not being maintained in accordance with Town standards.

14.4. Special assessment provision. The private road maintenance agreement shall contain a provision to permit the Town Council to authorize the repair of any private road which is not being maintained adequately to permit safe access by users and emergency vehicles, and to assess the cost of such repair, including the costs of engineering and administration, to the signatories to the private road maintenance agreement. The decision to authorize repair of a private road shall be at the Town Council's sole discretion in accordance with its legislative powers.

14.5. Maintenance needs. The private road maintenance agreement shall acknowledge the responsibility of the signatories to such agreement to maintain the surface grading and resurfacing at regular intervals now and ice removal repair of potholes, maintenance of road drainage systems maintenance of unobstructed vision at any intersection with another private road or a public road; annual dust control and regular cutting of weeds and grass within the easement.

14.6. Continuing obligation. The private road maintenance agreement shall specify that the obligation to maintain the easement shall be an obligation running with the land to be served by the private road, and shall be binding upon the owners of such land and their heirs, successors and assigns. To insure that all private roads are maintained, the property owners covered by the maintenance agreement must file a report with the township every five (5) year that is signed by a registered engineer, certifying that the private road meets the standard contained herein

ARTICLE 15 POLICY FOR PRE-ORDINANCE PRIVATE ROADS

All private roads which were in existence prior to adoption of this Section shall comply with the provisions of this Ordinance. The following requirements apply to all roads established prior to this Ordinance:
Requirements for Pre-Ordinance Private Roads.

15.1. Pre Ordinance Private Roads. The following requirements pertain to private roads which do not meet the requirements of this Ordinance as of date of adoption.

15.1.1. Activities not requiring a waiver. For an existing residence(s) on a non-conforming private road, no waiver is required for adding or altering non-habitable, non-traffic impact structures such as a deck, unenclosed porch, pole barn, garage or similar structure.

15.1.2. Existing residences. For an existing residence on a non-conforming private road, a private road waiver or upgrade of the road to current private road standards is required to add any addition of habitable space or traffic increasing structure, activity or use. If the road is upgraded to current private road standards a road maintenance agreement is required per Section 14, herein.

15.1.3. New residences. For a new residence, whether on an existing unimproved lot or replacing an existing residence, a private road variance or upgrade of the existing access way to current private road standards is required. If the road is upgraded to current private road standards a road maintenance agreement is required per Section 14, herein.

15.1.4. Division of land. For any parcel requesting a land division, the existing non-conforming private road is required to be improved to meet current private road standards of this ordinance; road maintenance agreement is required.

15.1.5. Private road maintenance agreement required. Prior to any zoning compliance permits being issued by the town for any lot or structure accessing an existing non-conforming private road, an acceptable executed, recorded private road maintenance agreement must be filed with the township.

ARTICLE 16 VIOLATIONS

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be subject to a fine not exceeding FIVE HUNDRED (\$500.00) DOLLARS or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. Each day a violation occurs shall be deemed a separate offense. Any access which is used in violation of the terms of this Ordinance be and the same is hereby declared to be a nuisance per se, and such use may be abated, restrained enjoined, and prohibited, upon the commencement of an appropriate action in the Superior Court.

ARTICLE 17 SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason by any court, it shall not affect any other part or portion hereof other than the part declared void or inoperable.

ARTICLE 18 DEFINITIONS

tbd
Private road.



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Subdivision Amendments
DATE: May 5, 2015

This is the draft of the Subdivision Ordinance language as discussed over many meetings. I would suggest that the Planning and Development Committee will want to go over it again and see if the mandatory review standards are acceptable. The primary edits start on page 19.

- map* 7. Soils report. A soils report, identifying soil types and location of soil test areas. If subsurface sewage disposal is to be used, evidence of soil suitability for subsurface sewage disposal as determined by the Maine Plumbing Code shall be presented. There shall be at least one soils test per lot.
- map* 8. Location and name of existing public streets and way.

350. Performance Standards for Subdivision The performance standards in this section are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404, Review Criteria). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a subdivision plan. Compliance with the design guidelines of Sections 350 and 360 and Article 500 shall be considered to be evidence of meeting the appropriate performance standards. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. All proposed subdivisions shall be in conformity with the Comprehensive Plan and subsequent amendments or revisions or policy statement of Hampden and with the provisions of all pertinent state and local codes and ordinances.

(Note: the **boldface** text that follows is directly from the statute).

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that

350.1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- 1. The elevation of the land above sea level and its relation to the flood plains;**
- 2. The nature of soils and subsoils and their ability to adequately support waste disposal;**
- 3. The slope of the land and its effect on effluents;**
- 4. The availability of streams for disposal of effluents;**
- 5. The applicable state and local health and water resource rules and regulations**
- 6. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection,**
- 7. Discharges of storm water shall be designed to treat expected pollutants such as sediments prior to discharge into surface water bodies. Discharges from proposed parking lots and loading areas shall also be designed to treat expected pollutants such as oil, grease, and sediment prior to discharge into surface water bodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.**
- 8. The homeowner association covenants, if the subdivision utilizes a homeowner association, will include a requirement to follow the guidelines in the most current edition of "Best management**

Practices for the Application of Turf Pesticides and Herbicides” as published by the State of Maine Pesticide Control Board.

350.2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

1. The statutory criterion is that the proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. This means an adequate supply of good quality water. Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan or a separate document to be recorded in the Registry of Deeds.
2. Any subdivision within 1,000 (one thousand) feet of an existing public water supply will be connected to and source its water supply from that public system unless the relevant water authority indicates in writing that it does not have the capacity to serve the subdivision or it can be demonstrated that the water extension costs are greater than the full cost of establishing private wells for all of the lots in the subdivision.
3. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Hampden Water District and the Hampden Public Safety.
4. When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan and subsequent amendments or revisions, or within 1000 feet of the existing water service, water supply shall be from individual wells or a private community water system with a map provided showing where the water supply is located.
 - A. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
 - B. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
 - C. When a central water supply system is provided by the applicant the location and protection of the source, the design, construction and operation of the system will conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - D. Hampden Public Safety Department must approve in writing the adequacy and accessibility of water supply for the proposed subdivision, whether the water is from public or private sources.

350.3. Public water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

In meeting the standards, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

350.4. Soil Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results:

1. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
2. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
3. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
4. Cutting or removal of vegetation along or adjacent to waterbodies shall not result in shoreline erosion or sedimentation.

350.5. Traffic Conditions. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section:

1. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
 - A. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
 - B. Avoid traffic congestion on any street; and
 - C. Provide safe and convenient circulation on public streets and within the subdivision; and
 - D. Provide adequate, unimpeded access to emergency vehicles and personnel to all lots and structures within the subdivision at all times under normal and adverse conditions. The Public Safety Department must approve in writing their satisfaction with the emergency vehicle access to and within the subdivision.
2. More specifically, access and circulation shall also conform to the following standards.
 - A. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing or proposed streets that the Comprehensive Plan and subsequent amendments or

- revisions has classified as residential access streets. Gates or other form of permanent access restriction across access roads, streets or pedestrian ways are not permitted.
- B. The street giving access to the subdivision and neighboring streets and intersections that can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the Comprehensive Plan and subsequent amendments or revisions has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection.
- C. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.
- D. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
- E. Unless not feasible for topographic and other site conditions, provisions in the form of rights of way or street stubs shall be made for street connections to adjoining lots of similar existing or potential use within areas of Hampden designated as growth areas in the Comprehensive Plan and subsequent amendments or revisions. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Superintendent of Highways, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic. In non-residential subdivisions such access will be provided to adjoining lots or similar existing or potential use, if it will: (1) facilitate fire protection services as approved by the fire chief; or (2) enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
- E. Street Names, Signs and Lighting. Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be named in accordance with Town of Hampden ordinances and shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to approval of the Board. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as required or approved by the Board and the cost of the installation and the operating costs will be borne by the applicant.
- F. Clean-up. Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

350.6. Sewage Disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

1. Public System.

- A. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point.

Exceptions: This requirement is intended to facilitate the expansion of the public sewer system but is not absolute. The requirement is not intended to require sewer pump stations to satisfy the standard. The requirement is not intended to establish sewer extension costs that would exceed the full cost of establishing septic systems for all of the lots in the subdivision.

- B. When it is proposed that a subdivision be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations (if permitted under the Sewer Ordinance), shall be installed at the expense of the applicant.
- C. The sewer department shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
- D. The sewer department shall review and approve the construction drawings for the sewerage treatment. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer department or department.
- E. If the proposed system is to be public sewer with private wells the plan must include metering of well water with the full cost of the devices and the reading of the meters borne by the owner/resident. Such plan shall be presented to the Town Council for approval before final subdivision plan is granted by the Planning Board.

2. Private Systems.

- A. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan and subsequent amendments or revisions and as per the Comprehensive Plan and subsequent amendments or revisions Map, connection to the public system shall not be permitted unless the public sewer extension is approved by the Town Council and paid for by the developer. Permissible private sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.
- B. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
- C. The site evaluator shall certify in writing that all test pits that meet the requirements for a new system represent an area large enough to provide a disposal area on soils that meet the Disposal Rules.
- D. Unless the subdivision is a cluster development served by a clustered subsurface waste water

disposal system, the following standards will apply:

- 1). Each proposed lot must be served by a septic system located within its boundaries (see 3) below).
- 2). If the depth to a limiting factor, as defined by the above rules is less than 24 inches, both the septic system and a replacement system site must be located within each proposed lot. Both the Primary and The reserve area shall be shown on the plan and restricted so it will not be built on.
- 3). Septic systems serving a structure on one lot are not allowed to be located on abutting or neighboring lots except under the following conditions:
Conditions to be determined.
- 4). Septic systems shall be designed to ensure that there is no net increase in the flow of nitrates across the perimeter of the subdivision as a result of the subdivision's septic systems.
- E. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

350.7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

Major subdivisions shall be required to obtain a letter from the Hampden Public Works director stating that the municipal solid waste disposal system has adequate capacity for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

If in the opinion of the Hampden Public Works director there is not adequate capacity to dispose of solid waste applicant shall be required to make alternate arrangements with an alternative disposal facility and provide a letter from that private solid waste disposal facility stating that they have adequate capacity for the disposal for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

350.8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

1. Preservation of Natural Beauty and Aesthetics

- A. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan,

2. Retention of Open Spaces and Natural or Historic Features

- A. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation,

- B. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- C. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.
- D. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
- E. Reserved open space land may be dedicated to the municipality.
- F. Where land within the subdivision is not suitable or is insufficient in amount, where the applicant prefers, or when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

3. Protection of Significant Wildlife Habitat

- A. A report shall be required if any portion of a proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:
 - 1) Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - 2) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - 3) Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - 4) Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
- B. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
- C. Or other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports.

A report shall be prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted.

This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

- D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

350.9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. If all of the land within a subdivision will be owned as a condominium, i.e., owned in common by all dwelling unit owners, minimum dimensional requirements will be applied to nominal lots shown on the preliminary and final plans. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

350.10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section:

1. Financial Capacity. The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.
2. Technical Ability. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

350.11. Surface waters; outstanding river segments (where applicable). Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation of water bodies.

Note: A, A(1) and A(2) regarding Outstanding River Segments are not applicable in Hampden, Maine.

350.12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

1. Ground Water Quality.

- A. Hydrologic assessment shall be submitted for major subdivisions and the assessment shall contain at least the following information:
- 1). A map showing the basic soils types.
 - 2). The depth to the water table at representative points throughout the subdivision.
 - 3). Drainage conditions throughout the subdivision.
 - 4). A plan that indicates proposed subsurface waste disposal fields location and a 100 foot radius circle line surrounding each field indicating the minimum setback for private wells. The plan should also indicate any existing private wells or subsurface wastewater disposal fields on adjoining properties that might affect the placement of wells or septic systems within the proposed subdivision.
- B. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- C. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- D. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- E. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- F. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

2. Ground Water Quantity. Based on the assessment of a licensed hydrogeologist, the ground water withdrawals by a proposed subdivision will not have a material adverse impact on the level of the water table in the immediate vicinity of the subdivision.

350.13. . Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation: When any part of a subdivision is located in a special flood hazard area as identified by the Federal

Emergency Management Agency:

1. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
2. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
3. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

350.14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 1987 (or most recent) edition of the Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

350.14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

350.15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

350.16. Storm water. The proposed subdivision will provide for adequate storm water management;

Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, storm drains and best management practices equivalent to those described in The Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), in conformance with the policies of the Comprehensive Plan and subsequent amendments or revisions. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains and to meet the following standards:

1. Quantity. Peak discharge rates shall be generally limited to the predevelopment levels for the 2- year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.

2. Quality.

- A. Storm water run-off in subdivisions must be treated by the use of Best Management Practices equivalent to those described in the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), to achieve, by design, 40% reduction in total suspended solids.
- B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.
- C. Proposed projects which need a storm water permit from the Maine Department of Environmental Protection, pursuant to Chapter 500 and Chapter 502 regulations, shall meet both the State regulations and the requirements of this ordinance. In the case of any conflicting requirements, the stricter shall be applied.

350.17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

350.18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

350.19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

350.20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

360. Design Guidelines. This section is intended to provide an example of design guidelines, that if followed will result in meeting the appropriate performance standards of Section 350. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this section may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

361. Sufficient Water.

1. Well Construction.

A. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.

B. Wells shall be prohibited within 30 feet of the traveled way of any street and any drainage easement area. Well head location preference shall be given to locations that do not directly drain from the road to the well head such as uphill locations and areas where drainage is diverted by ditch rows unless this is not feasible. This restriction shall be included as a note on the plan and deed restriction to the affected lots.

362. Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

1. Access to Open Spaces. Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, vehicular access where applicable, lookouts, etc. where necessary and appropriate.

2. Preservation of Historic Features. Applicant shall seek in writing a letter from Maine Historic Preservation requesting information on the proposed subdivision parcel if it is on the database for historic or archeological known locations. Proposed subdivisions that include or are adjacent to buildings or sites on the National Register of Historic Places, a Local Historic District or Landmark as identified in the Town of Hampden Historic Preservation Ordinance or that the Comprehensive Plan and subsequent amendments or revisions has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. Applicant shall seek the written advice of the Maine Historic Preservation Commission and the Hampden Historic Preservation Commission in reviewing such plans.

3. Protection of Significant Wildlife Habitat and Important Habitat Areas. The following guidelines

are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions that include significant wildlife habitat or resources identified in Section 350.8 Protection of Significant Wildlife Habitat.

A. Protection of Habitat of Endangered or Threatened Species.

- 1). Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
- 2). Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

B. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic Salmon Spawning and Nursery Areas.

- 1). There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:
 - a. Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
 - d. Other important habitat areas identified in the Comprehensive Plan and subsequent amendments or revisions.

This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

C. Protection of Deer Wintering Areas. The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.

D. Protection of Important Shoreland Areas.

- 1). Within all areas subject to the state mandated 250 foot Shoreland zone except where exempted under the Shoreland Zoning Ordinance;

Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten-year period.

b. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whatever is greater, including land previously developed.

2). These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

E. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

363. Impact on Water Quality or Shoreline. Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots that include any such land shall contain the following restrictions:

1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the footpath shall be limited to six feet.
2. Selective cutting of trees within the buffer strip is permitted provided that a well- distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten-year period.
3. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
4. Pruning of tree branches on the bottom third of the tree is permitted.

ARTICLE 400
IMPROVEMENT GUARANTEES

410. Improvement Guarantees Required

Before the submission of a Final Plan, the subdivider in all major subdivisions as defined in Section 1024 shall provide the town with improvement guarantees, in the form of one or more of the guarantee options listed below in an amount that will cover at least one hundred (100) percent of the cost of completing the improvements, including sewer, water, storm drainage, or street work, should the subdivider fail to complete the required improvements or fail to complete them satisfactorily in accordance with the approved final subdivision plan. Furthermore, the subdivider shall guarantee the improvements against all defects from materials and/or workmanship for a period of one year from the date of acceptance thereof by the Town. *(Amended 02-12-02)*

420. Procedure

The subdivider shall file with the Town Manager a proposed improvement guarantee (including a written guarantee agreement) and the Town Manager shall determine whether the form, amount, and the duration of the improvement guarantee are sufficient. In the event the Town Manager refuses to approve the proposed improvement guarantee as filed by the subdivider, he shall so inform the subdivider and shall inform the subdivider of his reasons for rejecting the guarantee. This shall be done in writing. In the event the Town Manager approves the proposed improvement guarantee as filed by the subdivider, he shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Town Manager. The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider. *(Amended 02-12-02)*

430. Time Limit

431. *Completion Deadline.* All required improvements within a subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the town during said two-year period plus at least eighteen (18) months following the expiration of the two-year period. The additional eighteen-month period is required as protection to the town in the event the subdivider fails to complete the required improvements and for the one year guarantee period. *(Amended 02-12-02)*

432. *Extension.* The Town Manager may extend the completion deadline for two (2) additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six (6) months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Town Manager shall require that the improvement guarantee be extended in duration to cover the extended period of time, plus an additional eighteen month period. Before extending the initial deadlines, or the initial extension, the Town Manager shall review the form and amount of the improvement guarantee to make certain it remains adequate. *(Amended 02-12-02)*

440. Inspection and Certification

441. The Town Manager or his duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Town Manager or his representative who is carrying out these inspections. Upon completion of the improvements the Town Manager shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved

final subdivision plan. If the improvements have not been satisfactorily completed, the Town Manager shall list the defects.

442. Upon completion of the improvements, the subdivider shall file the following with the Town Manager:

1. A statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;
2. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.

443. No final inspection will be conducted by the manager between November 15th and April 15th. This does not prohibit council acceptance of improvements inspected between April 15th and November 15th. *(Amended: 06-19-89)*

450. Release of Guarantee

As soon as the Town Manager or his authorized representative has inspected the improvements and certified that they are satisfactorily completed, the subdivider has filed the letter required in Section 442 of this Ordinance with the Town Manager, and the one year guarantee period has expired, the Town Manager shall release the previously required improvement guarantee to the subdivider. *(Amended 02-12-02)*

460. Reduction of Guarantee

1. When all required improvements have been substantially and satisfactorily completed, the Town Manager may release up to fifty (50) percent of the improvement guarantee. The improvement guarantee shall be reduced in value by no more than fifty (50) percent until all required improvements are satisfactorily completed.
2. Conditional acceptance may be authorized providing:
 - A. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.
 - B. The binder pavement layer is placed on all areas proposed to be paved.
 - C. The developer supplies the manager with an improvement guarantee (section 410), documented by a written estimate from a reputable paving contractor, for the placement of the final finished pavement layer. Said guarantee shall be released in accordance with Section 450. *(Amended: 06-19-89)*
3. Upon acceptance of the improvements by the Town, the Town Manager shall release up to eighty-five (85) percent of the improvement guarantee, and shall release the remaining portion fourteen (14) months after acceptance of the improvements by the Town, unless the Town Manager has provided notice of a guarantee claim pursuant to Section 475, in which case the guarantee shall remain in place until any such claims have been resolved to the satisfaction of the Town Manager. *(Amended 02-12-02)*

470. Incomplete or Unsatisfactory Work

If the Town Manager determines, according to the procedures laid out in section 440 of this Ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan, within the agreed upon time, he shall inform the subdivider in writing of the town's intent to exercise its rights against the improvement guarantee, he shall exercise any and all such rights; and may cause the incomplete or unsatisfactory work to be completed. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the town. (Amended 02-12-02)

475. *Defective Improvements.* If the Town Manager, or designee, determines that the improvements suffer from defective workmanship or materials, the Town Manager, or designee, shall notify the subdivider in writing of the defects by not later than 30 days after the expiration of the one year guarantee period. If the defects are not corrected to the satisfaction of the Town Manager within 60 days after the issuance of the notice to the subdivider, the Town Manager, or designee, shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee, shall exercise any and all such rights, and may cause the defective workmanship or materials to be corrected. Any guarantee assets unused in the correction of any defects may be returned to the subdivider at the discretion of the Town. (Amended 02-12-02)

480. Improvement Guarantee Option

481. *Performance Bond* - Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Hampden and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. (Amended 02-12-02)

482. *Property Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee personal property, including stocks and bonds. The value of such property shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager.

482.1. *Personal Property Escrow* - If personal property is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The subdivider shall provide the town with evidence of the value of the personal property satisfactory to the Town Manager.
2. The subdivider shall, at his expense, provide the town with a title opinion from an attorney, satisfactory to the town, that there exists no outstanding recorded security interest in said property; the subdivider shall provide the town with evidence, satisfactory to the Town Manager, of ownership of the proposed property.
3. The subdivider shall enter into an agreement with the town and execute a security interest in favor of the town, which shall be filed as required by law; said agreement shall provide that the ownership of the property shall be transferred to the town, unless the subdivider satisfactorily completes the required improvements in accordance with this Ordinance and with the approved final subdivision plan. Said agreement and security interest shall contain such additional provisions as may be required by the Town Manager.

4. In the case of stocks, bonds, or other securities, the subdivider shall deliver to the town or its designated trustee the original certificate for said security, together with a stock or bond power endorsed in blank by the subdivider authorizing the transfer of ownership on the books of the corporation. In the case of other personal property, the subdivider shall deliver to the town, or its designated trustee, the personal property together with a satisfactory security interest in such property.
5. In the case of stocks, bonds, or other securities, the Town Manager may require that the value of said securities exceed the estimated cost of the required improvements in order to protect the town from market fluctuations, or may at his option reject stocks, bonds or other securities that in his opinion do not provide the town with satisfactory security.

483. *Letter of Credit* - Under this improvement guarantee option, the subdivider shall provide, as a guarantee, an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Town Manager, such letter of credit to be in form satisfactory to the Town Manager. The amount of such letter of credit shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. The letter of credit shall be deposited with the Town Manager and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs as estimated for the subdivider by a registered professional engineer and approved by the Town Manager, of completing all required improvements;
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Hampden immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the limit of credit stated in the letter. *(Amended 02-12-02)*

484. *Cash Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee, cash held in an account at a bank or other reputable institution subject to the approval of the Town Manager. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and approved by the Town Manager. The subdivider shall enter into an agreement with the town that shall stipulate the terms under which a cash escrow may be accepted by the town.

ARTICLE 500
GENERAL REQUIREMENTS AND DESIGN STANDARDS

In considering applications for subdivisions of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 600 of this Ordinance.

510. General Requirements

511. *Conformity with other laws and regulations.* All proposed subdivisions shall be in conformity with the comprehensive plan of the Town of Hampden, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws, and regulations.

512. *Character of the land.* Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the one-hundred-year frequency floodplain, on wetland which must be filled or drained, on land created by diverting a watercourse, or on land subject to slumping, mass wasting, or land slides. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal land.

513. *Soils* - Subdivisions which contain poor soils due to organic materials, clays, or seasonal high water table (less than 24 inches below grade) shall provide appropriate construction techniques, including but not limited to, underdrains and geotextiles in public road construction. *(Amended: 10-04-93)*

520. Lots

521. *Lots to be Buildable* - The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties as a result of other natural conditions. Lots should not be of such dimension as to later encourage the creation of a second building lot out of the first. Land area delineated as freshwater wetlands, located between the upper edges of perennial or intermittent streams, or designated for stormwater detention facilities shall not be included as lot area for the purpose of the minimum lot area requirement applicable to the subdivision lots. *(Amended 10-03-05)*

Notwithstanding the provisions of this subsection, non-cluster Rural District lots comprised of less than two acres of upland may be approved if the Planning Board finds that the lot contains a minimum of one acre of generally contiguous upland area, not delineated as freshwater wetlands, and determines that the lot is suitable for development. *(Amended 10-03-05)*

Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from this provision. *(Amended 02-12-02)*

522. *Side Lines* - All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a waiver from or modification of this rule will give a better street or lot plan.

Notwithstanding this subsection, variations to the right angle/radial of the street line are encouraged where the Planning Board determines that variations of no more than 20 degrees will improve the layout of the lots by meeting one or more of the following objectives: Simplification of lot layouts

by elimination of unnecessary property corners, foster creation of parallel side lot lines, foster improved solar access, accommodation of pre-existing features such as perimeter property lines or natural physical features such as wetlands and drainage ways. It is not the intent of the side lines rule to promote the placement of additional pins and monuments located in close proximity to the front property line. (Amended 10-03-05)

523. *Corner Lots* - In general, corner lots should be larger than interior lots to provide for proper building setback from each street and to provide a desirable building site.

524. *Lot Frontage* - Lot frontage shall be deemed acceptable only if it is on a road or street as defined in the Hampden Zoning Ordinance. Tie lines must be shown at the front setback line to demonstrate that the lot meets the frontage requirement of the zoning district at the setback unless the lot frontage exceeds the minimum frontage requirement by at least five feet. (Amended 10-03-05)

530. *Drainage Requirements*

531. *General* - The subdivider will be required to provide surface water and storm drainage management facilities appropriate to the finished subdivision. The following requirements must be met for both minor and major subdivisions. Minor subdivisions of single family dwellings in the Rural District are exempt from the following requirements.

1. A storm water management system will be designed to infiltrate, detain or retain water falling on the site during a design storm, such that the post-development peak discharge and runoff shall not exceed the peak discharge and runoff from the site prior to the development.
2. Pipe systems shall be designed to pass the peak discharge of a ten-year frequency, twenty-four-hour duration storm. Open channel systems shall be designed to contain a design storm. In addition, areas expected to be flooded by the design storm will be indicated on the plans, and be considered part of the drainage and storm water management system.
3. The storm water management system will take into consideration the upstream discharge and runoff which must pass over or through the development site. The system will be designed to pass upstream discharge and runoff, generated by the design storm, through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.
 - A. The surface water and stormwater management system shall be designed so that no water shall be stored in any ditches or drainage ways located along streets or roads during a 10 year, 24 hour storm event. (Amended 02-12-02)
4. Urban development which provides public sewer and water service shall be designed to handle storm water drainage by means of an enclosed system with catch basins. Where necessary to control storm water, asphalt curbing may be required.
5. *Materials and Installation*
 - A. *Pipe Culverts and Storm Drains* - Shall conform to Section 603 of the Maine Department of Transportation (MDOT) Standard Specifications for Bridges and Highways, 1990 or current version.

- B. Manholes and Catch Basins - Shall conform to Section 604 of the MDOT Standard Specifications for Bridges and Highways, 1990 or current version.
6. Drain inlet alignment shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear drain is obtained in writing from the Public Works Director after consultation with the Municipality's Engineer.
 7. Manholes/catch basins shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
 8. Upon completion, each catch basin or manhole shall be cleaned of all accumulated silt, debris, or foreign matter until public acceptance. *(Amended: 10-04-93)*

532. *Approvals* - Applications for approval of all proposed subdivisions shall include documentation that demonstrates that there will be no unreasonable effects on runoff/infiltration relationships. This documentation shall include the following, as appropriate:

1. The proposed storm water management system shall be designed by a professional engineer experienced in the design of storm water systems. The designer of the system will evaluate the effectiveness of various storm water methods and develop and make available for review the hydraulic calculations. These calculations will be based on accepted engineering practices and must demonstrate that the requirements of section 531 will be met.
2. Where permanent embankment-type storage or retention basins are planned, the basins shall be designed in accordance with good engineering practices, such as outlined in the current Soil Conservation Service Engineering Field Manual or other appropriate references.
3. Rights-of-way or easements will be designated for all components of the drainage and storm water management system lying outside the established street lines. Stormwater detention facilities shall not be located on lots but on separate parcels to be conveyed to the town or provided for by easement to include provisions for suitable annual maintenance. All rights-of-way and easements will be turned over to the town. Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from the provision requiring that stormwater detention facilities be separated from lots and conveyed to the Town. *(Amended 02-12-02)*
4. The developer shall certify in writing that all components of the storm water management system will be maintained until the system is formally accepted by the municipality or a quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system.
5. The storm water management system will be fully coordinated with the project site plans, including consideration of street patterns, pedestrian ways, open space, building siting, parking areas, recreational facilities, and other utilities. Stormwater drainage channels shall be directed to run along property lines to avoid driveway and other utility crossings. *(Amended 02-12-02)*
6. When the construction of a development is to occur in phases, the planning of the storm water management system shall encompass the entire site which may ultimately be developed, and shall not be limited to an initial or limited phase of the development. *(Amended: 11-18-85)*

540. Open Space and Recreation Land - All subdivisions shall be required to set aside land for open space and recreation or to provide cash in lieu of land. The primary intent of this section is to provide open space and recreation land in all areas of the community. It is understood that not all developments will have land suitable for open space or recreation within their boundaries, therefore this section is designed to be as flexible as possible. To that end, this section shall allow the provision of off-site open space and recreation areas, and cash in lieu of land. In cluster development, the cash in lieu of land provision shall not apply.

541. *Approval Authority* - The Planning Board shall approve the means of meeting this requirement.

The Hampden Conservation Committee and Recreation Committee shall be given opportunity to make written recommendations to the Planning Board on all open space proposals within forty-five (45) days of receiving notice. Where land is to be dedicated to the town, or otherwise requires action of the Town Council, the Planning Board shall require the subdivider provide documentation as to the Town Council's decision as provided in 545.2. *(Amended: 05-20-96)*

542. *Area Required* - The area of land set aside shall be based on the open space requirements of the Zoning Ordinance. If no open space requirement exists in the Zoning Ordinance, the applicant shall be required to provide land in accordance with the following: 500 square feet per unit, or five (5) percent of the parcel to be developed, whichever is greater.

Exception: No open space dedication is required in Minor Subdivisions (four lots or less) in the Rural District if the total aggregate area of the proposed lots exceeds the minimum lot area required in the Zoning Ordinance by at least 10 percent. No fee in lieu of open space is required for subdivisions that satisfy this exception. The intent of this exception is to avoid creating very small open spaces that do not serve the interests of the subdivision or the Town while maintaining the densities that the ordinances contemplate. This exception shall also apply to further division of lots in previously approved subdivisions. *Amended 7-14-2014, Effective Date 8-13-2014*

543. *Standards for Land* - The purpose of this section is to provide for permanent open space. The subdivider may offer dedicated land, conservation easements, or other means to meet the requirements of this section. These areas shall be in locations designated as open space or green belts in the Comprehensive Plan. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. *(Amended: 05-20-96)*

1. Where the open space requirement is in excess of ten (10%) percent of the land to be subdivided, the subdivider may elect to provide land identified in the Open Space and Recreation Plan, if one exists. Where off-site open space is proposed, the following standards apply:
 - A. Ten (10%) percent shall be provided within the subdivision.
 - B. The off-site open space shall be within one (1) mile of the subdivision.
 - C. The off-site open space shall have been previously designated in the Open Space and Recreation Plan.
 - D. The subdivider shall provide proper right, title or interest to the off-site land.

544. *Standards for Cash-in-Lieu of Land* - Where cash in lieu is proposed, the following standards shall apply.

1. At the time of Final Plan submission, the subdivider shall contribute to the Town of Hampden \$400/lot, \$200/unit or \$200/acre, whichever is greatest.
2. All monies placed in this fund shall be used for the purchase or development of open space or recreation land.
3. Land purchased or developed with these funds shall be located to serve the needs of the residents of the subdivision. *(Amended: 06-03-91)*

545. *Provisions for Ownership and Maintenance of Open Space or Recreation Areas* - If land is to be set aside under the provisions of this section, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such land. The means for insuring the open space will be available in perpetuity shall be:

1. Retain ownership and responsibility for maintenance of such land; or
2. Dedicate such land to public use if the town or another public agency has indicated it will accept such dedication. If the subdivider proposed that the town accept the land, the subdivider must provide the planning board, as part of the final plan, with a copy of the minutes of the meeting of the Town Council, attested by the town clerk, in which the Town Council agreed to accept such land; or
3. Provide for and establish one or more organizations for ownership and maintenance of such land. Such organization shall be either a nonprofit homeowners' corporation or a community open space trust. If such organization is formed, it shall be formed and operated in accordance with the following rules:
 - A. The organization shall be formed by the developer and be operating, with financial subsidization by the developer if necessary, before the sales or lease of any lots or units within the development.
 - B. Membership in the organization is mandatory for all purchasers of units therein and their successors.
 - C. The organization shall be responsible for maintenance of common open spaces and property. It shall also be responsible for insurance and taxes on common open space and property.
 - D. The members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with written procedures established by them. *(Amended: 09-21-87, 06-03-91)*

550. Street Standards

551. *Layout of Streets* - All streets in a subdivision shall be planned so as to meet the following standards:

1. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Hampden.
2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets, shall be designed so as to discourage movement of through traffic.
3. The arrangement of streets in the subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice.
4. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town under conditions approved by the Town Council.
5. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
6. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.
7. Whenever possible, subdivisions containing fifteen (15) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the official road map, if such exists, or streets on an approved Subdivision Plan.
8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked "Reserved for road realignment (or widening) purposes". Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.

552. *Design and Construction Standards* - All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the Planning Board.

Design and Construction Standards for Streets

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
1. Minimum right-of-way width	66 ft.	66 ft.
2. Minimum pavement width	24 ft.	20 ft.
3. Minimum grade	0.5%	1.0%
4. Maximum grade	8%	8%
5. Maximum grade at intersection 3% Within feet from intersection	75 ft.	50 ft.
6. Minimum centerline radii on curves	200 ft.	100 ft.
7. Minimum tangent length between reverse curves	200 ft.	100 ft.
8. Depth of subgrade grading	22 in.	22 in.
9. Sub base gravel depth	18 in.	18 in.
10. Upper base gravel	4 in.	4 in.
11. Pavement (see 552 item 2)		
A. Grade B	2-1/2 in.	2-1/2 in.
B. Grade C	1-1/2 in.	1-1/2 in.
C. Total thickness	4 in.	4 in.
12. Minimum road crown-centerline to edge of pavement.	3 in.	3 in.
13. Minimum shoulder width on each side of road.	2 ft.	2 ft.
14. Sidewalks		
A. Minimum width	5 ft.	4 ft.
B. Gravel base course	6 in.	6 in.
C. Surface pavement	2 in.	2 in.

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
15. Dead-end or cul-de-sac streets		
A. Completely paved Radii of turn around at enclosed end		
i. Right-of-way boundary minimum	60 ft.	50 ft.
ii. Outside pavement radius - min.	40 ft.	35 ft.
B. With island (see #26)		
i. Right-of-way boundary – min.	65 ft.	55 ft.
ii. Inside pavement radius	26 ft.	25 ft.
iii. Outside pavement radius	50 ft.	49 ft.
iv. Minimum pavement width	24 ft.	24 ft.
<i>(Amended: 10-03-05)</i>		
C. Temporary (See #27)		
i. Radii at Right-of-way - min.	50 ft.	50 ft.
ii. Gravel turn around minimum	40 ft.	40 ft.
<i>(Amended: 12-04-95)</i>		
16. Minimum pavement curb radii at intersections and where street meets cul-de-sac 20 ft. <i>(Amended: 10-03-05)</i>		
17. Grade of streets should conform as closely as possible to the original relief of the land.		
18. All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of two hundred (200') feet.		
19. Side slopes shall not be steeper than three (3') feet horizontal and one foot vertical, graded, loamed (six [6] inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.		
20. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches.		
21. In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Town Manager.		
22. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The subbase gravel shall meet the specifications for aggregate subbase courses as contained in the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation". The upper base gravel shall meet the specifications for aggregate base courses in the same standards.		
23. After the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation".		
24. The Planning Board may require curbing of roads.		

25. Where a green space is planned in the interior of a cul-de-sac, existing vegetation should be preserved where possible. Any proposed landscaping shall be of a type which requires limited maintenance. *(Amended: 12-04-95)*

26. Where a proposed street may be extended, the Planning Board may authorize a temporary cul-de-sac. Temporary cul-de-sacs shall provide an escrow account for a period of five (5) years to cover the cost of paving, which is renewable in five (5) year increments. Access shall be prohibited from a temporary cul-de-sac. *(Amended: 12-04-95)*

553. *Utilities in Streets* - The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

554. *Street Names*

1. Proposed street names shall be substantially different from existing street names so as not to be confused in sound or spelling.
2. If proposed streets are extensions of existing streets they shall carry the same name.
3. Generally no street should change direction by more than ninety (90) degrees without a change in street name.
4. In general, streets shall have names, not numbers or letters. *(Amended: 09-21-87, 06-19-89)*

560. *Utilities*

561. If public water and/or sewer is proposed, the system shall be designed so as to accommodate any development which can reasonably be expected to tie into the system. In determining the amount of reasonably expected development, the Planning Board shall consider existing land use, existing zoning, the character of the land, topography, and existing constraints to development (such as boggy areas), the carrying capacity of the land and of existing municipal services, and the town's Comprehensive Plan or sewer and water plan. If the system has to be built so that it is larger than would normally be required under conditions of the maximum utilization of the subdivider's contiguous land (including land on opposite sides of streets), the town will pay the difference in cost for the larger pipes. The subdivider must cover all other expenses.

562. The subdivider shall install any new public utility system according to the approved Subdivision Plan. If either the public sewer or water system follows a course which is not collinear with the road network, the Planning Board shall require that the subdivider provide the Town of Hampden or the Hampden Water District with a utility easement.

563. If individual wells are proposed for the subdivision, the Planning Board may require that the subdivider's engineer certify that sufficient water is available for the reasonable foreseeable needs of the subdivision.

564. If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system which is in conformance with the Maine State Plumbing Code can be installed on every lot.

565. Pump stations shall not be used in the construction of sewer systems in any proposed development with the Town of Hampden, Maine, except as permitted under the Town's Sewer Ordinance. (Amended: 03-07-88) (Amended 08-06-07)

570. *Buffer Strip* - The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.

ARTICLE 600
WAIVER AND MODIFICATIONS OF THESE REGULATIONS

610. Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Zoning Ordinance, or any other ordinance. Upon recommendation of the Planning Board, fees may be adjusted or waived only with the approval of the Hampden Town Council.

620. In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. (Amended: 12-01-86)

ARTICLE 700
VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING

710. Should any section or provision of these regulations be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations, and to this end, the provisions of these regulations are hereby declared to be severable.

720. The effective date of these regulations is June 17, 1982

730. These regulations shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where these regulations impose a higher standard for the protection and promotion of health and safety, the provisions of these regulations shall prevail.

740. A copy of these regulations shall be filed with the Town Clerk and shall be accessible to any member of the public.

750. The Subdivision Ordinance of the Town of Hampden as adopted at the annual meeting March 3, 1970 and as amended, is hereby repealed.

ARTICLE 800
AMENDMENTS

810. *Initiation of Amendment* - An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted;
2. Request of the Town Council to the Planning Board; or
3. Written petition of ten (10%) percent of the registered voters of the town.

820. *Proposed Amendments* - All proposed amendments shall be referred to the Planning Board for their recommendation. Such recommendation shall be returned to the Council within thirty (30) days.

830. *Adoption of Amendment* - For an ordinance change to be adopted, it must be approved by a majority vote of the Town Council if the change has been recommended by the Planning Board. If the change has not been recommended by the Planning Board, a two-thirds vote of the Town Council will be necessary to adopt it.

ARTICLE 900
APPEALS

An appeal may be taken, within thirty (30) days from the Planning Board's decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

ARTICLE 1000
DEFINITIONS

1010. Words and terms not defined in section 1020 shall have the meanings given them in the Zoning Ordinance of the Town of Hampden, or in the absence of definitions in said Ordinance, such words and terms shall have their customary dictionary meanings.

1020. The following words and terms, for the purpose of this Ordinance, shall be designated as follows:

1021. *Subdivision.* For purposes of these regulations, the term "Subdivision" is as defined in the MRSA, Section 30-A, §4401 as amended.

~~"Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5 year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units with a 5 year period.~~

~~1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:~~

~~A. 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~~

~~Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2nd dividing occurs; or~~

~~B. The division of the tract or parcel is otherwise exempt under this definition.~~

~~2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.~~

~~3. A lot of 40 or more acres shall not be counted as a lot, except:~~

~~A. When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in the Hampden Zoning Ordinance, or any superseding state statute.~~

~~4. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.~~

~~5. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.~~

~~6. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.~~

~~7. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transfer is to avoid the objectives of this Ordinance.~~

~~Exceptions~~

~~This Ordinance does not apply to:~~

- ~~1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;~~
- ~~2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or~~

- ~~3. Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971. (Amended: 02-07-94)~~

NOTE: For convenience the Statutory definition of subdivision as of July 24, 2014 is attached here but the reader of this ordinance is well advised to check the current statute in Title 30-A MSRA §4401.

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(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 that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.]

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. .]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter..

1022. *Tract or parcel of land* - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

1023. *Minor Subdivision* - A subdivision with less than five (5) lots which does not involve the construction or reconstruction of a new street, or the extension of public sewer lines, or the extension of public water lines, or the construction of a storm drainage system.

1024. *Major Subdivision* - A subdivision which is not a minor subdivision.

1025. *Street* - Shall mean a right-of-way, intended for motorized traffic, in the Town of Hampden, which is either:

1. Owned, established, and maintained by the Town of Hampden, the County of Penobscot, or the State of Maine; or
2. Is shown on a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds.

1026. *Minor Street* - A street which serves primarily as an access to abutting properties.

1027. *Collector Street* - A street which connects one or more minor streets with an arterial street.

1028. *Arterial Street* - A street which serves heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

1029. *Design Storm* - A storm with a frequency or recurrence interval of twenty-five (25) years and a duration of twenty-four (24) hours.

1030. *Pump Stations* - For the purpose of this Ordinance, pump stations shall be defined as any device intended and designed for the purpose of transporting, pumping or lifting of sanitary sewage from residences, commercial institutions or central collection points to the municipal sanitary sewer system. This shall not include lift pumps used in self-contained, on-site subsurface disposal systems. *(Amended: 11-18-85, 9-19-88)*

1031. *Freshwater Wetland* - Freshwater Swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
2. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection. For the purposes of this Ordinance, "wetland" shall mean the same as freshwater wetland. Freshwater wetlands shall be delineated in accordance with the current authorized federal manual, unless the Planning Board approves a different delineation method. *(Amended: 12-20-93)*

1032. *Dwelling Unit* - "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units. *(Amended: 02-07-94)*

1033. *New Structure or Structures* - "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance. *(Amended: 02-07-94)*

The Town of Hampden hereby ordains that the following amendments to the Zoning Ordinance be enacted

Additions underlined

Deletions striken

4.8. Signs. Signs provide vital information to the public, assist in the response and rescue of public safety and engender a sense of place. The following provisions shall apply to signs and billboards in all districts where permitted.

4.8.1. Off-Premises Signs - No off-premises signs shall be erected or maintained in the Town of Hampden except in conformity with *23 MRSA section. 1901-1925 the Maine Traveler Information Services Law*. Off-premises official business directional signs may be located in the Town of Hampden in such locations and in such a manner as allowed under *23 MRSA sections 1901-1925* and under the rules and regulations of the State of Maine Department of Transportation. Provided, however, that off-premises official business directional signs for home occupations are prohibited. Authorization for official business directional signs shall be obtained from the Code Official.

1. *Exception for property identification numbers* - Each residential premises is allowed a mailbox with the identification number of the property clearly marked on it. If the mail box is on the opposite side of the street of the house or if there is no mailbox, the premises is also allowed an MDOT approved sign post, or similar structure, with numbers that meet the standards of subparagraph a below. Such signs are also allowed on an adjacent parcel with written permission of the landowner.

- a. All non residential uses must display the identification number of the property. The area required by the number is not included in the calculation of the total square footage of the sign.
- b. Approved address numbers shall be placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet

letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

2. *Exception for industrial subdivision entrance sign* - In Planning Board approved Industrial Subdivisions a sign marking each public street entrance shall be permitted. Such signs shall be limited to 70 square feet per face and shall only contain the name of the subdivision, the name of the public subdivision's street, and owner identification information. The sign may be located in the raised median of the entrance street provided that it is at least 20 feet from the nearest perpendicular traveled way and the sign itself creates no visual barrier from the ground up to a height of 6 feet.
3. *Exception for industrial subdivision directory sign* - In Planning Board approved Industrial Subdivisions a directory sign marking tenants in the subdivision located near each public street entrance shall be permitted. Such signs shall: be unlighted, be limited to 50 square feet per face, not exceed five feet in height, and shall only contain the name of subdivision, information about the subdivision's management, and the name and address of each subdivision's tenant. The sign may be located in the public right of way provided that it is at least 100 feet from the entrance and does not create a visual barrier to individual lot entrances.

4.8.2. On-Premises Signs - All on-premises signs shall be located and erected in conformity with State Law (23 MRSA sections 1901-1925). In addition the following regulations apply:

1. *Visual obstruction* - No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination, or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, or device or otherwise constitute a hazard to pedestrian or vehicular traffic.

2. *Sign Illumination*: Sign illumination is permitted in all districts, except on properties used for residential land uses purposes, as long it conforms to 4.8.2.1.

3. *Visual distraction* - Flashing, moving, or animated signs are prohibited.

3.1 *Height limit* - No sign shall exceed twenty-five (25') feet in height.

4.5 *Size limit* - No sign shall exceed the maximum sign size for the district in which the sign is placed. Freestanding signs are sized of the basis of one sign face. Except that signs

located on-premises but greater than fifty (50') feet from a building and visible from Interstate 95 shall be limited to one sign and shall not exceed one hundred fifty (150) square feet in area or the maximum sign size allowed in the district, whichever is less. Such signs, visible from Interstate 95, shall have no panel dimension greater than twenty (20') feet.

~~5.6~~ *Neighborhood nuisance* - No sign shall be ~~erected~~ maintained in a manner in which the operation or illumination thereof may cause nuisance or undue distraction to nearby residents or occupants.

~~6.7~~ *Setbacks* - Signs shall be set back at least eight (8') feet from the street line and other lot lines, except signs on properties adjacent to Residential A, B, or Rural District boundaries. In that case, signs shall be set back from the side lot line at least the distance of the minimum required side yard depth for the district to which they are adjacent and shall be set back from the street line at least eight (8') feet.

~~8.~~ *Roof signs* - Roof signs shall not extend more than ~~ten~~ (10') feet above the roofline.

~~9.~~ *Changeable Signs* - Are Permitted in all districts, except ~~except~~ on properties used for residential land uses purposes Residential A & Residential B.

a. "Changeable sign" means an on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally, or mechanically altered by the complete substitution or replacement of one display by another on each side.

b. "Display" means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.

c. "Message" mean a communication conveyed by means of a visual display of text, a graphic element or pictorial or photographic image.

d. "Sign assembly" means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.

e. "Time and temperature sign" means a changeable sign that electronically or mechanically displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.

f. The display on each side of a changeable sign:

- i. May be changed no more than once every 2 minutes; **Note: Under 23 M.R.S. §1914(11-A)(B)(1), the change is once every 20 minutes.**
- ii. Must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing, display continuous streaming of information, video animation or blending;
- iii. May consist of alphabetic or numeric text on a plain or colored background and may include graphic, pictorial or photographic images.

4.8.3. Permitted Signs Not Requiring a Permit – The following on-premises signs shall be permitted in all districts without a permit:

1. *Real estate signs* - The following signs relating to the sale, rental or lease of a premises may be displayed on the premises of a premises which is available for sale, rent or lease.
 - a. A single freestanding sign, not over five (5) square feet in area.
 - b. A single wall sign not over three (3) square feet in area.All such signs shall be removed when PURPOSE IS FULFILLED.
2. *Posting signs* - Signs relating to trespassing and hunting.
3. *Residential identification signs* - A single sign denoting the name and/or address of the occupants of residential premises, such sign shall not exceed four (4) square feet in area.
 - a. Or one sign naming the premises where located. Such sign shall not exceed six (6) square feet if it is a wall sign, or four (4) square feet if it is a freestanding sign. (Examples: Twin Oaks, Fox Fire, Kinsley House, etc.).
4. *Tradesman signs* - A single sign, placed on the premises where construction, repair, or renovation is in progress, which denotes the architect, engineer, contractor, and/or funding source for the work in progress. Such sign shall not exceed sixteen (16) sq.ft. in area and shall be removed when the work is completed. Federal and state government-mandated signs are exempt.
5. *Traffic signs* - Signs providing traffic and directional information to the public.
6. *Home occupation sign* - In place of the sign allowed in *Article 4.8.3.3.* above, approved home occupations may display a single sign, not over four (4) sq.ft. in area, relating to the home occupation.

7. *For sale signs* - In addition to the sign allowed in *Article 4.8.3.3.* above, residential users may display a single temporary sign, not over four (4) sq.ft. in area, relating to goods or services for sale on the premises, if such sale does not constitute either a business, a home occupation, or a yard sale. Examples of sales falling under this provision are the sale of a used vehicle, the sale of a used appliance, or other occasional sales.
8. *Temporary event signs* - Temporary signs announcing public and semi-public occasional events ~~political campaigns, candidates, etc.~~ Such signs shall be displayed not more than two (2) weeks before the event and shall be removed within one (1) week after the event. Signs established more than two weeks prior to the announced event shall be deemed unlawful and are subject to removal under *Article 4.8.10.2.*
9. *Political Signs* - ~~Political signs~~ Signs bearing political messages relating to an election, primary or referendum may be placed per 23 MRSA 3191.3 and Maine DOT Department Regulations as follows:
- May be erected on private property outside the Right of Way limits of public ways at ~~anytime~~ any time prior to and election, primary or referendum, limited in size to a maximum surface area of 50 square feet;
 - May be erected within the Right of Way limits of public ways no sooner than six (6) weeks prior to an election, primary or referendum and must be removed no later than one (1) week following that date of the election, primary or referendum; Provided, however, that political signs may not be located within the right-of-way limits of any Controlled Access Highway (Route 202 from I-395 to Western Avenue) or within any right-of-way limit of the Interstate Highway System.
10. *Personal Signs*-Signs bearing political, religious, ideological or personal messages by the owner(s) or occupant(s) of a property, limited in size to a maximum surface area of 50 square feet.
11. *Prohibited Practices*-Signs allowed by this Section 4.8.3 shall be subject to the following:

- a. ~~Prohibited practices: political posters and signs~~ Shall not be created or maintained on any traffic control signs or devices, public utility poles or fixtures, upon any trees or painted or drawn upon rocks or other natural features;
- b. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device, such as a stop sign;
- ~~c. Political signs may be displayed to view to all public ways except for the Interstate Highway System. Title 23 MRSA §1913-A, paragraph 3 (regulations) and paragraph 6 (interstate system) states that: such signs may not be placed within the limits of any controlled access highway nor~~ erected within 660 ft. of the nearest edge of the Interstate Highway System, in such a manner that the message may be read from the Interstate Highway. ~~ANo political signs may be located at the interstate interchanges. are in violation.~~
- a. ~~Maine DOT considers US Hwy 202 from I-395 to Western Avenue a controlled access highway.~~

4.8.4. Permitted Signs With a Permit - The following on-premises signs shall be permitted in all districts with a permit:

1. *Housing project sign* - A single sign not over thirty-two (32) sq.ft. describing a multi-family housing project or a subdivision.
2. *Subdivision sign* - A single sign not over thirty-two (32) sq.ft. describing a subdivision.
3. *Non-residential principal building or use sign* - A single sign not over sixteen (16) sq. ft. describing a non-residential principal building or use on the premises.

4.8.5. Signs in the Rural District - In the Rural District the following on-premises signs shall be considered accessory to the principal use of the premises on which they are located:

1. *Farm product signs* - A maximum of two (2) signs describing farm products raised or produced on the premises. The maximum sign size shall not exceed sixteen (16) sq.ft.

4.8.6. Signs In Residential Districts - In the Residential A and Residential B Districts the following on-premises signs shall be considered accessory to the principal use of the premises on which they are located:

1. *Housing project or subdivision sign* - A maximum of two (2) signs whose combined area shall not exceed thirty-two (32) square feet, describing a multi-family housing project or a subdivision on the premises.
2. *Non-residential sign* - A maximum of two (2) signs whose combined area shall not exceed sixteen (16) square feet, describing a non-residential principal building of less than 5,000 square feet gross floor area or use on the premises.
3. *Non-residential sign for larger site developments* - A maximum of one sign located at each street entrance whose area shall not exceed sixteen (16) square feet and describing a non-residential principal building or buildings in excess of 5,000 square feet gross floor area or use. Additional signage shall be permitted on the interior of such site developments provided that each individual sign has a maximum size of sixteen (16) square feet and is set back a minimum of 30 feet from all property lines.
4. *Prohibited signs* - Notwithstanding the provisions of this section roof signs and internally illuminated signs are prohibited in the residential districts.
5. *Scoreboards* - Notwithstanding the provisions of this section scoreboards are permitted in the residential districts and are not subject to the preceding regulations including size. The content of a scoreboard shall be generally limited to the score, period, time, and other information pertinent to the sporting activity, the name of the school and team. Scoreboards may contain limited product advertising provided it is not back-lighted and is limited to 10 sq. ft.

4.8.7. Signs in the Commercial Districts

1. *Signs in the Business District and Rural Business District* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Business District and the Rural Business District:
 - a. One (1) freestanding sign, not to exceed thirty-six (36) square feet.
 - b. Wall signs not to exceed one and one-half (1-1/2) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed one hundred fifty (150) square feet.
 - c. One (1) projecting or roof sign not to exceed thirty-six (36) square feet in area.

2. *Signs in the Business B District* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Business B District provided total signage does not exceed 250 square feet in area.
 - a. One (1) freestanding sign, not to exceed fifty (50) square feet in area.
 - b. Wall signs not to exceed two square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed two hundred (200) square feet.
 - c. Projecting signs not to exceed (25) square feet in area.
3. *Signs in the Commercial Service District* - The following on-premises signs, identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Commercial Service District:
 - a. One (1) freestanding sign, not to exceed thirty-six (36) square feet.
 - b. Wall signs not to exceed two (2) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed two hundred (200) square feet.
 - c. One (1) projecting, or roof sign not to exceed seventy-two (72) square feet in area.
 - d. Industrial Parks, as defined, may erect one industrial park sign per entrance. Such sign shall not exceed fifty (50) square feet.
4. *Signs in the Interchange District* - The following on-premises signs, identifying on-premises business names, uses or goods sold or services rendered, shall be allowed for uses in the interchange District:
 - a. One (1) freestanding, projecting, or roof sign not to exceed one hundred fifty (150) square feet in area.
 - b. Wall signs not to exceed four (4) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed four hundred (400) square feet.
 - c. Industrial parks, as defined, may erect one (1) industrial park sign per entrance. Such sign shall not exceed fifty (50) square feet.
5. *Signs in the Village Commercial and Village Commercial II Districts* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or

goods sold or services rendered shall be allowed for uses in the Village Commercial District, provided total signage does not exceed 30 square feet in area.

- a. One (1) freestanding sign not to exceed twenty-four (24) square feet in area and fifteen (15') feet in height.
 - b. Wall signs not to exceed twelve (12) square feet in area.
 - c. Projecting signs not to exceed (12) square feet in area.
 - d. *Prohibited signs* - No roof signs shall be permitted in the Village Commercial District.
 - e. *Shopping center signs* - Shopping Center Signs shall be allowed in conformance with *Article 4.8.7.7*, provided the sign does not exceeds twenty (20') feet in height.
6. *Fuel sales* - In addition to signs allowed under *Article 4.8.7* of the Ordinance, uses selling gasoline or diesel fuel may display one on-premises sign not to exceed sixteen (16) square feet in area, advertising the price of said gasoline or diesel fuel.
7. *Signs in shopping centers* - In lieu of signs allowed under *Article 4.8.7* of the Ordinance, Shopping centers, as defined, each tenant within the shopping center may have a projecting or roof sign (where permitted) not to exceed thirty-six (36) square feet. Additionally each tenant within the shopping center shall be allowed wall signs not to exceed thirty (30) square feet. Notwithstanding the foregoing limitation on wall signage the wall signs may be increased to fifty (50) sq. ft. if both the exterior wall of the tenant space is 50 feet or more from the street frontage and if that tenant has a floor area of at least 10,000 sq. ft. Shopping centers shall not have individual freestanding signs for each tenant, but instead shall have one common freestanding sign identifying the shopping center and the tenants therein. The overall size of the freestanding shopping center sign shall not exceed sixty (60) sq. ft. The shopping center freestanding sign may include a place name for the shopping center located at the top of the sign not to exceed twelve (12) sq. ft. in area and shall include tenant identification not to exceed forty-eight (48) sq. ft. in area. No one tenant's sign content shall exceed twenty-four (24) sq. ft. of the shopping center sign's area and shall not be less than six (6) sq. ft. unless the space demands on the sign requires it. The tenant area of the shopping center sign may either be utilized by identifying the name of the tenant's premises (such as Smith's Pet Shop) or by

categorically identifying what the tenant's use is (such as bakery or florist). Additional signage shall be permitted on the interior of such shopping centers to provide building identification and serve onsite pedestrian and vehicular movements provided that each individual sign has a maximum size of sixteen (16) square feet and is set back a minimum of 20 feet from all property lines.

4.8.8. Signs in the Industrial Districts – The following on-premises signs, identifying on-premises business or industrial uses, shall be allowed on conforming uses in the Industrial District, the Industrial Park District, and the Industrial 2 District:

1. One freestanding, projecting or roof sign not to exceed one hundred (100) square feet in area;
2. Wall signs, not to exceed four (4) square feet of area for every running foot of building frontage. The aggregate area of all wall, signs on the premises shall not exceed four hundred (400) square feet;
3. Industrial Parks, as defined, may erect one Industrial Park sign per entrance. Such sign shall not exceed fifty (50) square feet.

4.8.9. Maintenance of Signs - All signs shall be properly maintained and kept. Any sign which advertises a business, product, activity, or campaign which is no longer operative or extant shall be removed by the owner, agent, or person having the beneficial use of the structure or lot upon which such sign may be found, within ten (10) days after written notification from the town manager or Code Official. Upon failure to comply with such notice, the Code Official or Town Manager is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or lot to which the sign is attached.

4.8.10. Removal of Unlawful Signs

4.8.10.1. Removal of Unlawful On-premises Signs.

1. Notice to remove - The owner of a sign which was or is unlawfully erected or maintained either prior to or after the effective date of this ordinance shall be in violation of this ordinance until the sign is removed. The owner of the sign shall remove the sign within

30 days of receipt of a notice to remove, sent by certified mail, return receipt requested, by the Code Official. If the identity of such owner is not known or reasonably ascertainable by the Code Official, such notice may instead be sent to the owner of the land on which the sign is placed. ~~All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.~~

2. Code Official to remove sign - If the owner fails to remove the sign as required, the Code Official shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.
3. Procedure for notice, hearing, appeal. The procedure for notice, hearing and appeal is as follows.
 - a. The Code Official shall send to the sign owner notice by certified mail, return receipt requested, that a sign is to be removed. Such notice shall be a final order if not appealed under Article 4.8.10.4.B. If the identity of such owner is not known or reasonably ascertainable by the Code Official, such notice may instead be sent to the owner of the land on which the sign is placed.
 - b. The person owning or controlling the sign may, within 30 days of his receipt of the notice to remove, appeal the order of removal to the Board of Appeals pursuant to Article 6 of this ordinance. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court.

4.8.10.2. Removal of Unlawful Off-premise Signs.

1. Notice to remove- Because of the difficulty to identify those individuals that own, erect or established off-premise signs, the Code ~~(enforcement) Official~~ shall contact the subject of the sign or their local representatives. The subject of the sign or their local representative shall remove the sign within 48 hours of receipt of a notice to remove, sent by certified mail, return receipt requested, by the Code Official. If the identity of such owner is not known or reasonably ascertainable by the Code Official, such notice may

instead be sent to the owner of the land on which the sign is placed. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.

2. Code Official to remove sign - If the owner fails to remove the sign as required, the Code Official shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner.

4.8.10.3. Removal of signs from Right of Ways. Notwithstanding the notice to remove provisions of this Article the Code ~~Enforcement Officer~~ Official, Public Works Director and Public Safety Director shall have the authority to immediately remove signs located in public right-of-ways that are deemed to constitute a traffic hazard or impede snow removal. In such cases notification of the removal of the sign may be after the fact. Notice of removal shall be sent by certified mail, return receipt requested, by the Code Official. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.

Zoning Ordinance 198 54-0118 DRAFT

The Town of Hampden hereby ordains that the following amendments to the Zoning Ordinance be enacted

Additions underlined

~~Deletions striken~~

4.8. Signs. Signs provide vital information to the public, assist in the response and rescue of public safety and engender a sense of place. The following provisions shall apply to signs and billboards in all districts where permitted.

4.8.1. Off-Premises Signs - No off-premises signs shall be erected or maintained in the Town of Hampden except in conformity with *23 MRSA section. 1901-1925 the Maine Traveler Information Services Law*. Off-premises official business directional signs may be located in the Town of Hampden in such locations and in such a manner as allowed under *23 MRSA sections 1901-1925* and under the rules and regulations of the State of Maine Department of Transportation. Provided, however, that off-premises official business directional signs for home occupations are prohibited. Authorization for official business directional signs shall be obtained from the Code Official.

1. Exception for property identification numbers - Each residential premises is allowed a mailbox with the identification number of the property clearly marked on it. If the mailbox is on the opposite side of the street of the house or if there is no mailbox, the premises is also allowed an MDOT approved sign post, or similar structure, with numbers that meet the standards of subparagraph a below. Such signs are also allowed on an adjacent parcel with written permission of the landowner.

- a. All nonresidential uses must display the identification number of the property. The area required by the number is not included in the calculation of the total square footage of the sign.
- b. Approved address numbers shall be placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet

letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

2. *Exception for industrial subdivision entrance sign* - In Planning Board approved Industrial Subdivisions a sign marking each public street entrance shall be permitted. Such signs shall be limited to 70 square feet per face and shall only contain the name of the subdivision, the name of the public subdivision's street, and owner identification information. The sign may be located in the raised median of the entrance street provided that it is at least 20 feet from the nearest perpendicular traveled way and the sign itself creates no visual barrier from the ground up to a height of 6 feet.
3. *Exception for industrial subdivision directory sign* - In Planning Board approved Industrial Subdivisions a directory sign marking tenants in the subdivision located near each public street entrance shall be permitted. Such signs shall: be unlighted, be limited to 50 square feet per face, not exceed five feet in height, and shall only contain the name of subdivision, information about the subdivision's management, and the name and address of each subdivision's tenant. The sign may be located in the public right of way provided that it is at least 100 feet from the entrance and does not create a visual barrier to individual lot entrances.

4.8.2. On-Premises Signs - All on-premises signs shall be located and erected in conformity with State Law (23 MRSA sections 1901-1925). In addition the following regulations apply:

1. *Visual obstruction* - No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination, or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
2. *Sign Illumination*: Sign illumination is permitted in all districts, except on properties used for residential purposes, as long it conforms to 4.8.2.1.
3. *Visual distraction* - Flashing, moving, or animated signs are prohibited.
4. *Height limit* - No sign shall exceed twenty-five (25') feet in height.
5. *Size limit* - No sign shall exceed the maximum sign size for the district in which the sign is placed. Freestanding signs are sized of the basis of one sign face. Except that signs located

on-premises but greater than fifty (50') feet from a building and visible from Interstate 95 shall be limited to one sign and shall not exceed one hundred fifty (150) square feet in area or the maximum sign size allowed in the district, whichever is less. Such signs, visible from Interstate 95, shall have no panel dimension greater than twenty (20') feet.

6. *Neighborhood nuisance* - No sign shall be maintained in a manner in which the operation or illumination thereof may cause nuisance or undue distraction to nearby residents or occupants.
7. *Setbacks* - Signs shall be set back at least eight (8') feet from the street line and other lot lines, except signs on properties adjacent to Residential A, B, or Rural District boundaries. In that case, signs shall be set back from the side lot line at least the distance of the minimum required side yard depth for the district to which they are adjacent and shall be set back from the street line at least eight (8') feet.
8. *Roof signs* - Roof signs shall not extend more than ten (10') feet above the roofline.
9. *Changeable Signs* – Are Permitted in all districts, except on properties used for residential purposes.
 - a. "Changeable sign" means an on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally, or mechanically altered by the complete substitution or replacement of one display by another on each side.
 - b. "Display" means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.
 - c. "Message" mean a communication conveyed by means of a visual display of text, a graphic element or pictorial or photographic image.
 - d. "Sign assembly" means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.
 - e. "Time and temperature sign" means a changeable sign that electronically or mechanically displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.
 - f. The display on each side of a changeable sign:
 - i. May be changed no more than once every 2 minutes;

- ii. Must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing, display continuous streaming of information, video animation or blending;
- iii. May consist of alphabetic or numeric text on a plain or colored background and may include graphic, pictorial or photographic images.

4.8.3. Permitted Signs Not Requiring a Permit – The following on-premises signs shall be permitted in all districts without a permit:

1. *Real estate signs* - The following signs relating to the sale, rental or lease of a premises may be displayed on the premises of a premises which is available for sale, rent or lease.
 - a. A single freestanding sign, not over five (5) square feet in area.
 - b. A single wall sign not over three (3) square feet in area.All such signs shall be removed when PURPOSE IS FULFILLED.
2. *Posting signs* - Signs relating to trespassing and hunting.
3. *Residential identification signs* - A single sign denoting the name and/or address of the occupants of residential premises, such sign shall not exceed four (4) square feet in area.
 - a. Or one sign naming the premises where located. Such sign shall not exceed six (6) square feet if it is a wall sign, or four (4) square feet if it is a freestanding sign.
(Examples: Twin Oaks, Fox Fire, Kinsley House, etc.).
4. *Tradesman signs* - A single sign, placed on the premises where construction, repair, or renovation is in progress, which denotes the architect, engineer, contractor, and/or funding source for the work in progress. Such sign shall not exceed sixteen (16) sq.ft. in area and shall be removed when the work is completed. Federal and state government-mandated signs are exempt.
5. *Traffic signs* - Signs providing traffic and directional information to the public.
6. *Home occupation sign* - In place of the sign allowed in *Article 4.8.3.3.* above, approved home occupations may display a single sign, not over four (4) sq.ft. in area, relating to the home occupation.
7. *For sale signs* - In addition to the sign allowed in *Article 4.8.3.3.* above, residential users may display a single temporary sign, not over four (4) sq.ft. in area, relating to goods or services for sale on the premises, if such sale does not constitute either a business, a home

occupation, or a yard sale. Examples of sales falling under this provision are the sale of a used vehicle, the sale of a used appliance, or other occasional sales.

8. *Temporary event signs* - Temporary signs announcing public and semi-public occasional events. Such signs shall be displayed not more than two (2) weeks before the event and shall be removed within one (1) week after the event. Signs established more than two weeks prior to the announced event shall be deemed unlawful and are subject to removal under *Article 4.8.10.2*.

9. *Political Signs* - Signs bearing political messages relating to an election, primary or referendum may be placed per 23 MRSA §1913-A and Maine DOT Department Regulations as follows:

a. May be erected on private property outside the Right of Way limits of public ways at any time prior to an election, primary or referendum, limited in size to a maximum surface area of 50 square feet;

b. May be erected within the Right of Way limits of public ways no sooner than six (6) weeks prior to an election, primary or referendum and must be removed no later than one (1) week following that date of the election, primary or referendum.

Provided, however, that political signs may not be located within the right-of-way limits of any Controlled Access Highway (Route 202 from I-395 to Western Avenue) or within any right-of-way limit of the Interstate Highway System.

10. *Personal Signs*-Signs bearing political, religious, ideological or personal messages by the owner(s) or occupant(s) of a property, limited in size to a maximum surface area of 50 square feet.

11. *Prohibited Practices*-Signs allowed by this Section 4.8.3 shall be subject to the following:

a. Shall not be erected or maintained on any traffic control signs or devices, public utility poles or fixtures, upon any trees or painted or drawn upon rocks or other natural features;

- b. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device, such as a stop sign;
- c. Political signs may be displayed to view to all public ways except that such signs may not be erected within 660 ft. of the nearest edge of the Interstate Highway System in such a manner that the message may be read from the Interstate Highway. No political signs may be located at the interstate interchanges.

4.8.4. Permitted Signs With a Permit - The following on-premises signs shall be permitted in all districts with a permit:

1. *Housing project sign* - A single sign not over thirty-two (32) sq.ft. describing a multi-family housing project or a subdivision.
2. *Subdivision sign* - A single sign not over thirty-two (32) sq.ft. describing a subdivision.
3. *Non-residential principal building or use sign* - A single sign not over sixteen (16) sq. ft. describing a non-residential principal building or use on the premises.

4.8.5. Signs in the Rural District - In the Rural District the following on-premises signs shall be considered accessory to the principal use of the premises on which they are located:

1. *Farm product signs* - A maximum of two (2) signs describing farm products raised or produced on the premises. The maximum sign size shall not exceed sixteen (16) sq.ft.

4.8.6. Signs In Residential Districts - In the Residential A and Residential B Districts the following on-premises signs shall be considered accessory to the principal use of the premises on which they are located:

1. *Housing project or subdivision sign* - A maximum of two (2) signs whose combined area shall not exceed thirty-two (32) square feet, describing a multi-family housing project or a subdivision on the premises.
2. *Non-residential sign* - A maximum of two (2) signs whose combined area shall not exceed sixteen (16) square feet, describing a non-residential principal building of less than 5,000 square feet gross floor area or use on the premises.
3. *Non-residential sign for larger site developments* - A maximum of one sign located at each street entrance whose area shall not exceed sixteen (16) square feet and describing a non-residential principal building or buildings in excess of 5,000 square feet gross floor

area or use. Additional signage shall be permitted on the interior of such site developments provided that each individual sign has a maximum size of sixteen (16) square feet and is set back a minimum of 30 feet from all property lines.

4. *Prohibited signs* - Notwithstanding the provisions of this section roof signs and internally illuminated signs are prohibited in the residential districts.
5. *Scoreboards* - Notwithstanding the provisions of this section scoreboards are permitted in the residential districts and are not subject to the preceding regulations including size. The content of a scoreboard shall be generally limited to the score, period, time, and other information pertinent to the sporting activity, the name of the school and team. Scoreboards may contain limited product advertising provided it is not back-lighted and is limited to 10 sq. ft.

4.8.7. Signs in the Commercial Districts

1. *Signs in the Business District and Rural Business District* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Business District and the Rural Business District:
 - a. One (1) freestanding sign, not to exceed thirty-six (36) square feet.
 - b. Wall signs not to exceed one and one-half (1-1/2) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed one hundred fifty (150) square feet.
 - c. One (1) projecting or roof sign not to exceed thirty-six (36) square feet in area.
2. *Signs in the Business B District* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Business B District provided total signage does not exceed 250 square feet in area.
 - a. One (1) freestanding sign, not to exceed fifty (50) square feet in area.
 - b. Wall signs not to exceed two square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed two hundred (200) square feet.
 - c. Projecting signs not to exceed (25) square feet in area.

3. *Signs in the Commercial Service District* - The following on-premises signs, identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Commercial Service District:
- a. One (1) freestanding sign, not to exceed thirty-six (36) square feet.
 - b. Wall signs not to exceed two (2) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed two hundred (200) square feet.
 - c. One (1) projecting, or roof sign not to exceed seventy-two (72) square feet in area.
 - d. Industrial Parks, as defined, may erect one industrial park sign per entrance. Such sign shall not exceed fifty (50) square feet.
4. *Signs in the Interchange District* - The following on-premises signs, identifying on-premises business names, uses or goods sold or services rendered, shall be allowed for uses in the interchange District:
- a. One (1) freestanding, projecting, or roof sign not to exceed one hundred fifty (150) square feet in area.
 - b. Wall signs not to exceed four (4) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed four hundred (400) square feet.
 - c. Industrial parks, as defined, may erect one (1) industrial park sign per entrance. Such sign shall not exceed fifty (50) square feet.
5. *Signs in the Village Commercial and Village Commercial II Districts* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Village Commercial Districts provided total signage does not exceed 30 square feet in area.
- a. One (1) freestanding sign not to exceed twenty-four (24) square feet in area and fifteen (15') feet in height.
 - b. Wall signs not to exceed twelve (12) square feet in area.
 - c. Projecting signs not to exceed (12) square feet in area.
 - d. *Prohibited signs* - No roof signs shall be permitted in the Village Commercial District.

- e. *Shopping center signs* - Shopping Center Signs shall be allowed in conformance with *Article 4.8.7.7*, provided the sign does not exceeds twenty (20') feet in height.
6. *Fuel sales* - In addition to signs allowed under *Article 4.8.7* of the Ordinance, uses selling gasoline or diesel fuel may display one on-premises sign not to exceed sixteen (16) square feet in area, advertising the price of said gasoline or diesel fuel.
7. *Signs in shopping centers* - In lieu of signs allowed under *Article 4.8.7* of the Ordinance, Shopping centers, as defined, each tenant within the shopping center may have a projecting or roof sign (where permitted) not to exceed thirty-six (36) square feet. Additionally each tenant within the shopping center shall be allowed wall signs not to exceed thirty (30) square feet. Notwithstanding the foregoing limitation on wall signage the wall signs may be increased to fifty (50) sq. ft. if both the exterior wall of the tenant space is 50 feet or more from the street frontage and if that tenant has a floor area of at least 10,000 sq. ft. Shopping centers shall not have individual freestanding signs for each tenant, but instead shall have one common freestanding sign identifying the shopping center and the tenants therein. The overall size of the freestanding shopping center sign shall not exceed sixty (60) sq. ft. The shopping center freestanding sign may include a place name for the shopping center located at the top of the sign not to exceed twelve (12) sq. ft. in area and shall include tenant identification not to exceed forty-eight (48) sq. ft. in area. No one tenant's sign content shall exceed twenty-four (24) sq. ft. of the shopping center sign's area and shall not be less than six (6) sq. ft. unless the space demands on the sign requires it. The tenant area of the shopping center sign may either be utilized by identifying the name of the tenant's premises (such as Smith's Pet Shop) or by categorically identifying what the tenant's use is (such as bakery or florist). Additional signage shall be permitted on the interior of such shopping centers to provide building identification and serve onsite pedestrian and vehicular movements provided that each individual sign has a maximum size of sixteen (16) square feet and is set back a minimum of 20 feet from all property lines.

4.8.8. Signs in the Industrial Districts – The following on-premises signs, identifying on-premises business or industrial uses, shall be allowed on conforming uses in the Industrial District, the Industrial Park District, and the Industrial 2 District:

1. One freestanding, projecting or roof sign not to exceed one hundred (100) square feet in area;
2. Wall signs, not to exceed four (4) square feet of area for every running foot of building frontage. The aggregate area of all wall, signs on the premises shall not exceed four hundred (400) square feet;
3. Industrial Parks, as defined, may erect one Industrial Park sign per entrance. Such sign shall not exceed fifty (50) square feet.

4.8.9. Maintenance of Signs - All signs shall be properly maintained and kept. Any sign which advertises a business, product, activity, or campaign which is no longer operative or extant shall be removed by the owner, agent, or person having the beneficial use of the structure or lot upon which such sign may be found, within ten (10) days after written notification from the town manager or Code Official. Upon failure to comply with such notice, the Code Official or Town Manager is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or lot to which the sign is attached.

4.8.10. Removal of Unlawful Signs

4.8.10.1. Removal of Unlawful On-premises Signs.

1. Notice to remove - The owner of a sign which was or is unlawfully erected or maintained either prior to or after the effective date of this ordinance shall be in violation of this ordinance until the sign is removed. The owner of the sign shall remove the sign within 30 days of receipt of a notice to remove, sent by certified mail, return receipt requested, by the Code Official. If the identity of such owner is not known or reasonably ascertainable by the Code Official, such notice may instead be sent to the owner of the land on which the sign is placed.
2. Code Official to remove sign - If the owner fails to remove the sign as required, the Code Official shall remove the sign at the expense of the owner without any further notice or

proceeding and may recover the expense of this removal from the owner. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.

3. Procedure for notice, hearing, appeal. The procedure for notice, hearing and appeal is as follows.

- a. The Code Official shall send to the sign owner notice by certified mail, return receipt requested, that a sign is to be removed. Such notice shall be a final order if not appealed under Article 4.8.10.4.B. If the identity of such owner is not known or reasonably ascertainable by the Code Official, such notice may instead be sent to the owner of the land on which the sign is placed.
- b. The person owning or controlling the sign may, within 30 days of his receipt of the notice to remove, appeal the order of removal to the Board of Appeals pursuant to Article 6 of this ordinance. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court.

4.8.10.2. Removal of Unlawful Off-premise Signs.

1. Notice to remove- Because of the difficulty to identify those individuals that own, erect or established off-premise signs, the Code Official shall contact the subject of the sign or their local representatives. The subject of the sign or their local representative shall remove the sign within 48 hours of receipt of a notice to remove, sent by certified mail, return receipt requested, by the Code Official. If the identity of such owner is not known or reasonably ascertainable by the Code Official, such notice may instead be sent to the owner of the land on which the sign is placed. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.
2. Code Official to remove sign - If the owner fails to remove the sign as required, the Code Official shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner.

4.8.10.3. Removal of signs from Right of Ways. Notwithstanding the notice to remove provisions of this Article the Code Official, Public Works Director and Public Safety Director shall have the authority to immediately remove signs located in public right-of-ways that are deemed to constitute a traffic hazard or impede snow removal. In such cases notification of the removal of the sign may be after the fact. Notice of removal shall be sent by certified mail, return receipt requested, by the Code Official. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.

Zoning Ordinance Pg 54-60 4.8 - DRAFT