



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
AGENDA

.....
MONDAY

February 1, 2010

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

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

3. COMMUNICATIONS

- a. Time Warner Cable – Programming Agreement Expirations
- b. Phil Stack – Resignation from Conservation Commission & Tree Board
- c. Hermon Town Council – Fire Dept. Organizational Ideas – Referral to Infrastructure Committee

4. REPORTS

- a. Infrastructure Committee Minutes – 1/26/2010
- b. Hampden Academy Building Committee Report – 1/22/2010

B. PUBLIC COMMENTS

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. Proposed Amendments to Public Ways Ordinance

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. Applications for Reappointment – Planning & Development Committee Recommendations:

- 1. Richard Peer – Historic Preservation
- 2. Andrew Nelson – Planning Board

3. UNFINISHED BUSINESS

- a. Zoning Ordinance Text Amendment re Institutional Building Definition – Introduction for Public Hearing on 3/1/2010

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

- b. Zoning Ordinance Text Amendment re Conditional Uses in Commercial Service District – Introduction for Public Hearing on 3/1/2010
- c. Zoning Ordinance Text Amendment re Issuance of Building Permits on Subdivision Lots and in Conjunction with Plumbing Permits – Introduction for Public Hearing on 3/1/2010
- d. Proposed Shoreland Zoning Ordinance – Introduction for Public Hearing on 3/1/2010 with Revised Map
- e. Street Light Locations – Dunton Circle/Western Avenue and Dunton Circle/Silver Drift Trail – Infrastructure Committee Report
- f. Comprehensive Plan – Suggested Time Frame/Adoption Process

4. NEW BUSINESS

- a. Sewer Commitment – 4th Quarter 2009
- b. Water District Request for Meeting Date (2/10, 2/11 or 2/12)
- c. Sewer Manhole Cover Risers – Public Works Director's Request to Waive Bid Procedure – Infrastructure Committee Recommendation
- d. Public Works Truck and Loader Bids – Request from Public Works Director to Solicit Bids – Infrastructure Committee Recommendation
- e. Poverty Abatement Request – **Executive Session** Pursuant to Title 1 M.R.S.A. § 405(6)(F) Confidential Records

D. COMMITTEE REPORTS

E. MANAGER'S REPORT

F. COUNCILORS' COMMENTS

G. ADJOURNMENT



THE POWER OF YOU™

PO Box 8180
Portland, ME 04104

A-3-a

Dear Town/City Manager,

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

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

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

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

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

Sincerely,

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

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

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

CABLE

HIGH-SPEED ONLINE

DIGITAL PHONE

www.timewarnercable.com/newengland • www.yourtownscable.com

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

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

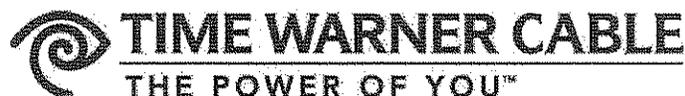
Please note, some channels listed may not be available in your service area. Please consult for local listings for more details at www.timewarnercable.com/newengland.

The following programming changes are scheduled to take place:

Drop Encore (East) channel 248 from the Digital w/All the Best tier on the following channel lineups: Conway, Littleton, Middleton, Plymouth, Woodstock, Sebago and Arundel

Drop Fox Sports en Espanol channel 174 from the Digital w/All the Best tier on the following channel lineups: Augusta, Bangor, Brownville, Camden, Fairfield, Lewiston/Norway, Machias, N. Anson – Somerset, N. Anson – Wyman, Oxford and Waterville

Drop IFC (Independent Film Channel) channel 261 from the Digital w/All the Best tier on the following channel lineups: Augusta, Bangor, Brownville, Camden, Fairfield, Lewiston/Norway, Machias, N. Anson – Somerset, N. Anson – Wyman, Oxford and Waterville

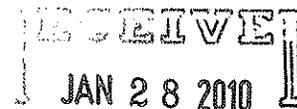


Customers can visit our web site at www.timewarnercable.com/newengland to obtain more details on the above notice.

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



PO Box 8180
Portland, ME 04104



BY:

Dear Town/City Manager,

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

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

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CABLE

HIGH-SPEED ONLINE

DIGITAL PHONE

www.timewarnercable.com/newengland • www.yourtownscable.com

The following programming changes are scheduled to take place:

TV Guide Channel will be moving from its current location on your channel line-up (Basic or Classic Tier) to channel 81 (Digital Tier). This change will occur on February 25, 2010.

Home Shopping Network will be moving from its current channel line-up location to our Digital Tier.



Customers can visit our web site at www.timewarnercable.com/northeast to obtain more details on the above notice.

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

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A-3-6

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Subject: [Fwd: RE: meeting Weds 1/27 6:30pm]
From: "Hampden GIS/IT" <hampdenmemaps@gmail.com>
Date: Tue, January 26, 2010 4:00 pm
To: "Hampden Town of" <hampden@midmaine.com>
Priority: Normal
Options: [View Full Header](#) | [View Printable Version](#) | [Download this as a file](#)

Phil Stack's resignation from the Tree Board.

Thanks,
~G

----- Original Message -----

Subject: RE: meeting Weds 1/27 6:30pm
Date: Tue, 26 Jan 2010 14:01:39 -0500
From: Phil Stack <pastack1@hotmail.com>
To: Hampden GIS/IT <hampdenmemaps@gmail.com>, <hampdenmaineplanner@gmail.com>, <cspackard@gmail.com>, <jfeverston@roadrunner.com>, <lc4468@gmail.com>, <coxtowncouncil@gmail.com>, <tombrann@tds.net>, <hampdenrecreation@yahoo.com>, <sdwright@tds.net>, <bruenstreeservice@roadrunner.com>
References: <4B5F0185.5080803@gmail.com>

I regret that I have to resign from the Hampden Tree Board. My recent work responsibilities preclude evening meetings and I don't want to limit the effectiveness of the Board by spotty participation on my part; and hopefully this will provide ample time to find a replacement before spring. I enjoyed the opportunity.

Phil

A thing is right when it tends to preserve the integrity, stability and beauty of the biotic environment. It is wrong when it tends otherwise. -Aldo Leopold

The economy is a wholly owned subsidiary of the environment, not the other way around. -Gaylord Nelson

When we try to pick out anything by itself, we find that it is bound fast by a thousand invisible cords that cannot be broken, to everything in the universe. -John Muir

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Subject: Re: HCC Meeting Tonight (Jan 26)
From: "Robert Osborne" <hampdenmaineplanner@gmail.com>
Date: Tue, January 26, 2010 2:32 pm
To: "Phil Stack" <pastack1@hotmail.com> ([more](#))
Priority: Normal
Options: [View Full Header](#) | [View Printable Version](#) | [Download this as a file](#)

Phil,

Sorry to hear it. Best wishes to you. Would you kindly drop a one or two sentence letter to the Town Clerk or me with your resignation. That will help facilitate your replacement.

Thanks,

Bob

Robert Osborne, AICP
Hampden Town Planner
Town of Hampden
106 Western Avenue
Hampden, ME 04444
(207) 862 6527

Phil Stack said the following on 1/26/2010 2:03 PM:

I regret that I have to resign from the Conservation Commission. My recent work responsibilities preclude evening meetings and I don't want to limit the effectiveness of the committee by spotty participation on my part. I enjoyed the opportunity.

Phil

A thing is right when it tends to preserve the integrity, stability and beauty of the biotic environment. It is wrong when it tends otherwise. -Aldo Leopold

The economy is a wholly owned subsidiary of the environment, not the other way around. -Gaylord Nelson

When we try to pick out anything by itself, we find that it is bound fast by a thousand invisible cords that cannot be broken, to everything in the universe. -John Muir

From: don_katnik@hotmail.com
To: ellmcc25@yahoo.com; hjjones@acadia.net; esteltzer@yahoo.com;

A-3-c

To: Municipal Leaders in Neighboring Towns
From: Hermon Town Council
Date: January 14, 2010
Subject: Fire Department Organizational Ideas

As some of you may have heard, Larry Willis, Hermon's fire chief since 1994, plans to retire before the end of this year. As the Town of Hermon starts to plan the hiring process for our next fire chief, it seems appropriate to initiate discussions concerning the possibility of multiple municipalities sharing one or more fire department personnel. We are interested in hearing from any towns that might be interested in discussing this topic (with no obligation to participate in the final plan, if one can even be determined). There may not be any viable options, however, nothing ventured nothing gained.

If there is interest, we would attend (or host) a meeting of municipal officials to discuss the possibilities for consolidation, joint ventures, and/or shared personnel. The meeting could include town managers, elected officials, and fire chiefs.

It is very important to note that nothing has been ruled in, and nothing has been ruled out, regarding Hermon's willingness to participate in any joint ventures regarding the organization of fire service delivery in this area. We are open to discussing any and all options, including maintaining our status quo.

Please contact Clinton Deschene, Hermon Town Manager at (207) 848-1010 or Robin Hall, Hermon Town Council Chair at (207) 949-1245, if you have any questions.

Yours truly,

Hermon Town Council
Robin Hall, Chair
Tim McCluskey
Donna Pulver
Douglas Sinclair Sr.

Sharon Nickerson, Vice-Chair
Anthony Reynolds
Anne Freeman

A-4-a

INFRASTRUCTURE COMMITTEE MEETING
MINUTES
MONDAY, JANUARY 25, 2010

6:00 PM

HAMPDEN TOWN OFFICE

Attending:

*Mayor Matthew Arnett (6:10 p.m.)
Chairman William Shakespeare
Councilor Thomas Brann
Councilor Shannon Cox
Councilor Janet Hughes
Councilor Jean Lawlis
Public Works Director Chip Swan*

Brent Marquis, Resident

1. Minutes of 11/23/09 Meeting – *The minutes of the 11/23/09 meeting were reviewed and no changes or amendments were proposed.*
2. Old Business
 - a. Street Light Locations – Dunton Circle/Western Avenue and Dunton Circle/Silver Drift Trail – *Brent Marquis a resident of Town Farm Road who has land on Dunton Circle requested lights at 3 different locations in Hawthorne Ridge. A letter from the Public Safety Director was added to the meeting packet. The Department supports streetlights at road intersections so that motorists can identify their location more easily.*

Councilor Lawlis made a motion to forward to the Council. Mayor Arnett made a second motion to forward to the Finance Committee. The committee, with some reservations, voted to forward this to the Council and Finance Committee 5-1.
 - b. Update on Route 1A MDOT project – *The Public Works Director explained MDOT has postponed the RTE 1A project until the summer of 2011 because of budget constraints. Chairman William Shakespeare voiced concern of the general public's awareness of the status of the project. The Public Works Director offered to put a statement in the next newsletter concerning the project.*
 - c. Road opening language (not ready for discussion)
 - d. Mayo Road Resident meeting update – *The Public Works Director explained there would be a public information meeting on the reconstruction of Mayo*

Road on January 27, 2010 at 6pm in the Community Room in the municipal building.

3. New Business

- a. Sewer Manhole Cover Risers – *The Public Works Director explained this year's paving program would require 72 sewer manhole riser rings. The cost would be \$10,500.00. He asked the committee to waive the bid process as the Etheridge Foundry in Portland was the only vendor in the state that made these rings.*

Mayor Arnett made a motion to approve this request and forward it to the Council. The motion passed unanimously.

- b. Truck & Loader Bids – *The Public Works Director asked the committee if he could advertise bids early for a new truck and loader prior to the next budget cycle. He explained this was done last year and public works was able to receive a new truck prior to the winter season. The truck would be \$140,000 less trade and the loader has a guaranteed buyback of \$55,000. A new loader is in the range of \$137,000. The two vehicles would cost approximately \$200,000. Mayor Arnett asked if the Town Manager agreed with the Public Works Director. He stated that she was on the same page. Councilor Brann suggested bidding the loader 3 ways: Guaranteed buy back, trade, and straight sale.*

Councilor Hughes made a motion to recommend putting these bids out in March 2010 and forwarding this to the Council. The motion passed unanimously.

4. Public Comments – *None*

5. Committee Member Comments – *Councilor Brann had reservations about approving street lights. The Town would be setting a precedence and that every intersection in town would require a street light. Most of the committee members expressed similar thoughts. More discussion would be needed in Finance Committee.*

The meeting was adjourned at 6:40 pm by Chairman Shakespeare.

Respectfully Submitted,

Chip Swan, Public Works Director

MEMO

TO: Hampden Town Councilors
FR: Kathy Walker and Norm Prouty
DA: January 22, 2010
RE: Hampden Academy (HA) Building Committee

Visible progress on the building site makes the new HA more and more of a reality. Photos are posted on the MSAD#22 website (www.sad22.us) on a regular basis, courtesy of Bernie Littlefield, with commentary by Joannie Speyer, so the work beyond the fence can be seen on the computer screen.

Phase 2 of the project, the building, went out to bid on January 18th. Bids will be opened on Thursday, February 25th at 2 PM at the Weatherbee School library. Prequalification inquiries from prospective bidders were due in mid-December. Plans and bid specs can be viewed at WBRC, or at the Superintendent's or the Principal's offices, or online

Mel Cole, owner of Northeast Building Consultants, Inc, Litchfield, ME, has been hired as the Owner Representative for MSAD#22. He has thirty-nine years of experience in project management, and has worked extensively with the Maine Department of Education and the Bureau of General Services. The position is part-time. He will answer to the Assistant Superintendent, Emil Genest. WBRC will advertise this weekend for a full-time Clerk of the Works.

Forest Hart presented the Building Committee with his proposal for a new bronco bronze sculpture to be placed in front of the new HA. The bucking bronco in front of the old HA will remain in place regardless of what decisions are made about reuse of that site. The back of the proposed sculpture would be horizontal to the ground instead of the bucking position of the current one. Scale model bronze replicas of the new bronco will be sold to pay for the cost, similar to how the eagle bronze on the veterans' memorial was acquired.

Many items not included in the bid packages will be sought for the new HA from prospective donors. A partial list includes art work, health and fitness equipment, two additional lanes for the track, two additional tennis courts, interior and exterior scoreboards, dugouts at the new baseball field and the Reeds Brook softball field, on-site plantings, and a large academic seal for the dining commons.

Herb Sargent agreed to reduce the bid on the Phase 1 work by \$852,550, and is willing to potentially mitigate some of the costs of the over-excavation that has been necessary to remove clay soil from the site. The communities of SAD#22 are fortunate to have such civic-minded individuals as Herb and Forest in our midst.

The next Building Committee meeting will be held on March 4th, 6PM, at the HA Library. Either one of us is willing to hear comments or answer questions, or to attend a Council meeting and provide a verbal update upon request. We appreciate the opportunity to be involved in this project.



C-1-a

TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Public Ways Ordinance
DATE: January 13, 2009

At the December 2, 2009 Council Planning and Development Committee meeting the committee voted five in favor and none against to return the attached Public Ways Ordinance text amendment language to the Council for public hearing. (This is a companion piece to the amendments to the Zoning Ordinance Article 5 Permits section that the Planning Board is currently considering).

Town Attorney Tom Russell has reviewed this document had the following comments which were incorporated into the draft that the committee recommended:

Proposed Amendments to Public Ways Ordinance

The proposed amendments to Section 1.2 of the Ordinance are consistent with the Town Way Acceptance Protocol I developed for the Town some time ago. As part of the Town Attorney approval process under Section 1.2.1.6, I recommend that the developer be required to submit the items called for in Section 7(A)-(E) of the Protocol, as those items are really necessary for my review of the proposed acceptance of a town way. If those items are not provided by the developer, it will result in additional legal expense to the Town.

Generally the purpose of these amendments is to shift the regulation for acceptance of streets from the Zoning Ordinance to the Public Ways Ordinance where it belongs. You will note that one of the proposed changes to the Public Ways Ordinance is to change the name to "Town Ways Ordinance". Attorney Russell determined that town ways is the term that is used in a number of state laws. This language also formalizes the process that the Town Attorney must conduct in order to determine that the street acceptance is ready for Town Council action.

1/19/2010 - Introduced for public hearing on 2/1/2010
1

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Public Ways Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

TOWN OF HAMPDEN
TOWN PUBLIC WAYS ORDINANCE

ARTICLE I
GENERAL

1.1 Plan Required - Petitioner for acceptance of a town ~~public~~ way shall submit a plan to the Road Commissioner of such a way prepared by or approved by a registered professional engineer.

1.2 Acceptance by Town Council – The acceptance of any ~~all~~ street or road as a town ~~public~~ ways shall be subject to the approval of the Town Council.

1.2.1 The Town Council shall not consider the acceptance of a street or road as a town way unless and until the following conditions have been satisfied:

1. All outstanding application fees, inspection fees and other costs and expenses must be paid in full.
2. Submission of a sworn written statement from the owner/developer and/or owner's/ developer's engineer that all required improvements have been completed in strict compliance with all applicable construction standards and the approved subdivision plan, and that the owner/developer and/or engineer knows of no defects, from any cause, in the improvements.
3. Submission of a written statement from Town's Public Works Director that all site improvements, including paving and any drainage facilities, have been satisfactorily completed. The written statement shall also indicate if public water and power have been installed and accepted.
4. Deposit of sum of money or other suitable improvement guarantee equal to fifteen percent (15%) of the amount of the full improvement guarantee required by the Subdivision Ordinance with the Town Treasurer. Said money to be used by Town to correct any defects in design, materials, or workmanship that arise within one year from the date of acceptance of the improvements by the Town Council. Any money not used for such purpose by Town within two (2) years of acceptance shall be returned to the payor.
5. Submission of a written statement from owner's/developer's surveyor that all required property pins have been installed for the lots in the approved subdivision.

6. Submission to the Town Attorney of the document(s) conveying any land, improvements, and any easements to the Town. Owner/Developer shall cause the following documentation to be delivered to the Town Attorney at least three (3) weeks prior to the Town Council meeting at which acceptance is desired:
 - a. Copy of recorded subdivision plan;
 - b. Copy of proposed Warranty Deed conveying the street(s) and improvement(s), as well as any easement(s) appurtenant thereto, to the Town;
 - c. Copy of proposed Warranty Deed conveying any dedicated open space and access easement(s) to the Town;
 - d. Title Opinion or Title Agent's Certificate of Title evidencing that the land, street(s), improvements, open space, and easement(s) are free and clear of any encumbrances, liens, mortgages, etc. If title is not free and clear, owner/developer shall furnish documentation demonstrating that the title matters will be resolved prior to acceptance by the Town; and
 - e. Owner's Affidavit to the effect that all contractors, subcontractors, and material providers have been paid in full, and that the property is not subject to a mechanic's/materialman's lien under Maine law.
 7. Approval by the Town Attorney of the document(s) conveying any land, improvements, or easements to the Town.
 8. Delivery of the duly executed Warranty Deed(s), Easements, Real Estate Tax Transfer Tax Declaration form(s), any documents necessary to provide free and clear title, and check payable to the Registry of Deeds in the amount of the recording fee(s) to the Town Manager.
 9. Payment of Town's legal fees and expenses incurred in reviewing the documentation called for by this ordinance.
 10. Letter from Bangor Hydro indicating that all power utilities have been accepted.
 11. In cases where Public Water has been installed, a letter from the Hampden Water District Superintendant indicating that the water has been installed and tested to their satisfaction.
- 1.2.2. At the sole discretion of the Town Council, it may accept a street or road as a town way if all improvements have been satisfactorily completed, excepted for the final layer of paving, and the developer/owner has provided a performance bond, letter of credit, or some other form of guarantee acceptable to the Town Council and in an amount the Town Council determines to be adequate to ensure completion of the final paving.

1.3 Town Engineer Defined – Town engineer means any person licensed as a professional civil engineer by the State of Maine and employed or designated by the Town Manager.

1.4 Repeal Of Conflicting Ordinances or Resolves – All ordinances and resolves or parts thereof in conflict with this ordinance or inconsistent with the provisions of this ordinance are hereby repealed.

ARTICLE II
STANDARDS AND REQUIREMENTS

2.1 Connection With Existing Town Public Way – All streets or roads shall provide connection with existing Town approved town public ways.

2.2 Intersections – Shall not be less than sixty (60) degrees.

2.3 Widths Of Town Public Ways – Except for industrial streets or roads, town public ways shall have a right-of-way width of sixty-six (66) feet. Industrial roads shall have a right-of-way width of one hundred (100) feet.

2.4 Grades – Grade shall not have less than 0.5% nor more than 8 5%. The roadway area of said way shall be graded to its full width of twenty-six (26) feet for the distance for which acceptances is are requested and shall conform accurately to the grades and cross-sections shown on the plan and profile of said town public way and as accepted by the Hampden Planning Board. All roads and streets shall be properly drained with suitable ditches and street culverts so that all storm water will be drained from the area. The Road Commissioner or the Hampden Planning Board may require loaming and seeding of slopes to help prevent erosion.

2.5 Clearing Of Stumps and Roots – Said way shall be cleared of all stumps, roots, brush, perishable material and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from said way to at least subgrade depth, or as directed by the Road Commissioner or Public Works Dept.

2.6 Side Slopes — Petitioner shall provide the land necessary for cut or fill slopes beyond the limits of the street right-of-way.

2.7 Subgrade — With the exception of industrial ways, said way shall be graded to the subgrade of eighteen (18) to twenty-four (24) inches as specified by the Hampden Planning Board or Road Commissioner. Industrial ways shall be graded to a subgrade depth of not less than twenty-four (24) inches.

2.8 Gravel Base – The roadway area of said way shall be brought to the grade shown on the plan, profile, and cross-section of said way by suitable gravel or material approved by the Road Commissioner or Public Works Dept. The base gravel shall be brought to within four (4) inches of the finish grade, and the top four (4) inches shall be selected materials suitable for finish grade on gravel roads. All gravel shall be thoroughly compacted and rolled and the final surface left true to the established lines and grades.

2.9 Surface Treatment – After the fine gravel has been thoroughly rolled, the surface of the roadway shall be treated with a bituminous pavement. Pavement shall conform to the specifications currently specified by the Maine Department of Transportation for use on State Aid Roads and shall be placed in one-and-a-half inch thickness. Pavement width shall be not less than twenty (20) feet, except in industrial zones where it shall be not less than twenty-four (24) feet, and the roadway shall be provided with a three (3) inch crown from the center line to edge of pavement to insure runoff of water.

2.10 Cul-de-sac (Dead-end Street) - All permanent dead-end streets shall be provided with a turn-around with a minimum diameter of sixty (60) feet. In all other respects said turn-arounds

shall be constructed in accordance with the same specifications as herein above specified for town public ways.

2.11 Culverts - All driveway culverts shall be not less than twelve (12) inches in diameter of corrugated galvanized metal pipe and not less than twenty-four (24) feet in length. Said culverts shall be furnished and installed by the owner under the supervision of the Road Commissioner.

2.12 Opening Town Ways or Streets - No town way or street shall be opened for the purpose of installing or repairing sewers, water, gas, or for any other purpose, unless the individual or corporation wishing to make such an opening shall first obtain from the Road Commissioner a permit to do so and agree to pay the full cost of repairing the damage to the street caused by such opening.

2.13 Modified or Additional Standards - The Road Commissioner may modify or require additional standards due to local soil, physical, or topographical conditions, provided that modifications and variances secure substantially the objectives of the standard or requirement so varied or modified.

ARTICLE III LIMITATION OF TRUCK TRAFFIC

3.1 Limitation/Prohibition of Truck Traffic - Upon designation by the Town Manager and approval of the Town Council truck traffic may be limited or prohibited on specified roads or streets passing through residential areas within the Town of Hampden. There shall be a sign posted at each end of the streets or portions of street so designated showing that the same is a residential street and that through heavy traffic is not allowed. A schedule of those streets or portions of streets so designated shall be maintained in the town office and be available for public inspection during regular business hours. *(Amended: 12/7/87, 3/4/91)*

3.2 Enforcement - When any violation of any limitation or prohibition on truck traffic imposed under Section 1.1 shall be found to exist, any police officer of the Town of Hampden, or any law enforcement officer authorized to enforce traffic violations in the Town of Hampden, is hereby authorized to institute any and all actions and proceedings in the name of the Town of Hampden, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance. *(Amended: 3/4/91)*

3.3 Civil Penalties - Whoever violates any limitation or prohibition on truck traffic imposed under Section 3.1 shall, upon conviction therefor, be liable for a civil penalty in the amount of \$50.00 for the first offense and \$100.00 for each subsequent offense. Each and every violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Hampden. *(Amended: 3/4/91)*

ARTICLE IV USE OF ENGINE OR TRANSMISSION BRAKING DEVICES

(Adopted: 8/18/03)

4.1 Findings. The Town Council finds that the use of engine or transmission braking devices or methods (a/k/a "engine braking" or "dynamic braking") within the Town of Hampden creates unusual and excessive noise that unreasonably disturbs and annoys residents. The prohibition of such devices and methods is necessary to protect the health, safety and public welfare.

4.2 Prohibition. No person may slow a vehicle by a device, method, or practice known as engine or transmission braking (a/k/a "engine braking" or "dynamic braking") whereby rapid downshifting of a vehicle's engine or a compression release device is used in lieu of applying a vehicle's wheel brakes, causing loud noises to emit from the vehicle's engine and/or exhaust system. Such braking by any motor vehicle on any public highway, street, or parking lot within the Town of Hampden is declared to be a public nuisance and is prohibited.

4.3 Enforcement. When any violation of any prohibition imposed under this Article is found to exist, any police officer of the Town of Hampden, or any law enforcement officer authorized to enforce traffic violations in the Town of Hampden, is hereby authorized to institute any and all actions and proceedings in the name of the Town of Hampden, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Article.

4.4 Civil Penalties. Whoever violates this Article shall, upon conviction therefor, be liable for a civil penalty in the amount of \$100.00 for the first offense and \$200.00 for each subsequent offense. Each and every violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Hampden.

4.5 Emergency Vehicles. The provisions of this Article do not apply to emergency vehicles.

C-2-a



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Planning and Development Committee Recommendation on
Richard Peer, Historic Preservation Commissioner and
Andrew Nelson, Planning Board Member
DATE: January 25, 2009

Please be advised that at the January 25, 2010 the Town Council Planning and Development Committee meeting the committee voted unanimously in favor to recommend the reappointment of Richard Peer and Andrew Nelson to their respective posts.



Check One: Initial Application Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: PEER RICHARD G
LAST FIRST MI

ADDRESS: 12 Marion Drive Hampden, ME 04444
STREET TOWN ZIP

MAILING ADDRESS (if different): same

TELEPHONE: 207-862-6110 207-990-0988
HOME WORK

EMAIL: metaxaide@netscape.net

OCCUPATION: tax assistance

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: Historic Preservation

SECOND CHOICE (OPTIONAL): _____

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

Are there any issues you feel this board or committee should address, or should continue to address? No

- | | | |
|--|----------------------|---|
| <ul style="list-style-type: none"> CONSERVATION COMMITTEE BOARD OF ASSESSMENT REVIEW PERSONNEL APPEALS BOARD LURA HOIT MEMORIAL POOL ECONOMIC DEVELOPMENT COMMITTEE FRIENDS OF DOROTHEA DIX PARK | <p><u>3 YEAR</u></p> | <ul style="list-style-type: none"> DYER LIBRARY RECREATION COMMITTEE BOARD OF APPEALS HISTORIC PRESERVATION COMMITTEE TREE BOARD |
|--|----------------------|---|

5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY	Date Application Received: JAN 12 2010
COUNCIL COMMITTEE ACTION: _____	DATE: _____
COUNCIL ACTION: _____	DATE: _____
<input type="checkbox"/> NEW APPT <input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____

MSent Agenda 4/1/10

Check One: Initial Application
 Reappointment Application



TOWN OF HAMPDEN APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: Nelson Andrew J.
LAST FIRST MI

ADDRESS: 53 Ichabod Ln Hampden
STREET TOWN ZIP

MAILING ADDRESS (if different): _____

TELEPHONE: 862-8079 _____
HOME WORK

EMAIL: ethem399@aol.com

OCCUPATION: Aircraft mechanic in Air National Guard.

BOARD OR COMMITTEE PREFERENCE:
FIRST CHOICE: Planning Board.

SECOND CHOICE (OPTIONAL): _____

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

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

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

FOR TOWN USE ONLY		Date Application Received: DEC 30 2009
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____

C-3-a



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Zoning Text Amendment Institutional Building Definition
DATE: January 26, 2010

The Planning Board at their January 13, 2010 meeting voted unanimously to return the text with an "ought-to-pass" recommendation.

At the time Town Council amended the Residential B District height standards to accommodate the Hampden Academy project it was agreed that a definition of institutional building should be added to the Zoning Ordinance. Please find attached a draft of that definition. This language was reviewed by Attorney Russell who asked if the committee wished that institutional buildings also be owned by the eligible entity. The Council Planning and Development Committee determined that an ownership requirement could present an unintended problem here because, for example, church buildings are owned by diocese or synods rather than locally by a congregation.

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 7
DEFINITIONS

7.1. Construction Language - In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure" and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

7.2. Definitions - In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Institutional building: A building or group of buildings used to provide a public service and operated by a Federal, State or local government, public or private utility, public or private school or college, tax-exempt organization, and/or a place of religious assembly. Examples include: public agency, public safety and emergency services, essential and utility services, cultural, service and religious facilities, public/private health facilities or other similar uses.

C-3-b



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendments for Conditional Uses in the Commercial Service District.
DATE: January 26, 2010

The Planning Board at their January 26, 2010 meeting voted unanimously to return the text with an "ought-to-pass" recommendation.

This draft zoning ordinance text amendment would make possible a wide range of additional water dependent uses in the Commercial Service District along the Penobscot River.

This language was reviewed by Attorney Russell who recommendations were discussed by the Council Planning and Development Committee. That Committee indicated that they did not wish to add a specific height limitation in feet. They did however wish to incorporate the remainder of the suggestions and those were added to the text of the draft amendment.

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

3.3. Commercial Service District

3.3.1. Purpose - This district is intended for the location of heavy commercial uses, wholesale uses, office buildings, automotive type of uses such as sales and service, convenience stores and commercial service type of uses. In general this area is devoted to service or wholesale uses.

3.3.2. Permitted Uses (Subject to Site Plan Review) - Any retail or service business, hotel and motels, business or professional offices, take-out restaurant, small restaurant, sit-down restaurant, automobile service, place of assembly, outdoor recreation and accessory uses or structures. Essential service and buildings for essential service, single family dwellings in existence on the date of this amendment. *(Amended 12-6-04)*

3.3.3. Conditional Uses (Subject to Site Plan Review) – Fast-food restaurant, outdoor dining restaurant, tavern, bar, dance hall, commercial school, drive-thru business, wholesale distribution, truck terminal, light industrial operations (but not including excavation, gravel pit and quarry activities) which do not exceed 10,000 square feet, such as warehousing assembly or fabrication. Functionally water-dependent uses along the Penobscot River. Any establishment which provides in excess of 5,000 square feet of outdoor display or storage of goods or equipment. Stockpiles (subject to *Article 4.9*) not accessory to excavation, gravel pit and quarry activities. *(Amended 4-7-03, 12-6-04, 12-17-07)*

3.3.4. Lot Dimensions

Minimum Lot Area	-	20,000 sq. ft.
Minimum Road Frontage	-	100 feet
Minimum Setbacks:		
Street Yard	-	40 feet
Other Yards	-	30 feet
Maximum Ground Coverage	-	25 percent
Maximum Building Height	-	35 feet

3.3.5. Special District Regulations

1. Where a commercial or industrial use abuts any residential use or residential district, the other yard setback shall be double where it abuts the residential property.
2. Notwithstanding the ~~above~~ maximum building height regulations in Article 3.3.4. ~~structures not intended to be occupied may be constructed up to 50 feet in height when treated as a conditional use.~~ building height may be up to 50 feet under the following standards.

Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each yard setback requirement.

EXAMPLE: A 48 foot tall building is proposed. By subtracting the base Commercial Service District maximum building height from the proposed height the following is the result $48' - 35' = 13'$.

Then add that amount to each yard or setback.

<u>Setback Type</u>	<u>Base Setbacks:</u>	<u>Total Setback</u>
<u>Street Yard</u>	<u>- 40 feet</u>	<u>53 feet</u>
<u>Other Yard</u>	<u>- 30 feet</u>	<u>43 feet</u>

3. Notwithstanding other requirements in this section any structure which requires access to rail service shall not be required to setback from the railroad siding. *(Amended 8-17-92, 10-4-93)*
4. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 feet and no part of the vehicle queue shall be located within 100 feet of a residential structure. *(Amended 12-6-04)*
5. Sale or consumption of alcoholic beverages is prohibited for outdoor dining restaurant uses in conjunction with take-out restaurants and fast-food restaurants. *(Amended 12-6-04)*
6. Outdoor dining areas proposed for outdoor dining restaurant uses shall be clearly delineated on a site plan including barriers required under M.R.S.A. *Title 28-A*. Outdoor dining restaurant uses proposing outdoor consumption of alcoholic beverages shall comply with M.R.S.A. *Title 28-A: LIQUORS §1051. Licenses generally* which requires that outside areas be controlled by barriers and by signs prohibiting consumption beyond the barriers. *(Amended 12-6-04)*
7. Notwithstanding the maximum building height regulations buildings used for functionally water-dependent uses along the Penobscot River are not subject to the maximum building height standard in Article 3.3.4. or 3.3.5.2. provided the lot area for such a use is at least five acres in size.

C-3-c



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendments for Issuance of Building Permits on Subdivision Lots and in Conjunction with Plumbing Permits
DATE: January 26, 2010

The Planning Board at their January 26, 2010 meeting voted unanimously to return the text with an "ought-to-pass" recommendation. They did note that this approval should be linked to the approval of the Town Ways Ordinance amendments currently before the Town Council because of the language requiring a letter from a professional land surveyor indicating that all subdivision monuments have been set.

This draft zoning ordinance text amendment clarifies under what conditions the Code Enforcement Officer can issue a building permit in a newly constructed subdivision. The amendment also clarifies what sort of plumbing permit is required for issuance of a building permit.

This language was reviewed by Attorney Russell he made some adjustments for the building permit language prior to the Ordinance Committee meeting.

Proposed Amendments to Article 5 of Zoning Ordinance

The proposed amendments to Section 5.3.1.8 and Section 5.3.1.9 are the same ones that I reviewed in March of 2008, and my comments have been incorporated therein. Therefore, I find the proposed amendments to be acceptable, except that in Section 5.3.1.9, the word "disposal" should be "Disposal".

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 5
ENFORCEMENT
(Amended: 6/3/02)

5.1. Administrative Officer - This Ordinance shall be enforced by a Code Enforcement Officer appointed by the Town Manager with confirmation by the Town Council.

5.2. Duties - The Code Enforcement Officer, in enforcing this Ordinance, shall be responsible for establishing reasonable procedures for enforcement, keeping all activities within the jurisdiction of this Ordinance under surveillance, issuing building and/or use permits where applicable, keeping public records of his proceeding and instituting or causing to be instituted any or all actions that might be appropriate for the enforcement of this Ordinance.

5.3. Permits - Application for a building permit and a certificate of compliance shall be made concurrently with the initial application.

5.3.1. Building Permits

5.3.1.1. Building Permit Required - An application shall be submitted to the Code Enforcement Officer for the following activities, and these activities shall not commence in the Town of Hampden without a permit being issued.

1. Construct or alter a structure.
2. Change of exterior dimensions of an existing structure;
3. Construct a sign or change the exterior dimensions of a sign;
4. Reconstruction of a disaster-damaged or disaster-destroyed structure.

5.3.1.2. No building permit shall be issued except in conformity with the provisions of this Ordinance.

5.3.1.3. Within fourteen (14) days of the filing of an application for a building permit, the Code Enforcement Officer shall approve or deny such application or shall refer the applicant to the planning board or the Board of Appeals. The decision shall be in writing and communicated directly to the applicant. In the case of a denial of an application, the decision shall include reasons for such. One (1) copy of the Code Enforcement Officer's decision shall be filed in the municipal office.

(Amended:09-18-06)

5.3.1.4. No building permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent. The Code Enforcement Officer may require that any application for such a permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on site soils survey, the exact location and size of all buildings or structures already on the lot, the location of new buildings to be constructed, together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure, and other such information as may be necessary to provide for the execution and enforcement of this Ordinance.

5.3.1.5. Applications for permits with their accompanying plans and building permits shall be maintained as a permanent record by the Code Enforcement Officer.

5.3.1.6. A building permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within six (6) months of the date on which the permit is granted, or if the work or change is not substantially completed within two (2) years of the date on which the permit is granted.

5.3.1.7. No building permit, demolition permit, earth moving permit, sign permit or certificate of compliance shall be issued without payment of fees in accordance with the Town of Hampden Fees Ordinance. *(Amended: 11-17-03)*

Any structure on which construction, including but not limited to foundation work, has begun before the issuance of a building permit will be assessed double the above described fees.

5.3.1.8. Building permits for structures to be located on subdivision lots shall not be issued by the Code Enforcement Officer until all improvements, including public utilities (sewer, water and electrical), roads and drainage facilities as approved by the Planning Board and required by town ordinances, are completed to the satisfaction of the Town designated engineering consultant and the road, if any, has been accepted by the Town Council as a town way, unless the following improvements have been completed:

- ~~1. Installation of all public utilities, in accordance with the approved subdivision plan, including sewer, water and electrical;~~
- ~~2. Substantial construction of roads, meaning the complete installation of gravel sub-base and drainage facilities including ditches, detention basins, road culverts, driveway culverts, etc., and~~
- ~~3. Installation of all property pins for the subdivision lots by a registered surveyor.~~

5.3.1.9. **Plumbing Wastewater Disposal Permit Required** - No building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless either a valid internal plumbing subsurface wastewater disposal permit or sewer hook-on permit has been secured by the applicant or his authorized agent in conformance with the plumbing code of the State of Maine Subsurface Wastewater Disposal Rules or the Town of Hampden Sewer Ordinance.



C-3-d

TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Shoreland Zoning Ordinance
DATE: January 26, 2010

Update. Please be advised that at the January 25, 2010 the Town Council Planning and Development Committee meeting the committee voted 3 in favor 1 against and 2 abstentions to recommend the Draft Shoreland Zoning Ordinance and Map be set for Public Hearing. The Committee discussed the limitations of tax maps for purposes other than assessing. The Committee determined that the property lines should be removed from the map to remove the error that they introduce to the Shoreland Zoning Map. Attorney Russell had determined the property lines are not required in the DEP Rule Chapter 1000 and that removal of the property lines does not require the item return through the Planning Board hearing process. The Committee did not vote any changes to the text of the Shoreland Zoning Ordinance.

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

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

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

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

The primary departure from the model ordinance is the addition of a local stream protection district. The statute requires protection of streams which are below the confluence of two USGS mapped streams.

The Council Ordinance Committee, Conservation Commission, Comprehensive Plan Committee and previous Planning Boards and Town Councils have agreed that protection of non-jurisdictional streams such as Reeds Brook is important to the community. This ordinance would expand the list to also include Baker Brook and two unnamed tributaries, Cold Brook, Reeds Brook, Shaw Brook, Sucker Brook and Weber Brook.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Table of Land Uses – Delete unused districts.

- Add notes now appearing after Table 1

Table 1 – Add LSP Column.

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

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

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

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

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

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

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

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

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

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

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

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

15O Timber Harvesting – Add licensed forester language.

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

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

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

17 Definitions.

Family – Replace original definition with zoning ordinance definition.

Forest Management Plan – Add licensed forester to language.

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

River – Add list of rivers.

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

Stream – Add list of streams.

Tributary Stream – Delete list of streams.

Town of Hampden, Maine

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

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

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

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

4. Effective Date

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

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

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

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

5. **Availability.** A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the Town of Hampden, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the Town Council. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town of Hampden and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a *shoreland permit* submitted to the Town of Hampden within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. Shoreland Districts and Shoreland Zoning Map

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

- (1) Resource Protection also identified by the initials RP
- (2) Limited Residential also identified by the initials LR
- (3) General Development also identified by the initials GD
- (4) *Stream* Protection also identified by the initials SP
- (5) *Local Stream* Protection also identified by the initials LSP
- (6) ~~Limited Commercial also identified by the initials LC~~
- (7) ~~General Development II also identified by the initials GDII~~
- (8) ~~Commercial Fisheries and Maritime Activities also identified by the initials CFMA~~

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

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

D. Changes to the Official Shoreland Zoning Map. If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days

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

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

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

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

12. Non-conformance.

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

B. General

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

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

C. Non-conforming Structures

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

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

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

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

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

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

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

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

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

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

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

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

D. Non-conforming Uses

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

E. Non-conforming Lots

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

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

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

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

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

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

13. Establishment of Shoreland Districts

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

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

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

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

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

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

C. (Limited Commercial District). Deleted.

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

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

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

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

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

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

E. (General Development II District). Deleted.

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

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

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

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

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

Key to Table 1:

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

Abbreviations:

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

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

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

- A. Dredging, bulldozing, removing or displacing soil, sand, *vegetation* or other materials;
 - B. Draining or otherwise dewatering;
 - C. Filling, including adding sand or other material to a sand dune; or
 - D. Any construction or alteration of any permanent *structure*.
-

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

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 except for timber harvesting & land management roads	Yes CEO	Yes CEO	CEO	Yes ¹²	Yes ¹³
4. Timber harvesting	CEO	CEO	CEO	Yes ¹⁴	Yes ¹⁴
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 ²	yes ²	yes ²
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 ⁹	CEO	CEO
B. Multi-unit residential	no	no	no	PB	PB
C. Commercial	no	no	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	PB ⁶	PB ⁶	PB ⁶	PB	PB
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 ⁶	PB ⁶	PB ⁶	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB ⁶	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB ⁶	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 ⁸	PB	PB
27. Land management roads	yes	yes	PB	yes	yes
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. Functionally-water-dependent uses and uses accessory to such water-dependent uses only.

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. Excluding bridges and other crossings not involving earthwork, in which case no shoreland permit is required.

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

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

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

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

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

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

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

A. Minimum Lot Standards

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

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

B. Principal and Accessory Structures

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

Minimum Shoreline setback requirements

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

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 a data layer titled “coastal bluff hazards” (<http://megis.maine.gov/catalog>) which is also acceptable as source information for coastal bluffs. If the specific location of a “highly unstable” or “unstable” bluff, or where the top

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

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

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

C. Deleted.

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

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

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

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

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

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

G. Parking Areas

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. Storm Water Runoff

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

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

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

K. Subsurface Wastewater Disposal Systems

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

L. Essential Services

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

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

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:

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

N. Agriculture

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

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

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

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

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

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

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

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

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

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

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

- (i) The *residual stand* must contain an average basal area of at least 60 square feet per acre of *woody vegetation* greater than or equal to 1.0 inch *DBH*, of which 40 square feet per acre must be greater than or equal to 4.5 inches *DBH*;
- (ii) A well-distributed stand of trees which is *windfirm*, and other *vegetation* including existing *ground cover*, must be maintained; and,
- (iii) Within 75 feet, horizontal distance, of the *normal high-water line* of water bodies and within 75 feet, horizontal distance, of the upland edge of *wetlands*, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the *normal high-water line* of a *river* or *great pond*, or *upland edge of a wetland*, *timber harvesting and related activities* must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average *basal area*. Volume may be considered equivalent to *basal area*.

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

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

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

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

- (a) Equipment used in *timber harvesting and related activities* shall not use *river*, *stream* or *tributary stream* channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a *water body*, *tributary stream*, or *wetland*. Upon termination of their use, skid trails and yards must be stabilized.

(c) *Setbacks*:

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

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

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

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

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

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

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

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

(7) Slope Table

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

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

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

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

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

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

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

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

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

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

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 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

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

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

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

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

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

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

Q. Erosion and Sedimentation Control

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

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

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

16. Administration

A. Administering Bodies and Agents

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

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

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

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

C. Shoreland Permit Application

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

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

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

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

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

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

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

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

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

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

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

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

H. Appeals

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Administrative Appeals.

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

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

(4) Appeal Procedure

(a) Making an Appeal

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

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

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

(b) Decision by Board of Appeals

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

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

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

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

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

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

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

I. Enforcement

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

(2) Code Enforcement Officer

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the *person* responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or *structures*, or work being done, removal of illegal buildings or *structures*, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- (b) The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

(3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal *structure* or use to continue unless there is clear and convincing evidence that the illegal *structure* or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the *structure* or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) Fines. Any *person*, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

17. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Licensed forester “Licensed forester” means a forester licensed under 32 M.R.S.A. Chapter 76.

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

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

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

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

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

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

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

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

Native. “Native” means indigenous to the local forests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LEGEND

INFRASTRUCTURE

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

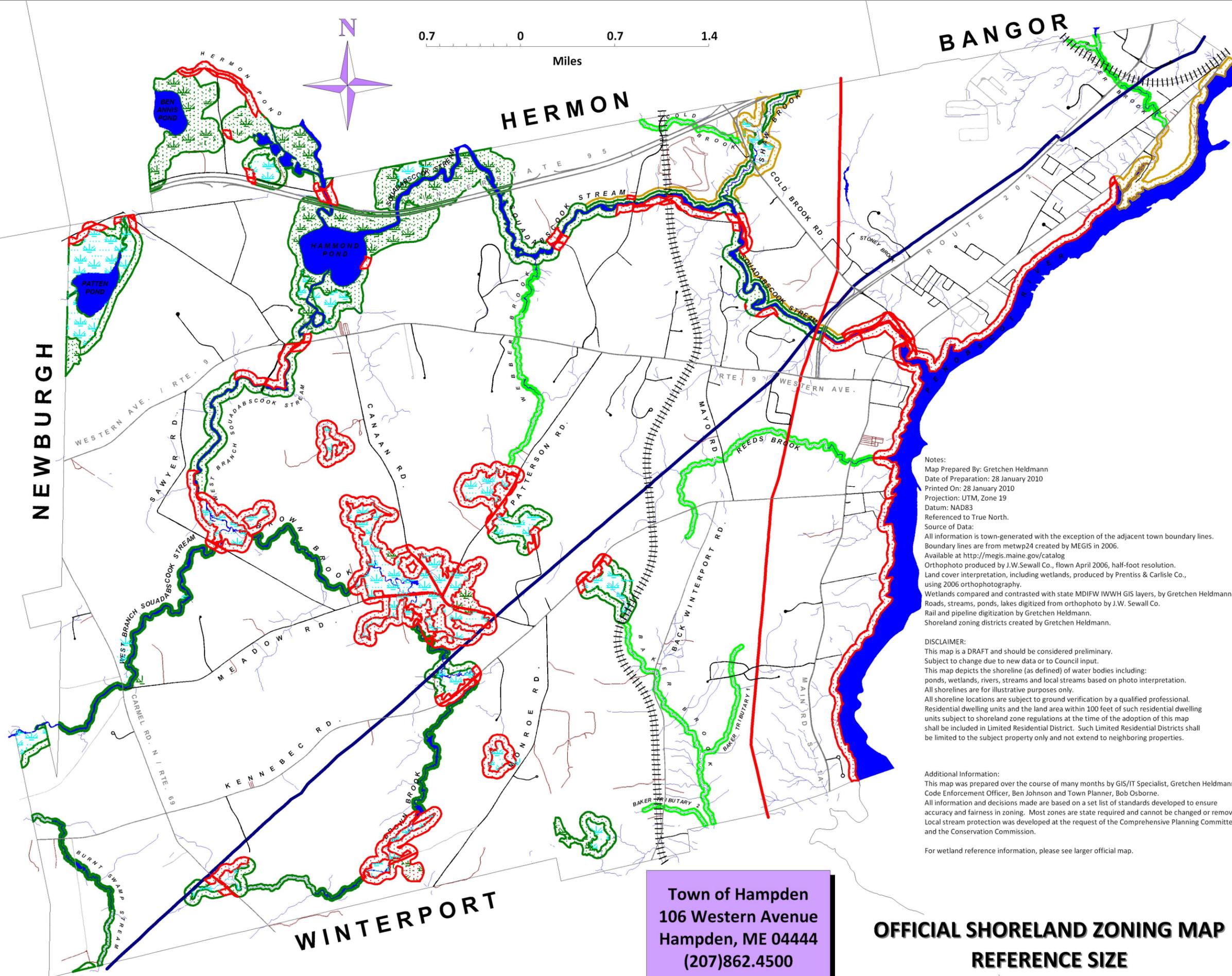
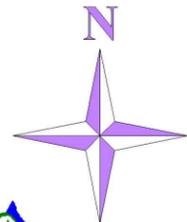
SHORELAND ZONING DISTRICTS

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

WETLAND CLASSIFICATION

-  Non Forested
-  Forested

0.7 0 0.7 1.4
Miles



Notes:
 Map Prepared By: Gretchen Heldmann
 Date of Preparation: 28 January 2010
 Printed On: 28 January 2010
 Projection: UTM, Zone 19
 Datum: NAD83
 Referenced to True North.
 Source of Data:
 All information is town-generated with the exception of the adjacent town boundary lines. Boundary lines are from metwp24 created by MEGIS in 2006. Available at <http://megis.maine.gov/catalog>
 Orthophoto produced by J.W.Sewall Co., flown April 2006, half-foot resolution. Land cover interpretation, including wetlands, produced by Prentiss & Carlisle Co., using 2006 orthophotography.
 Wetlands compared and contrasted with state MDIFW IWWH GIS layers, by Gretchen Heldmann. Roads, streams, ponds, lakes digitized from orthophoto by J.W. Sewall Co.
 Rail and pipeline digitization by Gretchen Heldmann.
 Shoreland zoning districts created by Gretchen Heldmann.

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

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

For wetland reference information, please see larger official map.

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

**OFFICIAL SHORELAND ZONING MAP
 REFERENCE SIZE**





HAMPDEN PUBLIC SAFETY

Police - Fire - EMS
106 Western Avenue
Hampden, Maine 04444
Phone 207-862-4000
Fax: 207-862-4588



TO: Susan Lessard, Town Manager
FROM: Joseph L. Rogers, Public Safety Director
RE: Street Light Request, Dunton Circle
DATE: January 28, 2010

The Public Safety Department was contacted last year about installing streetlights at Dunton Circle and Western Avenue and Dunton Circle and Silver Drift Trail, upper and lower ends. At that time our position was that we recommended the installation of the requested lights at the above intersections.

The Infrastructure Committee has inquired about whether there were any safety concerns in the Dunton Circle/Western Avenue recommendation. This intersection is a high volume area for vehicles and the streetlights should be installed as soon as practical. The two other intersections do not have the vehicle traffic volume of Dunton Circle and Western Avenue and would not pose a significant traffic safety concern.

Once the development becomes more populated these intersections should have streetlights installed if they are not installed beforehand.

This is a new development so we have virtually no historical data concerning traffic accidents, pedestrian use or maintenance issues.

We do recommend that the Town consider a policy on new streetlights so that future requests may be reviewed using established criteria such as:

1. Number of vehicles using the road
2. Intersections
3. Pedestrian use
4. Dead end streets
5. Number of people to benefit
6. Number of residences to benefit

Thank you for your attention to this matter.

C-3-f

To: Manager Lessard
Town Council Members

From: Dean L. Bennett, Director of Community and Economic Development

Subject: Suggested Timeframe and Process to Comprehensive Plan Adoption

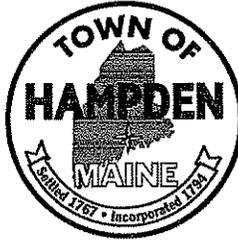
Date: January 27, 2010

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As requested, I hereby submit a suggested timeframe and process by which to accomplish the finalization, submission and adoption of the 2010 Hampden Comprehensive Plan. As you are aware, more than 50 people, special interest groups, department heads, and committees have contributed to the development of this proposed plan. In addition, we have shared the working draft with the State Planning Office during its development to minimize the likelihood of numerous inconsistency findings which are common at the end of this process. Upon your endorsement and Managers direction, I am prepared to facilitate this process immediately.

1. Completion of Public Education/Input Process (60 days)
 - a. Recording of a Hampden Highlights Newsmagazine Show presenting/discussing the role, components, policies and overall concepts within the Proposed 2010 Hampden Comprehensive Plan.
 - b. Three (3) informational workshops, for the purposes of discussing the objectives and goals of the 2010 Comprehensive Plan with the general public. These workshops to be recorded and broadcast via Hampden Highlands Newsmagazine. Public input/comments to be recorded and provided to Council for consideration prior to adoption.
 - c. Offering the availability of the Director of Community and Economic Development to community groups, via Newsmagazine, Newsletter and/or direct mail, to present and discuss the Proposed Comprehensive Plan.
2. Council to approval and submit draft plan to the State Planning Office for consistency determination. State Planning Office has 45 days to review plan and return findings. (45 days)
3. Council to review State comments. Revisions to plan in response to State objections and resubmission of changes to SPO. Town to receive approval letter from State Planning Office once consistency is determined. (30 days)
4. Public Hearing must be held on Proposed Plan. Plan must be available for public review 30 days prior to public hearing. State comments must be available to public at the public hearing. (45 days)
5. Adoption of 2010 Hampden Comprehensive Plan.

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



Phone: (207) 862-3034
Fax: (207) 862-5067
email: hampden@midmaine.com

C-4-a

CERTIFICATE OF COMMITMENT OF SEWER USER RATES

To: Susan M. Lessard, the treasurer of the municipality of Hampden, Maine.

We, the undersigned municipal officers of the municipality of Hampden, Maine hereby certify and commit to you a true list of the sewer rates established by us pursuant to 30-A M.R.S.A §3406 for those properties, units, and structures required by local and state law to pay a sewer rate to the municipality, for the period beginning 10/01/09 and ending 12/31/09. This list is comprised of the pages numbered 1 to 1 inclusive which are attached to this certificate. The date(s) on which the rates included in this list are due and payable is (are) 02/25/10. You are hereby required to collect from each person named in the attached list his or her respective amount as indicated in the list, the sum total of those lists being \$ 131,057.48. You are hereby required to charge interest at a rate of 9 % per annum on any unpaid account balance beginning 02/26/10. You are hereby authorized to collect these rates and any accrued interest by any means legally available to you under State law. On or before 9/2010 you shall complete and make an account of your collections of the whole sum herein committed to you.

Given under our hands this _____ day of _____, 20__.

Municipal Officers of the Town of Hampden, Maine

C-4-b



Memorandum

TO: Town Council
FROM: Denise Hodsdon, Town Clerk *dh*
DATE: January 27, 2010
RE: Water District Request for Meeting with Council

Hampden Water District General Manager Cam Torrey has advised that the Water District Board of Trustees is requesting to meet with the Town Council in the next few days to discuss two items:

1. Water District Rate Increase
2. Meter Reading Cost Sharing with the Town

Cam has requested a meeting to be held at the Water District on any of the following dates: February 3rd, 4th or 5th or February 10th, 11th or 12th