

TOWN COUNCIL MINUTES

FEBRUARY 4, 2008

The regularly scheduled meeting of the Hampden Town Council was held on Monday, February 4, 2008. The meeting was held at the municipal building council chambers and was called to order by Mayor Briggs at 7:00 p.m.

Attendance: Councilors: Mayor Rick Briggs, Thomas Brann, Andrew Colford, Edward Murphy, Matthew Arnett, Shannon Cox and Andre Cushing

Town Manager: Susan Lessard

Town Counsel: Thomas Russell was absent

Department Heads/Staff: Economic Development Director Bion Foster, Economic and Community Development Specialist Dean Bennett and Public Works Director Chip Swan

A member of the press and citizens

A. CONSENT AGENDA

Treasurer's Warrants were circulated for approval and signatures of the Finance Committee. Councilor Arnett requested that Item A.4.a. be set aside and Councilor Brann requested that item A.4.d. be set aside. The balance of the Consent Agenda was accepted without objection.

A.4.a. PINE TREE – 2007 MSW BYPASS REPORT

Councilor Arnett asked Manager Lessard to confirm that the MSW was received prior to the cutoff date. Manager Lessard said it was received in April and May, prior to the June 1 cutoff time.

Motion by Councilor Arnett, seconded by Councilor Cushing to accept Item A.4.a. – unanimous vote in favor.

A.4.d. DRAFT FISH AGENT RFP

Councilor Brann noted that for the past five years, the Town has not had a fishing agent and now the Conservation Commission has sent out a request for proposals for filling that position. He thanked them for their effort and noted that it is in a timely fashion so that we may have a fishing agent this coming season.

Motion by Councilor Brann, seconded by Councilor Cox to accept Item A.4.d. – unanimous vote in favor.

B. PUBLIC COMMENTS

There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

There were none.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

a. APPOINTMENTS COMMITTEE RECOMMENDATIONS:

1. NEW APPOINTMENTS:

- a. Mary Ellen Conner – Pool Board of Trustees
- b. Tracey Mahoney – Recreation Committee
- c. Kevin Gendreau – Recreation Committee
- d. Terry Bean – Recreation Committee
- e. Michael Clisham – Board of Appeals – Associate Member to Regular Member

The Appointments Committee recommended appointment of the above candidates and Mayor Briggs read the list for the record.

Motion by Councilor Arnett, seconded by Councilor Cushing to appoint all applicants as listed – unanimous vote in favor.

2. REAPPOINTMENTS

- a. Bion Foster – Library Board of Trustees
- b. Ruth Stearns – Library Board of Trustees
- c. John Skehan – Library Board of Trustees
- d. Donald Desmarais – Library Board of Trustees
- e. Dana Skinner – Economic Development Committee
- f. Norman Stern – Pool Board of Trustees
- g. Michael Avery – Planning Board
- h. Morten Syversen – Planning Board
- i. Peter Frazier – Planning Board
- j. David Lindemann – Recreation Committee

The Appointments Committee recommended reappointment of the above applicants and Mayor Briggs read the list for the record.

Motion by Councilor Arnett, seconded by Councilor Colford to appoint all applicants as listed – unanimous vote in favor.

3. UNFINISHED BUSINESS

a. ECONOMIC DEVELOPMENT – PROJECT/ROLE DISCUSSION
– BION FOSTER

Manager Lessard prepared an outline of the new structure for Economic Development operations (copy attached). At the end of the transition period Bion Foster will become a consultant on a project-specific basis as determined by the Council. The Council discussed the projects listed in the outline and it was decided that this would be referred to the Council's Economic Development Committee in conjunction with the Town's Economic Development Committee for recommendation as to the priority of projects on the list. The Council also requested that the Committee and staff make a recommendation for the Town's continued representation in the Bangor Regional Development Alliance and to make recommendations to encourage development of the former Crestwood Trailer Park property – what it would be best suited for and whether it would require any changes to zoning.

b. RAIN GARDEN – BANGOR AREA STORMWATER GROUP
PLANNING MONEY

Code Enforcement Officer Ben Johnson has advised Manager Lessard that the Bangor Area Stormwater Group may be able to provide some funding for the design and planning for a rain garden in front of the municipal building. However, the BASWG needs to know how much funding the town would be willing to commit to the project. Manager Lessard said the Town has the ability to make an in-kind contribution of materials and labor up to \$10,000.

Councilor Brann noted that this would be an excellent opportunity for the Town to demonstrate how rain gardens can work and he feels that there are several people in the community who would be willing to volunteer for this project.

Motion by Councilor Colford, seconded by Councilor Murphy to make a \$10,000 in-kind contribution to the rain garden project.

Councilor Arnett made a friendly amendment to the motion – to add \$5,000 in cash to be funded from Host Community Benefits. Councilor Brann seconded the amendment. Councilors Colford and Murphy agreed with the amendment.

Vote on the motion as amended was unanimously in favor.

c. WATER DISTRICT UPDATE

At the request of the Council, Attorney Russell researched the steps necessary to take over the Hampden Water District. He has provided a memorandum including the background and legal status of the Water District and explaining that the process to take over the

ECONOMIC DEVELOPMENT
TRANSITION

As discussed at the time that the Town Council established the position of Community and Economic Development Specialist, there was to be a transition from current operations to a different structure. That structure includes the following:

1. Hiring an Economic and Community Development Specialist. (Completed 1/7/08)
2. Period of utilizing both Bion Foster and the new hire with Bion providing background and information for the new person on the status of all ongoing Town economic development projects. (Began 1/08, period to end 2/29/08)
3. Change of the role of Bion Foster from Contracted Economic Development Director to Consultant with project-specific duties as defined by the Town Council. (Discussion of projects with Council to take place on 2/4/08 at regular council meeting and status change to take place concurrent with end of new hire training period of 2/29/08)
4. Current economic development activities for the Town of Hampden include:
 - Business Park promotion and lot sales. Determination of future actions relative to Phase II of park construction.
 - Work on Comprehensive Plan in representing economic development and business interests
 - Waterfront development projects including Hodgdon Yachts potential plan, planning/marketing appropriate business for Route 1A North.
 - 4 Mile square development – in conjunction with new school project.
 - Village Center concept as part of the process of re-use of the Hampden Academy site.
 - Locating affordable/workforce housing development in Hampden.
 - Revamping/reviewing the Town’s Tax Increment Financing Policy
 - Work with property owners/businesses interested in development of the Coldbrook Road corridor consistent with emerging Comprehensive Planning priorities.
 - Coordination with other staff for inclusion of ‘town forest’ or greenspace as part of development within the Coldbrook Road/95/202 corridor.
 - Outreach to existing businesses/work with the Hampden Business Association
 - Work with Recreation/residential development interests to insure that economic and residential development can be managed in such a way as to retain the character of the community while creating additional business opportunities as well

District would require a Private and Special Law in the Maine Legislature to authorize that action. He also described the steps that the City of Brewer went through when it took over the functions of the Brewer Water District. He suggests that that would be a good model for legislation should Hampden desire to pursue the dissolution of the Hampden Water District. Brewer also hired a law firm with experience in both utility law and the legislative process and Brewer's attorney has offered to provide the name of the attorney that represented Brewer in that process.

Mayor Briggs noted that during the Council's goals and objectives workshop, it was the consensus of the Council that it may be best to wait until the issue of the rate increase is resolved before taking any steps toward taking over the Water District.

Councilor Colford expressed concern that the rate increase process with the PUC could take several more months and wondered what the timeline would be for getting this before the Legislature.

Mayor Briggs explained that the Legislature has reconvened, but is basically handling emergency items only and what was left from last year. The real working session of the Legislature would not reconvene until January, 2009.

Manager Lessard advised that the next phase would be to look at the numbers and costs to determine the feasibility of taking over the District and that process will take some time. She also cautioned that the decision can't be an emotional one.

Councilor Brann said that his interest in considering taking over the Water District has never been about the single rate increase. He is concerned about the future of the water supply for the Town of Hampden and feels that as Hampden continues to grow, we will need to have a more secure water resource – in both the eastern and western parts of Town. He feels that the best way for Hampden to get that is to consider assuming responsibility for providing the water service to all of our citizens in an efficient fashion. He moved to authorize the Town Manager to ask Attorney Russell to take that next step and find the experienced legal counsel that was involved in this process in the past and determine what it will take to actually take over the Water District, what the costs are, and what the benefits are. Councilor Colford seconded the motion.

During discussion, Mayor Briggs asked Councilor Brann if he would object to simultaneously gathering and analyzing the financial information. Councilor Brann said he would be fully in favor of that. It was the consensus of the Council that all of the information needs to be reviewed in order to make a conscious decision.

By roll call, vote was unanimously in favor of the motion.

d. TRANSFER STATION – COMMITTEE REPORT/
RECOMMENDATIONS

Councilor Murphy reported that the Public Works and Solid Waste Committee met with the Public Works Director, Highway Foreman and the Transfer Station Operator on January 24th to discuss problems with issuing transfer station stickers and with disposal of construction and demolition debris and refrigerators. The Committee recommends that the disposal of C & D be limited to the months of May and October, that a \$15 fee be assessed for the disposal of refrigerators and that fee must be paid and a slip obtained from the Town Office, and to maintain the current policy of requiring presentation of vehicle registrations at the time of issuing a sticker. The Committee also felt it would be beneficial to have the Communications Committee develop a program to educate residents about the operations and rules and regulations of the transfer station.

The Committee had also asked Manager Lessard to provide information relative to the costs for C & D disposal and trucking. A copy of those statistics is attached. Manager Lessard pointed out that the abuse at the transfer station is related to disposal of C & D and refrigerators. The average tonnage per household for C & D is .53 tons or 1,062 lbs. per year, which she said is too high for Hampden's population base. Additionally 9.3% of the households with stickers disposed of a refrigerator in 2007.

Motion by Councilor Arnett, seconded by Councilor Cushing to adopt the Committee's recommendations as policy.

During discussion Councilor Brann expressed concern that by restricting the time periods, C & D, including furniture, would be dumped in remote places in the Town or stockpiled outside residences until it can be disposed of. He suggested requiring a sticker or permit from the Town Office for disposal of C & D in order to keep track of who is dumping it, but to keep it open year-round. He felt that there should be a fee and permit for all white goods, not just refrigerators, but that may require expansion of Town Office hours to include weekends. He also suggested rearranging the facility to section off the C & D disposal area.

Councilor Colford agreed with Councilor Brann and felt that the Council needs to address the issue of enforcement at the transfer station, even if that means putting a police officer out there.

Councilor Arnett said he could support the idea of stickers for C & D and a once-a-month designated day only. Mayor Briggs asked if the makers of the motion would agree with an amendment to add one weekend a month for the disposal of C & D, in addition to May and October. Both Councilors Arnett and Cushing agreed with that amendment.

By roll call, vote on the motion as amended was 2 in favor (Murphy and Arnett) and 5 opposed (Cox, Cushing, Brann, Colford and Briggs) – motion did not carry.

Motion by Councilor Brann, seconded by Councilor Colford to continue with the current practice of requiring vehicle registrations for issuance of stickers and to charge a \$15.00 fee for disposal of all white goods.

Motion by Councilor Cushing, seconded by Councilor Arnett to table this and send it back to the Public Works Committee for further review. By roll call, vote was 5 in favor and 2 opposed (Brann and Colford) – motion carried.

e. CONSIDERATION OF MAKING COMMUNICATIONS
COMMITTEE A REGULAR COUNCIL COMMITTEE –
COUNCILOR ARNETT

This item was postponed until the next meeting.

4. NEW BUSINESS

a. PENOBSCOT CORRIDOR COLLABORATION EFFORT –
AUTHORIZATION TO SUBMIT GRANT APPLICATION

Manager Lessard explained that the Bangor Region Chamber of Commerce has been working with several communities on the idea of applying for a grant to consider regionalization of a number of services. She said there is no financial match required and there is no requirement for participation. Motion by Councilor Cushing, seconded by Councilor Brann to authorize Manager Lessard to sign on behalf of the community to participate in this program – unanimous vote in favor.

b. SUBDIVISION ORDINANCE TEXT AMENDMENT –
REFERRAL TO CHARTER & ORDINANCE COMMITTEE

Motion by Councilor Arnett, seconded by Councilor Colford to forward this item to the Charter and Ordinance Committee – unanimous vote in favor.

c. EMERGENCY RESPONSE PLAN – PUBLIC SAFETY

Manager Lessard explained that in order to apply for Homeland Security funds, the Town is required to have an emergency operations plan. This certifies that the Town has established the National Incident Management System as the standard for incident management.



C-4-b

TO: Mayor Briggs and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Referral from Planning Board for Draft Subdivision Ordinance Text
Amendments to revise the definition of subdivision to conform to the State Statute.
DATE: January 30, 2008

Overview. The Planning Board held a public hearing on this item at its January 16, 2007 meeting and has recommended the attached Subdivision Ordinance Text Amendments to the Town Council with an "ought-to-pass" recommendation. The overall purpose of the amendments is to make the definition of subdivision consistent with the state statute. The Planning Board has recently heard from an applicant for a subdivision that expressed concern that they had gifted land to children and under their reading of the local ordinance those lots were exempt from subdivision review, but it turned out that the lots were not exempt under state standards because they had not held the land for 5 years. The Board subsequently compared the town ordinance with the definition contained in the statute and a number of discrepancies were identified. The Board proposes to adopt the state definition by reference so that as subsequent legislative changes are made that the local definition will not conflict with the statutory definition.

Included in your packet is the draft language as well as a document that illustrates a side by side comparison of the local and state definitions so that you can see exactly what would be adopted and how it is changing.

It should be noted that several additional changes are proposed. The initial reference to the subdivision statute in Article 100 Declaration Of Purpose is incorrect or outdated and an amendment is proposed to address that. Additionally the reference to the subdivision statute in Article 200 Authority and Administration is incorrect or outdated and an amendment is proposed to address that. Finally, at the end of the existing town definition for subdivision there is a list of exemptions. Those exemptions in the statute address applicability of the statute and its enforcement. They were not intended to modify the definition of subdivision. Thus the Board recommended moving those exemptions from the definition of subdivision and add the full list of permissible exemptions to Article 200 Authority and Administration of the subdivision ordinance. (Two newer exemption standards from the statute that do not currently appear in the ordinance are also included).

2/4/08 - Referred to Charter & Ordinance Committee

TOWN OF HAMPDEN

Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 1000 *DEFINITIONS*

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

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

1021. *Subdivision.* "Subdivision" shall be defined according to the Maine Subdivision Statute Chapter 187: PLANNING AND LAND USE REGULATION (HEADING: PL 1989, c. 104, Pt. A, §45 (new)) Subchapter 4: SUBDIVISIONS (HEADING: PL 1989, c. 104, Pt. A, §45 (new)) §4401. Definitions. Note that in the referenced definition of subdivision subchapter shall mean Town of Hampden Subdivision Ordinance and municipality shall mean Town of Hampden.

~~1021. *Subdivision.* "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5 year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units with a 5 year period.~~

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

~~A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence or for open space land as defined in Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2nd dividing occurs; or~~

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

~~1. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of~~

~~that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.~~

~~2. A lot of 40 or more acres shall not be counted as a lot, except:~~

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

~~3. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.~~

~~4. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.~~

~~5. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.~~

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

~~Exceptions~~

~~This Ordinance does not apply to:~~

~~1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;~~

~~2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or~~

~~3. Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971.~~

~~(Amended: 02-07-94)~~

TOWN OF HAMPDEN

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ARTICLE 100 *DECLARATION OF PURPOSE*

The purpose of these standards shall be to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment, to promote the development of an economically sound and stable community, and to uphold the state Subdivision Law (MRSA) Title 30-A, Section 4404 ~~Title 30, Section 4956~~.

ARTICLE 200 *AUTHORITY AND ADMINISTRATION*

210. Authority - This Ordinance is enacted pursuant to and consistent with MRSA Title 30-A, Section 4404 ~~Title 30 MRSA Section 4956~~; the Subdivision Law.

220. Administration and Enforcement

221. This Ordinance shall be known and may be cited as the "Subdivision Ordinance of the Town of Hampden, Maine."

222. The Planning Board of the Town of Hampden, with the assistance of the code enforcement officer and the Town Manager (as specified in the ordinance) shall administer this Ordinance.

223. The provisions of this Ordinance shall pertain to all land proposed for subdivision as herein defined within the boundaries of the Town of Hampden.

224. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the Hampden Planning Board and recorded in the Penobscot County registry of deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to the following: a granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision plat or plan shall be recorded by the register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

225. The Hampden Planning Board, the Town Council of the Town of Hampden, the code

enforcement officer, or the Town of Hampden may institute proceedings to enjoin any violations of this Ordinance, and if a violation is found in court, the Town of Hampden may be allowed attorney fees.

226. Any person, firm, or corporation or other legal entity found guilty of a violation of this Ordinance shall be punished by a fine of not more than one thousand dollars (\$1,000) for each such occurrence.

230 Exceptions. This Ordinance does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with laws then in effect;

2. Previously existing subdivisions. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law;

3. Previously recorded subdivisions. A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971;

4. Airports with an approved airport layout plan. Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation and the Federal Aviation Administration; or

5. Subdivisions in existence for at least 20 years. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:

A. That has been enjoined pursuant to MRSA Title 30-A, Section 4406;

B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds;

C. For which a lot owner was denied a building permit under MRSA Title 30-A, Section 4406, and record of the denial was recorded in the appropriate registry of deeds; or

D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds.

The intent of this sheet is to show how the local ordinance and state statute differ from one another and what would be added or deleted from the local ordinance.

Hampden Subdivision Ordinance
Definition of Subdivision

1021. *Subdivision.* "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5 year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units with a 5 year period.

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

A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence ~~or for open space land as defined in Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2nd dividing occurs;~~ or

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

Maine Subdivision Statute
Definition of Subdivision

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

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

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

(2) The division of the tract or parcel is otherwise exempt under this subchapter. [2001, c. 359, §1 (AMD).]

The intent of this sheet is to show how the local ordinance and state statute differ from one another and what would be added or deleted from the local ordinance.

*Hampden Subdivision Ordinance
Definition of Subdivision*

1. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.
2. A lot of 40 or more acres shall not be counted as a lot, except:
 - A. ~~When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in the Hampden Zoning Ordinance, or any superseding state statute.~~

*Maine Subdivision Statute
Definition of Subdivision*

- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [1989, c. 104, Pt. A, §45 (NEW); Pt. C, §10.]
- C. A lot of 40 or more acres must be counted as a lot, except:
 - (1) REPEALED
 - (2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance, [2001, c. 651, §1 (AMD) .]

The intent of this sheet is to show how the local ordinance and state statute differ from one another and what would be added or deleted from the local ordinance.

*Hampden Subdivision Ordinance
Definition of Subdivision*

~~3. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.~~

*Maine Subdivision Statute
Definition of Subdivision*

D. [2001, c. 359, §2 (RP).]

~~D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]~~

~~D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]~~

~~D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]~~

~~D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate [2001, c. 359, §3 (NEW).]~~

~~D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (NEW).]~~

~~D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection. [2001, c. 359, §3 (NEW).]~~

The intent of this sheet is to show how the local ordinance and state statute differ from one another and what would be added or deleted from the local ordinance.

*Hampden Subdivision Ordinance
Definition of Subdivision*

4. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.
5. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

*Maine Subdivision Statute
Definition of Subdivision*

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [1989, c. 104, Pt. A, §45 (NEW); Pt. C, §10.]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [1989, c. 104, Pt. A, §45 (NEW); Pt. C, §10.]

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter. [1989, c. 104, Pt. A, §45 (NEW); Pt. C, §10; c. 497, §2 (AMD).]

H. [2001, c. 651, §2 (RP).]

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

- (1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use, or
- (2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. [2001, c. 651, §3 (NEW).]

The intent of this sheet is to show how the local ordinance and state statute differ from one another and what would be added or deleted from the local ordinance.

Hampden Subdivision Ordinance
Definition of Subdivision

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

Exceptions (move to Article 200)

This Ordinance does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;
2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or
3. Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971.
(Amended: 02-07-94)

Maine Subdivision Statute
Definition of Subdivision

1. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transfer is to avoid the objectives of this subchapter. [2001, c. 359, § 5 (AMD).]

[2001, c. 651, §§1-3 (AMD).]

30-A §4402. Exceptions

This subchapter does not apply to: [1989, c. 104, Pt. A, §45 (NEW); Pt. C, §10.]

1. **Previously approved subdivisions.** Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with laws then in effect;
[1989, c. 104, Pt. A, §45 (NEW); Pt. C, §10.]
2. **Previously existing subdivisions.** Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law;
[1997, c. 51, §1 (AMD).]
3. **Previously recorded subdivisions.** A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971;
[1997, c. 323, §1 (AMD).]

The intent of this sheet is to show how the local ordinance and state statute differ from one another and what would be added or deleted from the local ordinance.

*Hamden Subdivision Ordinance
Definition of Subdivision*

Exceptions (continued)

*Maine Subdivision Statute
Definition of Subdivision*

4. Airports with an approved airport layout plan. Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation and the Federal Aviation Administration; or

[1997, c. 323, § 2 (AMD).]

5. Subdivisions in existence for at least 20 years. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:

A. That has been enjoined pursuant to section 4406; [1997, c. 323, § 3 (NEW).]

B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds; [1997, c. 323, § 3 (NEW).]

C. For which a lot owner was denied a building permit under section 4406, and record of the denial was recorded in the appropriate registry of deeds; or [1997, c. 323, § 3 (NEW).]

D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds. [1997, c. 323, § 3 (NEW).]

Motion by Councilor Brann, seconded by Councilor Colford to adopt the plan – unanimous vote in favor.

D. COMMITTEE REPORTS

Councilor Colford reported that the Appointments Committee will be scheduling a meeting to interview additional candidates in the near future.

Councilor Arnett reported that the Communications Committee continues to be active. The next edition of the newsletter will be mailed next week. The Committee is also hoping to recruit additional hosts for the *Hampden Highlights* and *Hampden Happenings* television shows.

Councilor Arnett further reported that the Charter & Ordinance Committee met earlier in the evening and Town Planner Bob Osborne provided an update on the draft shoreline zoning map. The Committee has reviewed a proposed zoning text amendment relative to building permits and he requested that this be on the next agenda for referral to the Planning Board. The Committee also discussed Councilor absenteeism and is suggesting a quarterly report to the Council and public of each Councilor's participation in regular meetings and committee meetings. The Committee is suggesting trying this process for a one-year period rather than actually making any changes to the Charter or Council Rules at this time.

Councilor Cushing reported that the Economic Development Committee will be meeting on February 11th at 7:00 pm.

The Community Services Committee will meet at 6:30 pm on February 5th, to be immediately followed by a Comprehensive Planning Committee meeting at 7:00.

Councilor Brann scheduled a meeting of the Finance Committee for 7:00 pm on February 28th to discuss ambulance billing, further discussion and analysis of reserve funds and to discuss possible tax relief for long-term elderly residents.

A meeting of the Public Works & Solid Waste Committee was scheduled for 7:00 pm on February 21st.

E. MANAGER'S REPORT

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

F. COUNCILOR'S COMMENTS

Councilor Murphy commented that if anyone tries to access the Town's website, they should be sure to use the correct address of www.hampdenmaine.com. If you go to www.hampdenme.com, you will get another site that does have generic information about Hampden, but it is not the Town's site.

Town of Hampden

**Proclamation
Implementing the National Incident Management System**

WHEREAS, in Homeland Security Directive (HSPD-5), the President directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for federal, state, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the collective input and guidance from all federal, state, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS; and

WHEREAS, it is necessary that all federal, state, local and tribal emergency management agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that federal, state, local and tribal organizations utilize standardized terminology, standardized organizational structures, uniform personnel qualification standards, uniform standards for planning, training and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the states ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the state, including all public safety and emergency response organizations training programs; and

WHEREAS, the National Commission of Terrorist attacks (9-11 Commission) recommended adoption of a standardized Incident Command System.

NOW THEREFORE, BE IT RESOLVED, that the Town of Hampden, Town Council, in the County of Penobscot, in the State of Maine, does hereby establish the National Incident Management System (NIMS) as the County's standard for incident management.

We further proclaim this to take effect immediately, this 4th day of February, in the year Two Thousand and Eight.

Witness: _____
Town Clerk

Signed: _____
Chairman of Council

Municipal Building • 106 Western Ave, Hampden, ME 04444 • 207-862-3034

Adopted by Council 2/4/08

MANAGER'S REPORT
02/04/08

Water District - I will be attending the next meeting at the Public Utilities Commission in regard to the Water District Rate Hearing in August on February 14th.

BEP Meeting – My next regular meeting of the Board of Environmental Protection is Thursday, February 7th in Augusta.

Stormwater Ordinance Meeting – Evan Richert, the Orono Planner, will be meeting with staff here at the Town Office on Tuesday, February 5th at 3 p.m. to review work on a stormwater ordinance that he is preparing for regional consideration for the Bangor Area Stormwater Group. Any interested Councilors are welcome to attend.

Dog License – Late Fees Now in Effect – Dog licenses were due by 1/31/08. All licenses now have a \$15 late fee assessed at the time of issuance.

Foreclosure – 2006 Taxes – Unpaid 2006 property taxes foreclosed on January 24th. I am happy to report that only one property went into foreclosure that was either not already in a payment arrangement or in the process of being sold. I have notified the record owners of that property that there is a 30 day window for them to redeem the property by paying all tax, costs, and interest. This property is part of an estate and I called the personal representative and the estate attorney before foreclosure but neither took action.

First 'Electronic Packet' Prepared – In preparing this week's warrant and packet, Town Clerk scanned in all documents so that the information could be posted to the website for anyone who was interested in viewing the same information that each Councilor receives. I would encourage you to look at the website and browse that packet to see if you wish to receive your information in that fashion in the future. If so, I will prepare this year's budget to include an option that gives the capability of the Councilors having electronic information on laptops provided by the community.

Councilor Cox hopes that at future meetings, the issues with the transfer station can be taken care of.

Councilor Cushing reminded everyone that the Hampden Business Association will be meeting tomorrow at noon at Fresh Ginger Restaurant. He extended appreciation to Sergeant Dan Stewart and the Communication Interns for their help in taping of the television shows for March. He noted that there are copies of all shows for loan at the Town Office and Library for anyone who does not have Cable TV. There are copies of the PUC public hearing relative to the Water District's proposed rate increase available for loan as well.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:30 p.m.

A handwritten signature in cursive script that reads "Denise Hodsdon".

Denise Hodsdon
Town Clerk