

Planning and Development Committee

April 20, 2016

6:00 PM

Conference Room

AGENDA

1. Approval of April 6, 2016 Minutes
2. Committee Applications:
3. Updates:
4. Old Business:
 - A. Marina Sign Design
5. New Business:
 - A. Shoreland Zoning Update Draft
 - B. Accessory Apartment Discussion
6. Zoning Considerations/Discussion
7. Citizens Initiatives:
8. Public Comments:
9. Committee Member Comments:
10. Adjourn

Note: Mineral Extraction Pending
Codification Pending
Subdivision Amendments Pending- PBOC Reschedule

Planning and Development Committee
April 6, 2016
6:00 PM
Conference Room
DRAFT MINUTES

Attendees:

Committee

Ivan McPike-Chair
Greg Sirois
Dennis Marble
Terry McAvoy
David Ryder

Staff

Angus Jennings, Manager
Dean Bennett, Community Dev Dir (CDD)

Guest

Karen Marysdaughter, Solarize Bangor

1. Approval of March 16, 2016 Minutes - Approved

2. Committee Applications:

A. Resignation of Andrew Nelson, Planning Board - Noted

3. Updates:

A. Marina Sign Progress

The Community Development Director and Town Manager reported on their past and current efforts to assist Hamlin Marine and McLaughlin Seafood in establishing a sign along Route 1A. Communication with MDOT was reviewed and noted that it was not possible to comply with MDOT permitting/licensing requirements in order to establish a sign within the State Right-of Way.

Dan Higgins of Hamlin Marine and Kimberly McLaughlin of McLaughlin Seafood explained their situation. A dark area of the community, very little lighting and no signage makes it difficult for customers to find their location. Dan Higgins expressed his thoughts that due to the history of the location and the achievement of establishing a new park, the community should take pride in that location and celebrate the asset. He further described a number of community activities that could find a home there such as Children's Day, Farmers Markets etc.

It was the consensus of those in attendance, including a majority of the Planning and Development Committee members that we should move forward to the extent possible and create a sign design that would be acceptable to all parties. Kimberly McLaughlin indicated that she would take responsibility for getting a draft design and providing to the Committee. Once a design was completed, it would be submitted to the MDOT for approval as a Municipal (Governmental) Sign, as its primary purpose is to identify Turtle Head Park.

4. Old Business:

A. Home Occupation Revisions Draft

The Community Development Director provided the Committee with an updated draft of the Zoning Ordinance Home Occupation provisions which addressed the remaining issue identified by Town Attorney Bearor.

Committee Action: It was motioned and seconded to forward the Home Occupation draft to the town attorney and if approved, move to the Town Council for scheduling of a public hearing. Vote: 5-0

B. Flag Lots Amendment Draft

As discussed at the previous meeting, the Community Development Director presented a draft amendment to the Zoning Ordinance 4.3. Conditional Lot Dimensions and Rear Flag Lots establishing criteria and permitting processes for the creation of Flag Lots throughout the community.

Committee Action: It was motioned and seconded to forward the draft to the Town Council for Planning Board review and comment. Vote: 5-0

5. New Business

A. Karen Marysdaughter – Solarize Bangor

Karen Marysdaughter, representing Solarize Bangor, briefly presented the purpose and benefits of the Solarize initiative as she has previously discussed with the Infrastructure Committee. She asked for the Town's sponsorship of the initiative involving promotion of public awareness via social media. She further

indicated, should the town receive inquiries on Solarize Bangor, she would be the contact person on behalf of the Town.

Committee Action: It was motioned and seconded to endorse the Solarize project and forward to the Town Council with recommendation to approve. Vote: 4-1

B. Harbor Ordinance Discussion

B. Harbor Ordinance Discussion

Manager Jennings presented draft amendments to the Harbor Ordinance, following on direction from the P&D and Infrastructure Committees in October, intended to scale back the Town's responsibilities for the Harbor to reflect actual past practices in the administration of the Ordinance. He advised that the Maine Statutes require that the Town of Hampden designate a Harbor Master, with appropriate certification, to respond to requests for mooring locations along the Hampden waterfront.

Members of the public were in attendance, including recreational boaters, and representatives from Hamlin's Marine and McLaughlin's. The discussion focused on the short and long term needs of not only the businesses on the waterfront but also resident/boaters' needs to be able to establish a mooring, in an appropriate location, and have access to a dock for tying up of dinghies, that is outside of the commercial entities operation. It was acknowledged that the DPW Director, who on paper serves as the Harbor Master, is unable to dedicate consistent time toward this function in light of his other responsibilities, and that a better solution would be needed in order for the Town to provide this service.

It was the consensus that the Planning and Development Committee that in order to make informed decisions, especially given budgetary constraints, they need to be advised on the needs of the waterfront users. Residents expressed support for expanded use and visibility of the Marina within the community. The suggestion of the formation of a waterfront advisory committee was initially discussed. Several residents in attendance expressed potential interest in serving.

Manager Jennings explained that he was in the process of ensuring compliance with the Statute and was considering options to ensure that the Harbor Master functions as soon as possible can be properly performed.

It was agreed that the draft amendments to the Harbor Ordinance will require further discussion, and the Ordinance was tabled until a future meeting.

6. Zoning Considerations/Discussion:

A. 23 Cottage Street Request/Discussion

Community Development Director shared a letter from a resident expressing the need for consideration of the allowance for accessory apartments in residential areas of the community. This would allow for in-laws and family members to share living quarters yet still maintain an independent living status.

Committee requested Community Development Director research and draft suggested language at a future meeting.

- 7. Citizens Initiatives: None
- 8. Public Comments: None
- 9. Committee Member Comments: None
- 10. Adjourn: 8:15pm

**TOWN OF HAMPDEN, MAINE
SHORELAND ZONING ORDINANCE**

ADOPTED: Hampden Town Council, March 1, 2010
Effective Date:

AMENDED: Hampden Town Council, August 15, 2011 (DEP Approval September 9, 2011)
Effective Date: September 14, 2011

Article 17 Definitions

AMENDED: Hampden Town Council, July 14, 2014 (DEP Approval: September 3, 2014)
Effective Date: August 13, 2014

Article 4.B Sections 15 (O) and 15 (O 1)

Table 1 Land Uses in the Shoreland Zone

Article 13.A ~~f. (f)~~ Resource Protection

District

Article 15 O Timber ~~Harvesting~~ ~~(Harvesting~~ (NOTE: Repealed
January 1, 2013) Article 15 O I Timber Harvesting Statewide
Standards

Article 17 Definitions

CERTIFIED BY:

Denise Hodsdon, Town Clerk

Town Clerk
Affix Seal

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

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

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

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2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.M.R.S.).

3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; ~~the, the~~ upland edge of a coastal wetland, including all areas affected by tidal action, the upland edge of a freshwater wetland, all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream and all land areas within 75 feet, horizontal distance, of the normal high-water line of certain local streams.

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

4. **Effective Date Effective Date of Ordinance and Ordinance Amendments.**

~~A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance~~
Ordinance, which, was adopted by the Town of Hampden on March 1, 2010, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded ~~to the~~ to the Commissioner ~~for approval~~ for approval. ~~If the Commissioner~~ the Commissioner fails to fail to enact this ~~Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.~~

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

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B. **Sections 15(O) and 15(O-1).** Deleted *Amended 7-14-2014, Effective Date 8-13-2014*

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

*Town of Hampden, Maine
Shoreland Zoning Ordinance*

5. **Availability.** A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

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6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the Town of Hampden, the more restrictive provision shall control.

8. **Amendments.** This Ordinance may be amended by majority vote of the Town Council. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town of Hampden and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a shoreland permit submitted to the Town of Hampden within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

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9. **Shoreland Districts and Shoreland Zoning Map**

A. **Official Shoreland Zoning Map.** The shoreland zone areas to which this Ordinance is applicable are hereby divided into the following shoreland districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

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- (1) Resource Protection also identified by the initials RP
- (2) Limited Residential also identified by the initials LR
- (3) General Development also identified by the initials GD
- (4) Stream Protection also identified by the initials SP
- (5) Local Stream Protection also identified by the initials LSP

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B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the municipal office.

D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

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

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

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12. Non-conformance.

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

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B. General

(1) Transfer of Ownership. Non-conforming conditions may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or non-conforming lot, subject to the provisions of this Ordinance.

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(2) Repair and Maintenance. This Ordinance allows, without a shoreland permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

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

C. Non-conforming Structures

(1) Expansions. All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a shoreland permit from the same permitting authority as that for a new structure, if such addition or expansion does not create an increase in non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

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~~(a) Expansion of any portion of a structure within 25 feet of the normal high water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.~~

~~(b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high water line of a water body, tributary stream or upland edge of a wetland that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12 (C) (1).~~

~~(a) After January 1, 1989 if any portion of a structure is less than the required shoreline setback from the shoreline, that portion of the structure shall not be expanded, as measured in floor area or volume of a structure, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from the shoreline, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume of a structure since that date.~~

~~(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.~~

~~(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12 (C) (1) or Section 12 (C) (1)(a), above.~~

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~~(i) For structures located less than 75 feet from the normal high water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.~~

~~(ii) For structures located less than 100 feet from the normal high water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high water line of a water body, tributary stream or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(1) and Section 12(C)(1)(c)(1), above.~~

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(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high water line of a water body, tributary stream, or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high water line of a waterbody, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C) (1) (b) (I) and Section 12(C) (1) (c) (I) above.

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d. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) Foundations. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C).

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(43) Reconstruction or Replacement. Any non-conforming structure which is located less than the minimum required shoreline setback and which is removed, or damaged or destroyed,

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(5) Bluffs and River Bank Erosion. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

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B. Limited Residential District. The Limited Residential District includes those areas within 250 feet, horizontal distance, of the shoreline suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, Stream Protection District or Local Stream Protection District and areas which are used less intensively than those in the General Development District. Residential dwelling units and the land area within 100 feet of such residential dwelling units subject to shoreland zone regulations at the time of adoption of this ordinance shall be included in Limited Residential District. Such Limited Residential Districts shall be limited to the subject property only and not extend to neighboring properties.

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~~C. (Limited Commercial District). Deleted.~~

D. General Development District. The General Development District includes areas within the shoreland zone containing the following types of existing, intensively developed areas:

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(1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

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(a) Areas devoted to manufacturing, fabricating or other industrial activities;

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(b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and

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(c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

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(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

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~~E. (General Development II District). Deleted.~~

F. (Commercial Fisheries/Maritime Activities District). Deleted.

G. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the shoreline of a stream exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the shoreline of a great pond, or river, or freshwater or coastal wetland. The three following waterways are streams: the portion of the West Branch Souadabscook Stream southwest of its confluence with Brown Brook, Brown Brook and Burnt Swamp Stream. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

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NOTE: Shaw Brook is listed in error as a Local Stream when in fact and on the Shoreland Map it is in fact a jurisdictional Stream and is zoned Stream Protection and or General Development.

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

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NOTE: Shaw Brook is listed in error as a Local Stream when in fact and on the Shoreland Map it is a jurisdictional Stream and is zoned Stream Protection and or General Development.

NOTE: Portions of these brooks in association with jurisdictional wetlands, streams or rivers may be in Resource Protection, Limited Residential and General Commercial Districts.

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

Key to Table I:

Yes - Allowed (no shoreland permit required but the use must comply with all applicable land use standards.)

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No - Prohibited

PB - Allowed with shoreland permit issued by the Planning Board.

CEO ~~Allowed~~ Allowed with shoreland permit issued by the Code Enforcement Officer

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LPI - Allowed with ~~shoreland~~ shore land permit issued by the Local Plumbing Inspector

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Abbreviations:

RP - Resource Protection

LR - Limited Residential

GD - General Development

SP - Stream Protection

LSP - Local Stream Protection

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

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

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A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;

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B. Draining or otherwise dewatering;

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C. Filling, including adding sand or other material to a sand dune; or

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D. Any construction or alteration of any permanent structure.

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

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TABLE 1. LAND USES IN THE SHORELAND ZONE

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

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

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

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Reserved.

⁶See further restrictions in Section 15(L)(2).

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

⁸Except as provided in Section 15(H)(4).

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

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

¹¹Reserved.

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

¹³Forest Management Activities Deleted.

¹⁴All clearing activities shall be supervised by a licensed forester.

Amended 7-14-2014, Effective Date 8-13-2014

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

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A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit Within the Shoreland Zone		
(i) Adjacent to Tidal Areas on well and septic	30,000	150
(ii) Adjacent to Non-Tidal Areas on well and septic	40,000	200
(iii) Adjacent to Tidal Areas on municipal sewer and water	18,000	125
(iv) Adjacent to Non-Tidal Areas on municipal sewer and water	18,000	125
(b) Governmental, Institutional, Commercial or Industrial per principal structure Within the Shoreland Zone		
(i) Adjacent to Tidal Areas,	40,000	200
(ii) Deleted.		
(iii) Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities Within within the Shoreland Zone		
(i) Adjacent to Tidal and Non-Tidal Areas	40,000	200

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B. Principal and Accessory Structures

(1) Shoreline Setback. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the shoreline which is the normal high-water line of great ponds and rivers that flow to great ponds, and seventy-five (75) feet, horizontal

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distance, from the normal high-water line of other water bodies, tributary streams, local streams or the upland edge of a wetland. In the Resource Protection District the shoreline setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the shoreline setback requirements specified above shall apply.

Minimum Shoreline setback requirements

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

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

(a) **Exception for Water-Dependent Uses.** The shoreline setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) deleted.

(c) **Coastal Bluff Setback.** For principal structures, the shoreline setbacks established in 15B(1) shall be measured in horizontal distance starting at and away from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. The Maine Office of GIS Data ~~Catalog provides~~ ~~Catalog~~ ~~—aprovides~~ ~~—dataa~~ ~~—layerdata~~ ~~—titledlayer~~ ~~—"titled~~ ~~"coastal bluff hazards"~~ (<http://megis.maine.gov/catalog>) which is also acceptable as source information for coastal bluffs. If the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located is in question, the applicant must at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement by the permitting official is not reached in regard to the location of the top of the bluff the applicant may appeal the matter to the Town of Hampden Board of Appeals.

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(d) **Exception for Accessory Structures.** On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required shoreline setbacks, the code enforcement officer may issue a shoreland permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height of a structure, and shall be located as far from the shoreline as practical and shall meet all other applicable standards, including lot coverage and

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are allowed provided the following conditions are met:



(1) Minimum Size. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

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

(3) Shoreline Setback. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, local streams or the upland edge of a wetland.

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(4) Recreational Vehicles. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

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(5) Vegetation Clearing. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

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(6) Sewage Disposal Plan Required. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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(7) After 120 Days. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface wastewater disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

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(1) Auto washing facilities

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(2) Auto or other vehicle service and/or repair operations, including body shops

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(3) Chemical and bacteriological laboratories

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(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

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(5) Commercial painting, wood preserving, and furniture stripping

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(6) Dry cleaning establishments

(7) Electronic circuit assembly

(8) Laundromats, unless connected to a municipal sanitary sewer

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(9) Metal plating, finishing, or polishing

(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

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(11) Photographic processing

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(12) Printing

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G. Parking Areas

(1) Shoreline Setback. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The shoreline setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline if the Planning Board finds that no other reasonable alternative exists further from the shoreline.

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(2) Design. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream, local stream or wetland and where feasible, to retain all runoff on-site.

(3) ~~Compliance With Compliance - Zoning with - Ordinance Zoning Ordinance.~~ ~~In determining the appropriate the appropriate size and size - minimum and minimum~~ number of proposed parking spaces, the parking layouts and handicap parking configurations shall comply with the Town of Hampden Zoning Ordinance standards contained in Article 4.7.

(a) Parking Space Exception: Parking spaces for a vehicle and attached boat trailer shall be forty (40) feet long.

(b) Deleted.

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

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

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

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

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(2) Existing Public Roads. Existing public roads may be expanded within the legal road right of way regardless of their shoreline setback from a water body, tributary stream, local stream or wetland.

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(3) Deleted.

(4) Roads in the RP District. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a shoreland permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, local stream or upland edge of a wetland.

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(5) Road Side Slope. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).

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(6) Road Grades. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

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(7) Drainage Buffers. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, local streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, local stream or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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(8) Stormwater Management. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

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

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

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

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

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

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

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

J. Storm Water Runoff

(1) Stormwater Management. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

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

K. Subsurface Wastewater Disposal Systems

(1) Subsurface Wastewater Disposal. All subsurface wastewater disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a replacement system and any associated fill extensions, shall not extend closer than seventy-five (75) feet,

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horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

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L. Essential Services

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

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

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

Mineral extraction may be permitted under the following conditions:

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- (1) ~~A reclamation~~ A reclamation plan shall ~~be filed~~ be filed with, and approved, ~~by the~~ by the Planning Board before a shoreland permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. ~~Minimum~~ Minimum distances from property lines for extraction operations are established in the Hampden Zoning Ordinance in Article 4.23.
- (3) (Significant River Segments). Deleted.
- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

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- (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

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N. Agriculture

- (1) Manure Spreading. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A.M.R.S. sections 4201-4209).
- (2) Manure Stockpiling. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water-bodies, tributary streams, local stream or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Tillage Requiring Conservation Plan. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) Tillage Shoreline Setbacks. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water-bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, local streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Grazing Shoreline Setbacks. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water-bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, local streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above shoreline setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

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

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

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

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

The following shall govern in applying this point system:

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

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

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(f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).

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

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

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

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

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control, Hazard Trees, Storm Damaged Trees, and Dead Tree Removal.

(1) Hazard trees and Dead Tree Removal in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer, if the following requirements are met:

(a) Within the shoreline buffer, if the removal of a hazard or dead tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native trees species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard or dead tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

(b) Outside the shoreline buffer, when the removal of hazard or dead trees exceeds

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forth (40) percent of the volume of trees four (4) inches or more in diameter,
measured at four and one half (4.5) feet above the ground level in any ten (10) year period,
and/or results in cleared openings exceeding twenty-five (25) percent of the lot
area within the shoreland zone or ten thousand (10,000) square feet, whichever is
greater, replacement with native tree species is required, unless there is new tree
growth already present. New tree growth must be as near as practicable to where
the hazard tree was removed and be at least two (2) inches in diameter, measured
at four and one half (4.5) feet above the ground level. If new growth is not present,
then replacement trees shall consist of native species and be at least two (2) inches
in diameter, measured at four and one half (4.5) feet above the ground level.

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(c) The removal of standing dead trees, resulting from natural causes, is
permissible without the need for replanting or a permit, as long as the removal
does not result in the creation of new lawn areas, or other permanently cleared
areas, and stumps are not removed. For the purposes of this provision, dead trees
are those trees that contain no foliage during the growing season.

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

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

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

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

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

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

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

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

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

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R. Exemptions to Clearing and Vegetation Removal Requirements

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

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S. Revegetation Requirements

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When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non-native species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

(d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

(e) Survival of planted woody vegetation and vegetation under three (3) feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five (5) years.

(6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:

(a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(b) Where necessary due to a lack of sufficient ground cover, an areas must be supplemented with a minimum for (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

Erosion and Sedimentation Control

(1) All activities

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

- (a) Mulching and revegetation of disturbed soil.
- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- (c) Permanent stabilization structures such as retaining walls or riprap.

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*Town of Hampden, Maine
Shoreland Zoning Ordinance*

- (2) **Avoid Steep Slopes.** In order to create the least potential for erosion, *development* shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and Sedimentation Control. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Stabilization. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

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(a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

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

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

(5) ~~Drainageways~~ Drainage ways. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. ~~Drainageways~~ Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

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

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

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

16. Administration

A. Administering Bodies and Agents

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

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

- (1) ~~Exception Road~~ ~~Exception Culvert~~ ~~Road Replacement Culvert Replacement~~. A shoreland permit ~~is~~ ~~not~~ ~~required~~ ~~not~~ ~~for~~ ~~required~~ ~~the~~ for the replacement of an existing road culvert as long as:

- (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
- (b) The replacement culvert is not longer than 75 feet; and
- (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

- (2) Exception Archaeological Excavations. A shoreland permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

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

C. Shoreland Permit Application

- (1) Application and Plan Required. Every applicant for a shoreland permit shall submit a written application, including a scaled site plan, on a form provided by the Town of Hampden, to the ~~Code Enforcement~~ ~~Code Enforcement Officer~~ ~~as~~ ~~Officer~~ ~~indicated~~ ~~as~~ ~~in~~ ~~indicated~~ Section 14. Applications for activities ~~for~~ ~~also~~ ~~activities~~ ~~also~~ required to obtain a building permit under the Town of Hampden, Maine Zoning Ordinance may apply for said permit concurrent with a building permit. ~~Such a building permit shall substitute the required shoreland permit upon clear demonstration that all aspects of this ordinance have been satisfied.~~

At the time of application for a Shoreland Permit, applicant shall pay a fee in accordance with

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Comment [MMB2]: If this passes a separate Shoreland permit application will be required. That way I can review that portion without holding up the building permit review process.

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| [the Town of Hampden Fees Ordinance.](#)

*Town of Hampden, Maine
Shoreland Zoning Ordinance*



(2) **Legal Standing and Certification of Information.** All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a shoreland permit hereunder, certifying that the information in the application is complete and correct.

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(3) **Date Stamp Applications.** All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

(4) **Plumbing and Subsurface Permits Required.** If the property is not served by a municipal sanitary sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Local Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface wastewater disposal system.

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(5) **Other Information as Required.** The Code Enforcement Officer and the Planning Board shall have the authority to require additional information which may reasonably be necessary for them to make their decision and inform the facts of the application.

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

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Deleted;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

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

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District or no later than July 1, 2009.
- (3) All proposed buildings, subsurface wastewater disposal systems and other improvements are:

(a) ~~Located~~ Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with the Town of Hampden, Maine Floodplain Management Ordinance.

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

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

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proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

F. **Expiration of Shoreland Permit.** Shoreland permits shall expire ~~one year~~ **six (6) months** from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within ~~one year~~ **six (6) months** of the issuance of the shoreland permit, the applicant shall have one additional year to complete the project, at which time the shoreland permit shall expire.

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

H. Appeals

(1) **Powers and Duties of the Board of Appeals.** A Board of Appeals is hereby established in accordance with the state law and the provisions of this Ordinance. The Board of Appeals shall be governed by the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The Board of Appeals shall have the following powers with regard to this Ordinance:

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

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

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

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Town of Hampden, Maine
Shoreland Zoning Ordinance

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

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

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

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

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

- a. That the land in question cannot yield a reasonable return unless a variance is granted;
- b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c. That the granting of a variance will not alter the essential character of the locality; and
- d. That the hardship is not the result of action taken by the applicant or a prior owner.

(d) Disability Variance. Notwithstanding Section 16(H)(1)(2)(c)(ii) above, the Board of Appeals,

~~or the Codes Enforcement Officer if authorized in accordance with 30-A MRS.M.R.S. §4353-A~~ may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

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(e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

(f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals.

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

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

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement. Formatted: Font: Not Italic
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought. Formatted: Font: Not Italic
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

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

- (ii) The *person* filing the appeal shall have the burden of proof.
- (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

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

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

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

1. Enforcement

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

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

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

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17. Definitions.

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

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Aggrieved party. "Aggrieved party" means an owner of land whose property is directly or indirectly affected by the granting or denial of a shoreland permit or variance under this Ordinance; a person whose land abuts land for which a shoreland permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such shoreland permit or variance.

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

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

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

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

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

Bureau of Forestry. "Bureau" means the State of Maine Department of Agriculture, Conservation ~~and~~ Bureau of Forestry

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

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

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

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

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~~Cross-sectional area. Deleted Amended 7-14-2014, Effective Date 8-13-2014~~

~~DBH. Deleted Amended 7-14-2014, Effective Date 8-13-2014~~

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

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

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

~~Disruption of shoreline integrity. Deleted Amended 7-14-2014, Effective Date 8-13-2014~~

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

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

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

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

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

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Family: Shall mean an individual occupying a single dwelling unit, or a group of two or more persons occupying a single dwelling unit and living together as a single housekeeping unit, including the sharing of common living, sleeping, cooking and eating facilities. When occupancy of a dwelling unit is by a group of two or more persons, the group of persons occupying the dwelling must either be:

- a. Related by blood, adoption, domestic partnership, or marriage; or
- b. Comprised of two persons who are not related by blood, domestic partnership, adoption or marriage, and any children related to either or both of them by blood, adoption or marriage;

- c. Comprised of persons, whether or not related to each other by blood, domestic partnership, adoption or marriage, but not to exceed four unrelated persons. Family shall not include a group of unrelated persons occupying a boarding home, rooming house, hotel/motel, tourist home or inn.
- d. A Community Living Arrangement as defined by Title 30-A, Section 4357-A.

Note: For the purposes hereof, the number of unrelated persons occupying a dwelling unit shall be calculated as follows: Any persons related by blood, adoption or marriage plus one unrelated person shall be considered to constitute a total of two unrelated persons, and each additional unrelated person shall be added to determine the total number of unrelated persons occupying the dwelling unit. By way of example, two or more related persons occupying a dwelling unit combined with two unrelated persons occupying the dwelling unit yields a total of three unrelated persons occupying the dwelling unit. (Amended 08-13-2011)

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

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

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Footprint – the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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

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

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

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~~Forested Wetland – a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.~~

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

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

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1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

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2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to

support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

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

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

~~Harvest area.~~ Deleted Amended 7-14-2014, Effective Date 8-13-2014

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

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

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

Increase in non-conformity of a structure. "Increase in non-conformity of a structure" means any change in a structure or property which causes further deviation from the dimensional requirement(s) creating the non-conformity such as, but not limited to, reduction in shoreline setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional requirement or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase non-conformity. For example, there is no increase in non-conformity with the shoreline setback requirement for water-bodies, wetlands, local streams or tributary streams if the expansion extends no further into the required shoreline setback area than does any portion of the existing non-conforming structure. Hence, a structure may be expanded

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laterally provided that the expansion extends no closer to the water body, tributary stream, local stream or wetland than the closest portion of the existing structure from that water body, tributary stream, local stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

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Land management road. Deleted Amended 7-14-2014, Effective Date 8-13-2014

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

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

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NOTE: Shaw Brook is listed in error as a Local Stream when in fact and on the Shoreland Map it is in fact a jurisdictional Stream and is zoned Stream Protection and or General Development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Principal structure. "~~Principal structure~~" means ~~a structure building~~ other than one which is used for purposes wholly incidental or ~~accessory to~~ accessory to the use of another building structure or use on the same lot/premises.

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Principal use. "Principal use" means a use other than one which is wholly incidental or accessory to another use on the same lot/premises.

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

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

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

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

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

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

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Residential dwelling unit. "Residential dwelling unit" means a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented.

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Recreational vehicles are not residential dwelling units.

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Residual basal area. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Residual stand Deleted Amended 7-14-2014, Effective Date 8-13-2014

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

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

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

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

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

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

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national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the streambody of water becomes a river or where the stream meets the shoreline zone of another water body or wetland. When a stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a waterbody or wetland and a channel forms downstream of a water body or wetland as an outlet, that channel is also a stream, flows to another water body or wetland within the shoreland

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area.—In Hampden, Maine “stream” applies to Brown Brook, Burnt Swamp Stream and West Branch Souadabscook Stream southwest of its confluence with Brown Brook.

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

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

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

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

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

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

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Timber harvesting and related activities. Deleted Amended 7-14-2014, Effective Date 8-13-2014

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

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

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This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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NOTE: Tributary Stream does not include the term local stream which is defined elsewhere.

Upland edge of a wetland. "Upland edge of a wetland" means the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration duration sufficient to support wetland vegetation; or where the soils support the growth of wetland

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Town of Hampden, Maine
Shoreland Zoning Ordinance

vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) ~~feet~~) tall or taller.

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

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

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

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Water body. "Water body" means any great pond, river or stream. Water body also includes local streams.

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

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Wetland. "Wetland" means a freshwater wetland or coastal wetland.

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Windfirm. Deleted *Amended 7-14-2014, Effective Date 8-13-2014*

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Woody vegetation. "Woody vegetation" means live trees or woody, non-herbaceous shrubs.

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

**Freeport Zoning Ordinance
May 2008**

Accessory Apartments

An accessory apartment is a small dwelling unit that is accessory and subordinate to the principal use of a property as a single family dwelling. These standards are intended to allow the addition of one accessory apartment to a single family dwelling only if such addition will preserve the single family residential character of the property. The following standards shall be met to create and maintain an accessory apartment.

1. An accessory apartment may be created in one of the following ways:
 - a. By using space within an existing dwelling;
 - b. By building an addition onto an existing dwelling such that the addition is made part of the principal building;
 - c. By using space within an existing or proposed accessory structure that is within 50 feet of the single family dwelling;
 - d. New construction.
2. For the purposes of this section, the accessory apartment shall not be considered to be a second dwelling unit for determining the required minimum lot area, or net residential density.
3. If the accessory apartment will be located in a building that doesn't conform to the setback requirements, the apartment must be constructed so that the building is not made more non-conforming. If the single family dwelling is non-conforming with regard to use, the creation of an accessory dwelling will not make the single family more non-conforming.
4. If the lot is served by public sewerage, both the single family dwelling and the accessory apartment must be connected to the sewer system. If the lot is served by subsurface sewage disposal, the owner must demonstrate that the use conforms to the State of Maine Minimum Lot Size Law and that the sewage disposal system(s) for both the single family dwelling and the accessory apartment complies with the Maine Subsurface Wastewater Disposal Rules.
5. In all cases, the accessory apartment shall be no larger than 40% of the finished and heated portion of the single family home and have no more than one bedroom, nor no less than 320 square feet.
6. Either the single family dwelling or the accessory apartment must be occupied by the owner of the property. At least one of the units shall be occupied as a primary residence.
7. Any exterior alteration of the single family dwelling or accessory buildings or construction of an accessory building shall preserve the single family appearance, architectural style, and character of the

original structure and shall be in harmony with the general appearance of the neighborhood. Any alteration shall preserve the front entrance of the original structure to preserve the single family character. A separate entrance for the accessory apartment may be created but shall be clearly secondary to the main entrance, such as but not limited to an entrance that is setback further from the road than the primary entrance.

8. At least three off-street parking spaces shall be provided on the property. At least one space shall be available for the occupant(s) of the accessory apartment. A garage bay may be counted as one space for meeting the parking requirement. The parking shall be located and designed to minimize the impact on adjacent properties and shall be buffered by landscaping and/or fencing from abutting residential uses if it is located in the side or rear yard. Where possible, a turnaround shall be provided to avoid the need to back out of the driveway.