

Planning and Development Committee
August 19, 2009
6:00 PM
Council Chambers

AGENDA

1. Approval of July 15th Minutes

2. Invited Guest Presentations:
 - Renaissance Planning Associates
 - BEAR Proposal:
 - Bill Najpauer
 - Sarah Flak

3. Old Business
 - a. Re-Use Committee Update
 - b. Outdoor Wood Boiler Ordinance/Commercial Provisions
 - c. Customary Rural Business Criteria
 - d. Institutional Use Definition
 - e. Height Limitation Language Amendment
 - f. Junk Vehicle/Junk Yard Cleanup Outline
 - g. Park Marketing/Development Strategy

4. New Business:
 - a. Building Permit Provisions Related to Road Acceptance

5. Public Comments:

6. Committee Member Comments:

Item Bank:
Action

Initiated

Target Date

Planning and Development Committee
Minutes of July 15, 2009
7:00 PM
Town Office

Attendees: Andre Cushing
Matt Arnett
Bill Shakespeare
Jean Lawlis

Staff: Bob Osborne
Dean L. Bennett
Guest: Vicky Burpee, EMDC

1. Approval of June 1st Minutes

Minutes approved with the following modification:

“To forward to Town Council the recommendation for Council to consult with Town Attorney Russell and special Council with experience in disposition of school properties.”

2. Guests: Vicky Burpee, Eastern Maine Development Corporation

Vicky presented the concepts of TIF as an economic development tool. She briefed the committee on her past working relationship with Bion and the Town of Hampden. Techniques on how TIF could be used in advancing infrastructure investment were explored.

(Due to limited time, the Committee prioritized remaining agenda items)

New Business:

Institutional Uses: It was decided that the Town Planner would present a definition for Institutional Uses at the next Committee Meeting.

Height Limitation Amendments: It was decided that the Community and Economic Development Director contact Hodgdon Defense Composites to discuss height requirements and request a presentation at some point on justification for building height as indicated in preliminary discussions. In addition, Town Planner pointed out to Committee that Residential A presently has no height requirement.

Old Business:

Re-Use Committee: Continued discussion on progress.

Outdoor Wood Boiler Ordinance: Council Shakespeare raised the question as to whether our local ordinance should include provisions for commercial wood boilers. Committee asked Town Planner to draft and present ordinance with provisions for commercial wood boilers at next meeting.

New Business:

Junk Vehicle Ordinance: Committee discussion focused on the need for addressing properties in town that contain a collection of not only motor vehicles which constitutes a "legal" junk yard" but also areas littered with demolition debris, metals, tires, etc.. Town Planner and Community and Economic Development Director suggested a community approach of a larger scale to raise awareness of the collection of junk material and a plan for willful compliance to clean up the applicable areas. Town Planner and Community and Economic Development Director will draft suggested process and present to Committee at next meeting.

Committee set next meeting date for August 19th @ 6:00 pm. The August 5th meeting will not be held due to unavailability of some committee members.



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: August 17, 2009

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.

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. Water-dependent commercial and industrial uses, including boat building, 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 height regulations structures not intended to be occupied may be constructed up to 50 feet in height when treated as a conditional use.

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 above height regulations buildings for water-dependent commercial and industrial uses, including boat building, along the Penobscot River are not subject to the building standard in Article 3.3.4 when treated as a conditional use.



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Zoning Text Amendment Institutional Building Definition
DATE: August 12, 2009

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.

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.



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Outdoor Woodfired Boiler Ordinance Amendments.
DATE: August 12, 2009

Attached please find a copy of the proposed amendments to the Outdoor Woodfired Boiler Ordinance that reconciles the differences between the DEP regulations in Chapter 150 and the current ordinance. As you are aware the primary difference is that the state has set differing setback standards based upon the EPA emission ratings of the boiler. As you will recall the Committee asked staff to prohibit new Non-EPA Qualified Outdoor Woodfired Boilers and to maintain legacy standards for the previously approved Non-EPA qualified OWBs. This revises the one sent out in the packet by clarifying the stack height requirement to include Phase-Two boilers. The other change here is the standards for large commercial and non-commercial OWB's which are regulated by reference to Chapter 150.

**TOWN OF HAMPDEN, MAINE
OUTDOOR WOOD-FIRED BOILER ANNUAL LICENSING ORDINANCE**

**ARTICLE 1
TITLE AND PURPOSE**

1.1. Title. This chapter shall be known as the "Town of Hampden, Maine Outdoor Wood-Fired Boiler Annual Licensing Ordinance."

1.2. Home Rule Authority. It is adopted pursuant to Municipal Home Rule Law.

1.3. Purpose. Although outdoor wood-fired boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This Ordinance is intended to ensure that outdoor wood-fired boilers are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town. Furthermore, this ordinance is intended to comply with the minimum standards contained in DEP Chapter 150, Control of Emissions From Outdoor Wood Boilers.

**ARTICLE 2
DEFINITIONS**

2.1. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

"Commercial outdoor wood-fired boiler" means any outdoor wood-fired boiler used to service a commercial establishment.

"Outdoor wood-fired boiler (OWB)" (same as outdoor wood-fired furnace) means an accessory structure or appliance capable of being installed out of doors and designed to transfer or provide heat, via liquid or other means, through the burning of wood or any other non-gaseous or non-liquid fuels for heating spaces other than where such structure or appliance is located, any other structure or appliance on the premises, or for heating domestic, swimming pool, hot tub or Jacuzzi water. "Outdoor wood-fired boiler or furnace" includes outdoor pellet boilers but does not include a fire pit, wood-fired barbecue, or chiminea.

"Outdoor wood-fired boiler Emission Rating" means the EPA's rating system for OWBs which rate the emissions in pounds per million BTU' or lbs/MMBtu.

"EPA Phase-One Qualified OWB" means that the manufacturer of the OWB has voluntarily submitted their product to EPA for outdoor woodfired boiler emission rating and received a rating at 0.60 lbs/MMBtu or less. Note that for purposes of this ordinance a DEP Qualified OWB that meets this emission rating would also satisfy this definition.

"EPA Phase-Two Qualified OWB" means that the manufacturer of the OWB has voluntarily submitted their product to EPA for outdoor woodfired boiler emission rating and received a rating at 0.32 lbs/MMBtu or less. Note that for purposes of this ordinance a DEP Qualified OWB that meets this emission rating would also satisfy this definition.

"EPA Phase-Three Qualified OWB" means that the manufacturer of the OWB has voluntarily submitted their product to EPA for outdoor woodfired boiler emission rating and received a rating at 0.06

lbs/MMBtu or less. Note that for purposes of this ordinance a DEP Qualified OWB that meets this emission rating would also satisfy this definition.

“Non-EPA Qualified OWB” means that the manufacturer of the OWB has not submitted their product to EPA for outdoor woodfired boiler emission rating and that it’s rating is presumed to be in excess of 0.62 lbs/MMBtu.

“DEP Qualified OWB” means that the manufacturer of the OWB has voluntarily submitted their product for emission rating to a government other than the US government or other testing bodies as deemed acceptable by the DEP and based on the OWB’s emission report the Maine Department of Environmental Protection classifies the OWB to the corresponding EPA standard. For purposes of this ordinance applicants must provide written documentation from the DEP to show evidence that the OWB is in fact DEP qualified.

“Nuisance” means any odor, emission, or event that prevents the reasonable use and enjoyment of one’s property. For purposes of this ordinance, an OWB shall constitute a nuisance following three or more verified complaints within any 30 day period.

“Firewood” means trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

“Setback” means the minimum linear distance that an outdoor woodfired boiler must be sited away from a prescribed physical location on the ground.

“Untreated lumber” means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

ARTICLE 3 ANNUAL LICENSE REQUIRED

3.1. Annual license required. In addition to any permit required under the Town’s Fire Prevention Code, no person shall cause, allow or maintain the use of an outdoor wood-fired boiler within the Town of Hampden, Maine without first having obtained an annual license from the Hampden Town Council. Application for annual license shall be made to the Town Clerk on the forms provided. (*Note: The state regulation does not require annual licensing*).

3.2. Standards for initial license. The Town Council shall issue an initial license for an outdoor wood-fired boiler if it determines that:

3.2.1 A permit has been issued for the proposed outdoor wood-fired boiler under the Fire Prevention Code; and

3.2.2 The proposed outdoor wood-fired boiler complies with the requirements of Sections 4.2, 4.3, 4.4 and 4.6 of this Ordinance.

3.2.3 The Town of Hampden shall not issue an initial license for a non-EPA qualified OWB or non-Maine Department of Environmental Protection alternative certified OWB after the effective date of this amendment.

3.3. Standards for renewal license. The Town Council shall issue a renewal license for an outdoor wood-fired boiler if it determines that:

3.3.1. The code official responsible for enforcement of the Fire Prevention Code provides written documentation to the effect that the outdoor wood-fired boiler is in compliance with the applicable provisions of that Code;

3.3.2 The outdoor wood-fired boiler is in compliance with the requirements of Sections 4.2, 4.3, 4.4, and 4.6 of this Ordinance;

3.3.3. The outdoor wood-fired boiler was operated in compliance with the requirements of Sections 4.1 and 4.5 of this Ordinance during the preceding year; and

3.3.4 None of the conditions set forth in Sections 5.1.1, 5.1.2, 5.1.3, 5.1.4, or 5.1.5 of this Ordinance occurred during the preceding year.

3.4. Existing outdoor wood-fired boilers. Any outdoor wood-fired boiler that was installed, connected, and operating as of the effective date of this Ordinance shall be permitted to remain, provided that the owner applies for and receives an annual license from the Town Council within 120 days of such effective date. Provided, however, that upon the effective date of this Ordinance all the provisions of this Ordinance, except Sections 4.2 *Permitted Zones*, 4.3 *Minimum Lot Size*, and 4.4 *Setbacks* in the event and to the extent that the existing outdoor wood-fired boiler in question does not comply with the same, shall immediately apply to any existing outdoor wood-fired boiler. Any existing outdoor wood-fired boiler that is not in compliance with Sections 4.3 and 4.4 shall not be made more nonconforming. If the owner of an existing outdoor wood-fired boiler does not receive a permit within one year of the effective date of this Ordinance, the outdoor wood-fired boiler shall be removed.

**ARTICLE 4
SPECIFIC REQUIREMENTS**

4.1. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor wood-fired boiler. Burning of any and all other materials in an outdoor wood-fired boiler is prohibited.

4.2. Permitted zones. Outdoor wood-fired boilers shall be permitted in all zoning districts except the Resource Protection District as shown on the Town's Zoning Map.

4.3. Minimum lot size Outdoor wood-fired boilers shall be permitted only on lots of three acres or more in accordance with the following minimum lot size:

	<u>Minimum Lot Size</u>
<u>Existing Non-EPA Qualified Outdoor Wood-fired Boilers Only</u>	<u>3 Acres</u>
<u>EPA Phase-One Qualified Outdoor Wood-fired Boilers</u>	<u>1 Acre</u>
<u>EPA Phase-Two Qualified Outdoor Wood-fired Boilers</u>	<u>0.5 Acre</u>
<u>EPA Phase-Three Qualified Outdoor Wood-fired Boilers (pellet)</u>	<u>0.25 Acre</u>

The applicant for a permit under this Ordinance shall demonstrate that the Commercial outdoor wood-fired boiler or Outdoor Wood-fired Boiler with a thermal rating greater than 350,000 Btu/hr shall be installed and operated in accordance with Chapter 150 of the Rules of the Maine Department of Environmental Protection, "Control of Emissions from Outdoor Wood Boilers," as the same may be amended from time to time.

(Note: The state regulation does not set minimum lot sizes but it logically creates them with the required setbacks).

4.4. Setbacks. Outdoor wood-fired boilers shall be set back ~~not less than 150 feet from the nearest lot line from property lines~~ according to the following standards:

<u>Property Line Setback</u>	<u>Minimum</u>
<u>Existing Non-EPA Qualified Outdoor Wood-fired Boilers Only</u>	<u>150 Feet</u>
<u>EPA Phase-One Qualified Outdoor Wood-fired Boilers</u>	<u>100 Feet</u>
<u>EPA Phase-Two Qualified Outdoor Wood-fired Boilers</u>	<u>50 Feet</u>
<u>EPA Phase-Three Qualified Outdoor Wood-fired Boilers (pellet)</u>	<u>20 Feet</u>

(Note: The state regulation requires these setbacks).

Additionally, outdoor wood-fired boilers shall be set back ~~not less than 200 feet~~ from neighboring residences according to the following standards:

<u>Neighboring Residence Setback</u>	<u>Minimum</u>
<u>Existing Non-EPA Qualified Outdoor Wood-fired Boilers Only</u>	<u>200 Feet</u>
<u>EPA Phase-One Qualified Outdoor Wood-fired Boilers</u>	<u>120 Feet</u>
<u>EPA Phase-Two Qualified Outdoor Wood-fired Boilers</u>	<u>70 Feet</u>
<u>EPA Phase-Three Qualified Outdoor Wood-fired Boilers (pellet)</u>	<u>40 Feet</u>

(Note: The state regulation requires these setbacks).

Stack Height Requirement and Neighboring Residence Proximity. Additionally, outdoor wood-fired boilers shall have a minimum stack height of at least ten feet from the ground.

However the stack height must be extended at least two feet higher than the peak of the building served by the OWB if either of the following conditions exist:

If the subject EPA Phase-One and/or Phase-Two Qualified Outdoor Wood-fired Boilers within 300 feet of an abutting residence.

If the subject EPA Phase-Three Qualified Outdoor Wood-fired Boiler (pellet) is within 100 feet of an abutting residence.

Existing Non EPA Qualified Outdoor Wood-fired Boilers are not subject to this requirement.

(Note: The state regulation requires these stack heights).

The applicant for a permit under this Ordinance shall demonstrate that the Commercial outdoor wood-fired boiler or Outdoor Wood-fired Boiler with a thermal rating greater than 350,000 Btu/hr shall be installed and operated in accordance with Chapter 150 of the Rules of the Maine Department of Environmental Protection, "Control of Emissions from Outdoor Wood Boilers," as the same may be amended from time to time.

4.5. Months of operation. Outdoor wood-fired boilers shall be prohibited from operation between the dates of May 1 and October 1.

(Note: The state regulation does not restrict months of operation).

4.6. Spark arrestors and rain caps. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors. Use of a rain cap on the stack of an OWB is prohibited unless required by the manufacturer specifications.

(Note: The state regulation does not mandate spark arrestors but does prohibit rain caps).

4.7. Continued compliance required. If an outdoor wood-fired boiler is installed in compliance with Sections 4.3 and 4.4, the outdoor wood-fired boiler may not be used if the lot on which it is situated is altered so that the minimum lot size or setback(s) are no longer met.

ARTICLE 5 REVOCATION OF LICENSE

5.1. Revocation of license. A license issued pursuant to this Ordinance may, after notice and hearing, be revoked as the Town Council may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Hampden if any of the following conditions occur:

5.1.1. Emissions from the outdoor wood-fired boiler exhibit opacity that obscures or partially obscures clear view of structures and trees that lay behind the smoke and haze on either the property where the outdoor wood-fired boiler is located or on adjoining properties. This may be evidenced by photographs that are time dated;

5.1.2. Malodorous air contaminants from the outdoor wood-fired boiler are detectable outside the property boundaries of the land on which the outdoor wood-fired boiler is located. This may be evidenced by Town Public Safety Officials;

5.1.3. The emissions from the outdoor wood-fired boiler interfere with the reasonable enjoyment of life or property;

5.1.4. The emissions from the outdoor wood-fired boiler cause damage to vegetation or property; or

5.1.5. The emissions from the outdoor wood-fired boiler are or may be harmful to human or animal health.

5.2. Prohibited use after revocation. If a license is revoked, the outdoor wood-fired boiler in question shall not be used or operated.

5.3. Reinstatement of license. A revoked license may be reinstated once the condition which resulted in revocation is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in revocation of a license shall be considered a violation of this Ordinance subject to the penalties provided in *Section 7.1 Penalties for offenses* hereof.

ARTICLE 6 WAIVERS

6.1. Waivers. Where the Town Council finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this Ordinance or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the Town Council may impose such conditions and requirements as it deems reasonable and prudent. The Town Council may, at its discretion, hold a public hearing as part of its review. If the Town Council grants the waiver, a license shall be issued for the outdoor wood-fired boiler. If the Town Council denies the waiver, the outdoor wood-fired boiler must either be brought into

compliance with this Ordinance or removed. If the Town Council does not take any action with respect to the waiver within 60 days from its receipt of an application for waiver, the waiver shall be deemed denied.

**ARTICLE 7
PENALTIES**

7.1. Penalties for offenses. Failure to comply with any of the provisions of this Ordinance shall be a violation and, upon conviction thereof, shall be subject to a civil penalty in accordance with Title 30-A M.R.S. §4452. In addition, any license issued pursuant to this Ordinance shall be revoked upon conviction of a second offense and the subject outdoor wood-fired boiler shall not be eligible for another license. Each day that a violation occurs shall constitute a separate offense. All penalties shall inure to the benefit of the Town of Hampden. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Ordinance. Violators shall also be responsible for any and all court fees, expert witness fees, costs, and reasonable attorney fees if the Town is the prevailing party in an enforcement action.

**ARTICLE 8
EFFECT ON OTHER REGULATIONS**

8.1. Effect on other regulations. Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, Maine Department of Environmental Protection or any other federal, state, regional or local agency. Outdoor wood-fired boilers, and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood-fired boilers, shall be installed, operated and maintained in conformity with the manufacturer's specifications and instructions and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this Ordinance and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

**ARTICLE 9
SEVERABILITY**

9.1. Severability. Should any provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

**ARTICLE 10
EFFECTIVE DATE**

10.1. Effective Date. The effective date of this Ordinance shall be 30 days from the date of adoption by the Town Council.



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendments for Residential A District
DATE: August 17, 2009

This draft zoning ordinance text amendment corrects an omission of a height standard in the Residential A District.

**TOWN OF HAMPDEN
Draft**

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

3.7. Residential A District

3.7.1. Purpose - This district is intended for the development of low density single family housing types. While this district is predominately intended for detached housing the district may allow certain low impact civic and institutional uses.

3.7.2. Basic Requirements - All permitted and conditional uses are limited to 20% ground coverage maximum and 35 foot height limit unless noted.

3.7.3. Permitted Uses (Subject to Site Plan Review where applicable) - Single family dwelling, (including modular homes), home day care (subject to *Article 4.19*), accessory uses and structures, non-commercial park or playground, home occupation (subject to *Article 4.10*), essential service. (Amended: 8-22-94) (03-21-05)

3.7.4. Conditional Uses (Subject to Site Plan Review where applicable) - Church, nursing home, non-profit school, public schools, community building, government structure or use except storage or repair facility, two family dwelling, congregate care facility, buildings necessary for essential services. Animals other than usual household pets provided the premises consists of at least 2 1/2 acres, and animals shall be kept a minimum of 50 feet from any property line. (Amended: 8-22-94, 1-21-97)

3.7.5. Lot Dimensions

		Public Sewer		On-site waste disposal
Minimum Area	-	18,000 sq. ft.	-	30,000 sq. ft.
Minimum Road Frontage	-	125 feet	-	150 feet
Minimum Setbacks:				
Street Yard	-	25 feet	-	30 feet
Side Yard	-	20 feet	-	30 feet
Rear Yard	-	20 feet	-	30 feet
(Amended: 5-4-92, Effective 6-3-92)				
<u>Building Height</u>	-	<u>40 feet</u>	-	<u>40 feet</u>

Notwithstanding the above requirements, accessory structures which are not attached to a principal building may be located on a lot in accordance with the following:

Accessory Structures Ground Floor Area		Up to 250 Square Feet
Maximum Height	-	16 Feet
Minimum Other Yard	-	5 Feet

Once located in accordance with the foregoing requirements, said accessory structures shall not be attached to a principal building unless said structures are in compliance with the Other Yard requirement of the District. *(Amended: 10-3-94)*

Beautify Hampden
"Let's Clean Up the Junk"

Big Picture Approach
Public campaign

Establish Non-regulatory Concept

1. Council Discussion
Need to clean up areas of junk to ensure the protection and preservation of property values and natural resources while bringing properties into conformance with junk yard statutes.

Education/Buy-in on Value of Project

2. Hampden Highlights Newsmagazine
Discussing environmental hazards associated with "junk yards"
Discuss the market for metal etc to provide \$ incentive for clean up.

Key Club: Involvement?

Informational Approach

3. Identify properties and classify as appropriate.

General Junk:

Mail property owners "friendly" letter encouraging the utilization of "list of junk disposal/purchase entities".

Illegal Junk:

Notify property owners of existence of "junkyard" and a copy of statute indicating steps to full compliance.

Further action as appropriate seeking willful compliance to avoid costs associated with enforcement.

Chapter 150: CONTROL OF EMISSIONS FROM OUTDOOR WOOD BOILERS

SUMMARY: This regulation establishes particulate emission standards, siting criteria and labeling requirements for outdoor wood boilers, including outdoor pellet boilers.

1. Applicability

- A. This regulation applies statewide.
- B. This regulation applies to any manufacturer, supplier, distributor or person intending to sell, lease, distribute, or market, an outdoor wood boiler, including an outdoor pellet boiler, in the State of Maine that meets the definition of an outdoor wood boiler and to any person who installs, operates or owns an outdoor wood boiler, including an outdoor pellet boiler.
- C. This regulation applies to outdoor wood boilers, including outdoor pellet boilers, with a rated thermal input of less than 3 MMBtu/hr. Boilers with a rated thermal heat input of 3 MMBtu/hr or greater are subject to Chapter 103 Fuel Burning Equipment Particulate Emission Standard of the Department's Regulations.

2. Definitions

The following terms, as used in this Chapter, have the following meanings:

- A. **Clean wood.** "Clean wood" means wood that has no paint, stain, or other types of coatings, and wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.
- B. **Commercial outdoor wood boiler.** "Commercial outdoor wood boiler" means any outdoor wood boiler used to service a commercial establishment.
- C. **Distribute or sell.** "Distribute or sell" means to distribute, sell, advertise for sale, offer for sale, lease, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. This term does not include the distribution or sale by a manufacturer of an outdoor wood boiler that is installed outside the State of Maine.
- D. **Manufacturer.** "Manufacturer" means any person who constructs or imports for the distribution or sale into the United States an outdoor wood boiler.
- E. **New outdoor wood boiler.** "New outdoor wood boiler" means an outdoor wood boiler that is not installed and/or operational at the intended location of use as of the effective date of this Chapter.
- F. **Nuisance.** "Nuisance" means emission of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration that may be injurious to human, plant or animal life or to property, or that unreasonably interferes with the comfortable enjoyment of life or property.

- G. Opacity.** "Opacity" means the degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.
- H. Outdoor wood boiler.** "Outdoor wood boiler" (also known as outdoor wood-fired hydronic heater, water stove or outdoor wood furnace) means a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.
- I. Outdoor pellet boiler.** "Outdoor pellet boiler" means an outdoor wood boiler designed and warranted by the manufacturer specifically to burn pellet fuel with metered fuel and air feed and controlled combustion engineering, which is operated according to the manufacturer's specifications and burns only pellet fuel.
- J. Particulate matter or PM.** "Particulate matter or PM" means particulate matter PM₁₀ and PM_{2.5} including the condensable fraction.
- K. Sale.** "Sale" means the transfer of ownership or control.
- 3. Requirements for the Sale, Installation and Operation of New Outdoor Wood Boilers and Outdoor Pellet Boilers**
- A. Particulate Matter Emission Standards for Outdoor Wood Boilers**
- (1) Phase I Particulate Emission Standard for Outdoor Wood Boilers and Outdoor Pellet Boilers. No person shall distribute or sell, lease, import, supply or install an outdoor wood boiler after April 1, 2008 or an outdoor pellet boiler after April 1, 2009 unless it has been certified under Section 3(E) to meet a particulate matter emission limit of 0.60 lbs/MMBtu heat input. Outdoor wood boilers and outdoor pellet boilers meeting the Phase I limit must be installed according to the applicable setback and stack height requirements as defined in Section 3(B) and 3(C) of this Chapter.
- (2) Phase II Particulate Emission Standard for Outdoor Wood Boilers and Outdoor Pellet Boilers. No person shall distribute or sell, lease, import, supply or install an outdoor wood boiler or outdoor pellet boiler after April 1, 2010 unless it has been certified under Section 3(E) to meet a particulate matter emission limit of 0.32 lbs/MMBtu heat output. Outdoor wood boilers and outdoor pellet boilers meeting the Phase II limit must be installed according to the applicable setback and stack height requirements as defined in Section 3(B) and 3(C) of this Chapter.
- B. Setback Requirements for New Outdoor Wood Boilers and Outdoor Pellet Boilers**
- (1) Outdoor wood boilers and outdoor pellet boilers with particulate emission limits greater than 0.60 lbs/MMBtu heat input or with no certification. No person shall install or allow the installation of any outdoor wood boiler or outdoor pellet boiler that has been certified to meet a particulate emission limit greater than 0.60 lbs/MMBtu heat input or has no certification, determined in accordance with Section 3(E) of this Chapter, unless the outdoor wood boiler or outdoor pellet boiler is

installed at least 250 feet from the nearest property line or at least 270 feet from the nearest dwelling that is not on the same property as the outdoor wood boiler or outdoor pellet boiler.

- (2) Outdoor wood boilers and outdoor pellet boilers certified to meet particulate emission limits of 0.60 lbs/MMBtu heat input. No person shall install or allow the installation of any outdoor wood boiler or outdoor pellet boiler that has been certified to meet a particulate matter emission limit of 0.60 lbs/MMBtu heat input, determined in accordance with Section 3(E) of this Chapter, unless the outdoor wood boiler or outdoor pellet boiler is installed at least 100 feet from the nearest property line or at least 120 feet from the nearest dwelling that is not on the same property as the outdoor wood boiler or outdoor pellet boiler.
- (3) Outdoor wood boilers and outdoor pellet boilers certified to meet particulate emission limits of 0.32 lbs/MMBtu heat output. No person shall install or allow the installation of any outdoor wood boiler or outdoor pellet boiler that has been certified to meet a particulate matter emission limit of 0.32 lbs/MMBtu heat output, determined in accordance with Section 3(E) of this Chapter, unless the outdoor wood boiler or outdoor pellet boiler is installed at least 50 feet from the nearest property line or at least 70 feet from the nearest dwelling that is not on the same property as the outdoor wood boiler or outdoor pellet boiler.
- (4) Outdoor pellet boilers certified to meet particulate emission limits of 0.06 lbs/MMBtu heat output. No person shall install or allow the installation of any outdoor pellet boiler that has been certified to meet a particulate matter emission limit of 0.06 lbs/MMBtu heat output, determined in accordance with Section 3(E) of this Chapter, unless the outdoor pellet boiler is installed at least 20 feet from the nearest property line or at least 40 feet from the nearest dwelling that is not on the same property as the or outdoor pellet boiler.
- (5) Outdoor wood boilers that have been modified to burn pellets. Outdoor wood boilers that have been modified to burn pellets must meet the applicable setback specified in Section 3(B) of this Chapter for the original particulate emission limit certification of the outdoor wood boiler, determined in accordance with Section 3(E) of this Chapter.

C. Stack Height Requirements for New Outdoor Wood Boilers and Outdoor Pellet Boilers

- (1) Outdoor wood boilers and outdoor pellet boilers certified to meet particulate emissions limits of greater than 0.60 lbs/MMBtu heat input or with no certification.
 - (a) No person shall install or allow the installation of any outdoor wood boiler or outdoor pellet boiler that has been certified to meet a particulate emission limit of greater than 0.60 lbs/MMBtu heat input or has no certification, determined in accordance with Section 3(E) of this Chapter, unless the outdoor wood boiler or outdoor pellet boiler:
 - (1) has an attached stack with a minimum stack height of 10 feet above ground level; or

- (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler, if an abutting residence is located less than 500 feet from the outdoor wood boiler or outdoor pellet boiler.
 - (b) No person shall operate any outdoor wood boiler or outdoor pellet boiler, installed after the effective date of this Chapter, that has been certified to meet a particulate emission limit of greater than 0.60 lbs/MMBtu heat input or with no certification, determined in accordance with Section 3(E) of this Chapter, if an abutting residence is located less than 500 feet from the outdoor wood boiler or outdoor pellet boiler, unless the outdoor wood boiler or outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler.
- (2) Outdoor wood boilers and outdoor pellet boilers certified to meet particulate emission limits of 0.60 lbs/MMBtu heat input.
 - (a) No person shall install or allow the installation of any outdoor wood boiler or outdoor pellet boiler that has been certified to meet a particulate matter emission limit of 0.60 lbs/MMBtu heat input, determined in accordance with Section 3(E) of this Chapter, unless the outdoor wood boiler or outdoor pellet boiler:
 - (1) has an attached stack with a minimum stack height of 10 feet above ground level; or
 - (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler, if an abutting residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler.
 - (b) No person shall operate any outdoor wood boiler or outdoor pellet boiler, installed after the effective date of this Chapter, that has been certified to meet a particulate emission limit of 0.60 lbs/MMBtu heat input, determined in accordance with Section 3(E) of this Chapter, if an abutting residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler, unless the outdoor wood boiler or outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler.
- (3) Outdoor wood boilers and outdoor pellet boilers certified to meet particulate emission limits of 0.32 lbs/MMBtu heat output.
 - (a) No person shall install or allow the installation of any outdoor wood boiler or outdoor pellet boiler that has been certified to meet a particulate matter emission limit of 0.32 lbs/MMBtu heat output, determined in accordance with Section 3(E) of this Chapter, unless the outdoor wood boiler or outdoor pellet boiler:
 - (1) has an attached stack with a minimum stack height of 10 feet above ground level; or

- (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler, if an abutting residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler.
- (b) No person shall operate any outdoor wood boiler or outdoor pellet boiler, installed after the effective date of this Chapter, that has been certified to meet a particulate emission limit of 0.32 lbs/MMBtu heat output, determined in accordance with Section 3(E) of this Chapter, if an abutting residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler, unless the outdoor wood boiler or outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler.
- (4) Outdoor pellet boilers certified to meet particulate emission limits of 0.06 lbs/MMBtu heat output.
 - (a) No person shall install or allow the installation of any outdoor pellet boiler that has been certified to meet a particulate matter emission limit of 0.06 lbs/MMBtu heat output, determined in accordance with Section 3(E) of this Chapter, unless the outdoor pellet boiler:
 - (1) has an attached stack with a minimum stack height of 10 feet above ground level; or
 - (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor pellet boiler, if an abutting residence is located less than 100 feet from the outdoor pellet boiler.
 - (b) No person shall operate any outdoor pellet boiler, installed after the effective date of this Chapter, that has been certified to meet a particulate emission limit of 0.06 lbs/MMBtu heat output, determined in accordance with Section 3(E) of this Chapter, if an abutting residence is located less than 100 feet from the outdoor pellet boiler, unless the outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor pellet boiler.
- (5) Outdoor wood boilers that have been modified to burn pellets. Outdoor wood boilers that have been modified to burn pellets must meet the applicable stack height specified in Section 3(C) of this Chapter for the original particulate emission limit certification of the outdoor wood boiler, determined in accordance with Section 3(E) of this Chapter.
- (6) In the case that there is no structure (e.g. swimming pool or hot tub) being served by an outdoor wood boiler or outdoor pellet boiler subject to Section 3(C), the owner or operator of the outdoor wood boiler or outdoor pellet boiler shall extend the stack two feet higher than the peak of the roof of the nearest building to the outdoor wood boiler or outdoor pellet boiler.

D. Commercial Outdoor Wood Boiler, Commercial Outdoor Pellet Boiler, Outdoor Wood Boiler or Outdoor Pellet Boiler with a rated thermal output greater than 350,000 Btu/hr Analysis Requirement

- (1) Any person intending to install or operate a commercial outdoor wood boiler, commercial outdoor pellet boiler, an outdoor wood boiler, or outdoor pellet boiler with a rated thermal output greater than 350,000 Btu/hr shall obtain an evaluation, report and installation recommendations performed by a licensed professional engineer that includes the following information:
 - (a) What type of application will the outdoor wood boiler or outdoor pellet boiler be used for;
 - (b) A determination of the heat load requirements of the facility as compared to the available heat supply of the outdoor wood boiler or outdoor pellet boiler to ensure the unit is properly sized;
 - (c) The stack location relative to the property lines and building locations within 400 feet of the outdoor wood boiler or outdoor pellet boiler;
 - (d) The stack height; and
 - (e) Recommendations for the proper outdoor wood boiler or outdoor pellet boiler installation, including but not limited to, hook-up, auxiliary fuel, properly sized outdoor wood boiler or outdoor pellet boiler, stack height and stack location.
- (2) No person shall install or operate a commercial outdoor wood boiler, commercial outdoor pellet boiler, outdoor wood boiler or outdoor pellet boiler with a rated thermal output greater than 350,000 Btu/hr unless it is installed according to the recommendations of the evaluation report in Section 3(D)(1). In any case, no person shall install or operate a commercial outdoor wood boiler, commercial outdoor pellet boiler, an outdoor wood boiler or outdoor pellet boiler with a rated thermal output greater than 350,000 Btu/hr unless it meets the minimum setback and stack height requirements stated in Section 3(B) and 3(C) of this Chapter.

E. Certification of Outdoor Wood Boilers and Outdoor Pellet Boilers. No person shall supply, distribute, sell, lease, offer for sale, or allow the installation of an outdoor wood boiler or an outdoor pellet boiler in the State of Maine unless the outdoor wood boiler or outdoor pellet boiler has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program. The certification shall demonstrate that the outdoor wood boiler or outdoor pellet boiler meets the applicable particulate emission standard in Section 3(A) of this Chapter. The manufacturer of any such outdoor wood boiler or outdoor pellet boiler shall conduct testing via the EPA Outdoor Wood-Fired Hydronic Heater Phase I Program until EPA replaces the EPA Outdoor Wood-Fired Hydronic Heater Phase I Program with the Environmental Technology Verification Program. The Department may approve an alternative certification program.

F. Sell-through exemption for Outdoor Wood Boilers. No person shall sell or offer for sale any outdoor wood boiler with a particulate emission rate greater than 0.60 lbs/MMBtu heat input as certified in accordance with Section 3(E) of this Chapter unless the outdoor wood boiler was purchased, paid for in full and received in the State of

Maine before April 1, 2008 and the outdoor wood boiler meets all of the applicable requirements of this Chapter. Compliance with this Section must be demonstrated by keeping records of the purchase date and receipt date of their inventory as of the effective date of this Chapter. These records shall be kept for at least 5 years and shall be made available to the Department upon request. This exemption is effective until April 1, 2009.

G. Labeling Requirements. New outdoor wood boilers and outdoor pellet boilers shall be labeled in accordance with the labeling requirements of the U.S. Environmental Protection Agency Outdoor Wood-Fired Hydronic Heater Program. Requirements of this program are located at www.epa.gov/woodheaters/index.htm.

H. Rain Cap Prohibition. No person shall operate a new outdoor wood boiler or outdoor pellet boiler using a rain cap unless this device is required by the manufacturer specifications.

4. General Provisions and Requirements For All Outdoor Wood Boilers and Outdoor Pellet Boilers

A. Prohibited fuels. No person shall burn any of the following items in an outdoor wood boiler:

- (1) any wood that does not meet the definition of clean wood;
- (2) garbage;
- (3) tires;
- (4) lawn clippings or yard waste;
- (5) materials containing plastic;
- (6) materials containing rubber;
- (7) waste petroleum products;
- (8) paints and paint thinners;
- (9) chemicals;
- (10) glossy or colored papers;
- (11) construction and demolition debris;
- (12) plywood;
- (13) particleboard;
- (14) salt water driftwood and other previously salt-water saturated materials;
- (15) manure;
- (16) animal carcasses;
- (17) asphalt products;
- (18) materials containing asbestos;
- (19) materials containing lead, mercury, or other heavy or toxic metals; and
- (20) coal, unless the outdoor wood boiler is specifically designed to burn coal.

B. Fuel Requirements

- (1) No person that operates an outdoor wood boiler shall use a fuel other than the following:
 - (a) Clean wood;
 - (b) Wood pellets made from clean wood;

(c) Home heating oil in compliance with the applicable sulfur content limit, propane or natural gas may be used as starter or supplemental fuels for dual-fired outdoor wood boilers; and

(d) Other fuels as approved by the Department.

(2) No person that operates an outdoor pellet boiler shall use a fuel other than the following:

(a) Wood pellets made from clean wood;

(b) Corn; and

(c) Other fuels as approved by the Department.

C. Visible Emission Standard. No person shall cause or allow the emission of a smoke plume from any outdoor wood boiler or outdoor pellet boiler to exceed an average of 30 percent opacity on a six minute block average basis, except for no more than two six minute block averages in a 3-hour period. Opacity under this subsection shall be determined pursuant to EPA Method 9 Visual Determination of the Opacity of Emissions from Stationary Sources (40CFR60, Appendix A).

D. Enforcement and Preemption. This rule is subject to enforcement pursuant to 38 MRSA §347-A. Nothing in Chapter 150 may be construed as pre-empting any otherwise applicable, statute, regulation, local ordinance or otherwise applicable private common law cause of action.

E. Notice to Buyers

(1) No outdoor wood boiler or outdoor pellet boiler subject to the requirements of this Chapter shall be offered, sold, offered for retail sale, or leased within the State of Maine unless prior to any sales or lease agreement, the seller or dealer provides the prospective buyer or lessee with a copy of this Chapter and a written notice that:

(a) It is unlawful to burn garbage, treated or painted wood, plastic and plastic products, rubber products, yard waste, lawn clippings, glossy or colored papers, construction and demolition debris, materials containing asbestos, materials containing lead, mercury, or other heavy or toxic metals, plywood, particleboard, salt water driftwood and other previously salt water saturated materials, manure, animal carcasses, asphalt products, coal, unless the outdoor wood boiler is specifically designed to burn coal, waste petroleum products, paints, chemicals or any substance that normally emits dense smoke or obnoxious odors;

(b) Installation of an outdoor wood boiler or outdoor pellet boiler may be subject to other applicable State and local stack height and setback requirements;

(c) The applicable distance and stack height requirements provided in Section 3(B) and 3(C) of this Chapter may not be adequate in some areas due to terrain that

could render the operation of an outdoor wood boiler or outdoor pellet boiler to be a nuisance or public health hazard; and

- (d) States the specific results of the average and maximum emission rates of particulate matter for the outdoor wood boiler or outdoor pellet in grams per hour per the testing determined in accordance with Section 3(E) of this Chapter and the average delivered heating efficiency as found in the test reports that were used for certification of the units or a statement that the outdoor wood boiler or outdoor pellet boiler has not been tested or certified.

- (2) The written notice specified above shall be signed by the buyer or lessee at the time of purchase or lease to indicate receipt of notice. Said notice shall contain the names; addresses; telephone number of both the seller or dealer and the buyer or lessee; the location where the outdoor wood boiler or outdoor pellet boiler will be installed; and the make and model of the outdoor wood boiler or outdoor pellet boiler. The dealer shall keep these records for 5 years and provide them to the Department upon request.

F. Owner's Manual. Each outdoor wood boiler or outdoor pellet boiler offered for sale or lease must be accompanied by an owner's manual that shall contain all the information listed below:

- (1) Thermal output capacity;
- (2) Proper installation information;
- (3) Operation and maintenance information to minimize emissions;
- (4) Wood loading procedures, recommendations on wood selection, and warnings on improper fuels;
- (5) Fire starting procedures;
- (6) Proper use of air flow devices, if applicable;
- (7) Ash removal procedures;
- (8) For catalytic models, information pertaining to maintaining catalyst performance, maintenance procedures, procedures for determining catalyst failure or deterioration, procedures replacement, and information on warranty rights.
- (9) Language stating: Improper use or failure to maintain the outdoor wood boiler or outdoor pellet boiler may cause nuisance conditions. Persons operating this outdoor wood boiler or outdoor pellet boiler are responsible for operation of the outdoor wood boiler or outdoor pellet boiler so as not to cause a nuisance condition. Even proper use and maintenance of the outdoor wood boiler or outdoor pellet boiler, and meeting the distance and stack height recommendations and requirements in State and local regulations may not always be adequate to prevent nuisance conditions in some areas due to terrain or other factors.

5. Nuisance Conditions

- A. Standard.** No person shall operate an outdoor wood boiler or an outdoor pellet boiler, that produces visible emissions, measured as any opacity totaling twelve minutes in any hour, that cross onto any land or buildings immediately adjacent to a dwelling or commercial building not owned by the owner of the outdoor wood boiler. Opacity under this subsection shall be determined pursuant to EPA Method 22 Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares (40CFR60, Appendix A).
- B. Prohibition.** No person shall operate an outdoor wood boiler or an outdoor pellet boiler, in such a manner as to create a nuisance.

6. Third Party Sales

As of the effective date of this Chapter, an outdoor wood boiler or outdoor pellet boiler that has been owned by an individual and was in use in Maine prior to the effective date of this Chapter may be distributed or sold to another individual for his or her own personal use. The outdoor wood boiler or outdoor pellet boiler shall be subject to the applicable setback and stack height requirements specified in Section 3(B) and 3(C). If the particulate emission limit is not known, the outdoor wood boiler or outdoor pellet boiler must meet the setback and stack height requirements of Section 3(B)(1) and 3(C)(1).

7. Effective date

Unless otherwise noted, compliance with all applicable provisions of this Chapter is the effective date of the regulation.

8. Severability

Each Section of this Chapter shall be deemed severable, and in the event that any Section of this Chapter is held invalid, the remainder shall continue in full force and effect.

AUTHORITY: 38 M.R.S.A., §585-A, §610-B

EFFECTIVE DATE: November 9, 2007

Amended: July 4, 2008

April 7, 2009

BASIS STATEMENT

In 1988 EPA established particulate emission standards for residential wood stoves sold in the United States after 1992. However, outdoor wood boilers (OWB), also known as outdoor wood-fired hydronic heaters (OWHH) were not included in the EPA residential wood stove regulations and have not been regulated by EPA or the Department. OWB, which burn wood to heat water that is piped underground to a nearby structure (usually a home) for space heating, are available in a wide variety of sizes and efficiencies. OWB, on an average per hour basis, emit about four

times as much fine particulate matter as conventional wood stoves, about 12 times as much fine particulate matter as an EPA-certified wood stove, and 1000 times more than an oil furnace.

In addition to fine particulates, wood combustion emissions contain sulfur oxides, nitrogen oxides, carbon monoxide and potentially cancer-causing compounds including formaldehyde, polycyclic aromatic hydrocarbons, benzene and dioxins. Fine particulates can aggravate lung diseases such as asthma, emphysema and bronchitis. Children, the elderly and those with respiratory problems are most at risk from exposure to wood smoke.

In June 2007, the Maine Legislature enacted LD 1824, An Act To Regulate Outdoor Wood Boilers. This legislation established emission standards for new outdoor wood boilers starting in 2008 and also directed the Department to adopt rules related to outdoor wood boilers. "The rules must include provisions relating to siting, operation and labeling requirements, stack heights, dealer and manufacturer reporting, public notification of emission standards and operation and siting requirements, code enforcement officer training, nuisance conditions and existing inventory issues."

Chapter 150 establishes requirements for the sale and installation of new outdoor wood boilers, including particulate emission standards and requirements for setback and stack height, certification, sell-through of existing inventory, and labeling. The rule also contains general provisions which apply to all OWB. These provisions include prohibited and allowed fuels, visible emissions standards, notice to buyers, and owner manual requirements. In addition, pursuant to the new legislation, for the purpose of this rule, the Department included a definition of "nuisance" and a method by which a nuisance condition can be identified. Pursuant to 38 MRSA Section 610-B, Chapter 150 was adopted as emergency major substantive rules pursuant to Title 5, section 8073 and must be submitted to the Legislature for review by January 15, 2008.

BASIS STATEMENT FOR AMENDMENT OF MAY 15, 2008

In April 2008, the Maine Legislature enacted Resolve Chapter 190, Regarding Legislative Review of Portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Air Quality Control. This legislation requires amendments to Chapter 150 in several areas: 1) clarifying that in order to be eligible for the sell-through exemption contained in the rule the outdoor wood boiler must have been purchased, paid for in full and in the State of Maine prior to April 1, 2008; 2) authorizing the optional use of setbacks from neighboring dwellings for the installation of new outdoor wood boilers; and 3) requiring that setbacks from state licensed school, daycare or healthcare facilities conform to the general setback requirements.

BASIS STATEMENT FOR AMENDMENT OF MARCH 19, 2009

In April 2008, the Maine Legislature enacted Resolve 2007, Chapter 190, *Regarding Legislative Review of Portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Air Quality Control*. This legislation requires the Board of Environmental Protection to adopt rules by April 1, 2009 to control the sale, installation, use and siting at residences and businesses of outdoor wood boilers that combust biomass pellets as a fuel source.

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. Approval by the Town Attorney of the document(s) conveying any land, improvements, or easements to the Town.
7. 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.

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.

Rural Business Design Guidelines

Section I: Purpose

The general purpose of this Guide is to aid the Municipal Staff and Planning Board in the planning, design and re-design of business development site proposals so as to enhance and unify the rural character of the Rural District while avoiding monotony and repetition. These standards are intended to foster sound, functional, attractive and quality development in the rural areas of Town. The provisions hereof shall be liberally construed in favor of the town and shall be considered as minimum requirements for business development within the Rural District of the Town.

Section II: Scope

It is not the intent of this Guide to repeal, abrogate, annul, impair or interfere with any existing easements, covenants or agreements between parties or with the rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this Guide in any way imposes greater standards than are required by other rules, regulations, or permits or by easements, covenants, or agreements, the provisions of this Guide shall prevail.

Section III: Rural Business Development

A. Area

The Rural District is depicted on the Official Zoning Map of the Town of Hampden.

B. Intent

Approved commercial development within the Rural District shall maintain a rural theme in its design, which emphasizes the rural surroundings and historical origins of the area. The Rural District shall encourage and provide for small business, office, and light manufacturing development while ensuring safe convenient pedestrian access and quality visual appearances as that of a "rural landscape".

Section IV: Design Standards for Rural Business Development

A. Applicability

The following design standards are implemented in the Rural District of the community. These standards shall apply to all development and re-development of business and office developments within the District boundaries.

B. Buildings

Buildings shall be constructed to be harmonious with their natural and built surroundings while avoiding repetition and monotony. Building designs shall utilize materials that reflect a rural character. Cedar or clapboard siding, stone and brickwork or other comparable materials that achieve the same quality in appearance are acceptable. Aluminum and vinyl siding shall be prohibited. New buildings shall correspond in height, width, proportion, relationship to street, roof forms, composition, rhythm, proportion of openings, materials and color to other buildings in the district. All designs are subject to site plan review and approval by the Planning Board. Plans shall show elevations of structures to either side of the proposed structure, and must show the compatible scale.

Floor heights on main facades shall appear visually in proportion to those of adjoining buildings. There shall be no more than one story difference between a new building and those on either side. New buildings shall reflect the characteristic rhythm of facades along the street. If the site is large, the mass of the façade can be broken into a number of smaller bays. The characteristic proportion (relationship between height and width) of existing facades shall be maintained. Business-type buildings should be closer to the front lot line with less setback not to exceed that of existing structures.

The Planning Board may approve designs which present variations on the standards expressed in this section if it is found that:

- a. The proposed design sets an exceptional standard whose design, quality, longevity, durability and value will equal or exceed that which these standards endeavors to promote, and
- b. The proposed design will not create substantial detriment to adjacent properties, and
- c. The proposed design will not establish an undesirable precedent.

A quality design that maximizes the value of the proposed project, while protecting or enhancing neighborhood values is required. Four sided architecture that utilizes similar building materials and design for all sides of a proposed structure is required.

C. Roofs:

Mansards, lean-to, gambrels or other roof shapes not characteristic of the architectural area shall not be allowed. Rolled roofing, tar and gravel and other similar roofing materials are prohibited except that such materials may be used on flat or slightly sloped roofs which are not visible from the ground.

D. Colors

Colors utilized in the project design shall be non-fluorescent. Earth tones such as grays, browns, greens and tans are encouraged. However, all proposed color schemes shall be reviewed on their individual merit based upon building design, building materials, longevity of color choice(s), and statement in relation to overall theme, character, and color of adjacent structures, mass/size of the proposed and adjacent structure(s), and unity with existing structures on the project site.

E. Parking Areas

Parking areas shall be located to the side or behind buildings. The perimeter of the parking lot shall provide for a lawn area in which trees (planted at a maximum spacing of 20 feet) and shrubs will be planted so as to allow ample snow storage capacity yet avoid damage to plantings from same. Parking shall meet the requirements of *(Reference appropriate standards within Zoning Ordinance.)*

F. Landscaping

Landscaping shall be designed to complement the built and natural environment of the subject project and adjacent sites. Existing tree lines should be preserved. If removal of existing tree lines is required due to its undesirable nature, new planting that results in no less of a screening effect shall be required when adjacent to residential uses. Landscaping and buffering shall meet the requirements of *(Reference appropriate standards within Zoning ordinance.)*

G. Signage

Signage shall be designed in unity with the building design through the use of the same or similar materials and colors. Ground, monument signs, or wall mounted signs made of wood, hanging from a wooden or wrought iron mount area acceptable. Signs that suit the architectural features of the building are acceptable. Neon tubed exterior accent light, external neon tubed signs and internally illuminated signs are not permitted. Signage shall meet the requirements of *(Reference appropriate standards within Zoning Ordinance.)*

H. Lighting

Lighting shall be down cast, zero degree tilt, cutoff, high pressure sodium fixtures not exceeding 15 feet in height (including light pole base and/or pedestal). Lighting shall be positioned so as not to cause glare on adjacent properties and streets. Site lighting marking the entrance to businesses shall complement proposed lighting design. Site lighting shall meet the requirements of *(Reference appropriate standards within Zoning Ordinance.)*

Uniform, decorative street lighting that promotes the character of the area and adds aesthetic value shall be used. A black, cast iron, fluted post with a simple lantern is ideal. (See sample in Section)

I. Cross Access

Cross access to and between neighboring business/commercial properties shall be implemented whenever possible. The goal in this requirement is to remove as much as possible incidental site traffic thus reducing the possibility of traffic conflicts and accidents. Cross access drives may be either the interconnection of parking lots or the construction of separate drives. In either case, minimum drive aisle widths should be no less than 24 feet.

J. Corporate Identity

Corporate identity shall not be prohibited. Corporate identity shall be apparent yet reserved in its display. The driving factor in the design of the facility/business site shall be the criteria as expressed in these standards.

Section V: Illustrations

The photographs below illustrate sound and appropriate commercial design within the Rural District:



HAMPDEN PUBLIC SAFETY
Code Enforcement Division
106 Western Avenue
Hampden, Maine 04444
Phone 207-862-4500
Fax: 207-862-5067



Memo

Date: October 4, 2007
To: Susan Lessard, Town Manager
From: Ben Johnson, Code Enforcement Officer
Subject: Zoning Ordinance Language Regarding Level of Completion
Necessary for Building Permit & Certificate of Compliance Issuance

In recent months I have been encountering an issue with an element of the Zoning Ordinance regarding issuance of building permits for lots in Planning Board approved subdivisions.

The Zoning Ordinance, Section 5.3.1.8, states that a building permit may be issued when certain improvements have been completed. The previous Public Works Director construed these improvements to equate to approximately 80% road completion. As a matter of course, over the years I have relied on the Public Works Director to let me know when the subdivision construction has reached this "80%" threshold. Once I get the word from the Public Works Director that the subdivision has reached the 80% threshold I can begin issuing building permits.

The problem, and the reason I am writing this memo, is that there seems to be a disconnect between the point when I am able to begin issuing building permits and the language regarding when I am able to issue a full Certificate of Compliance for the structure.

The Zoning Ordinance, Section 5.3.2.5. states that a Certificate of Compliance shall not be issued for structures on subdivision lots until such time as the Town Council has accepted the road containing the frontage for the lot in question. This is where the problem arises. Developers seem to be scrambling to achieve the 80% completion threshold but then appear to be breathing a sigh of relief as though there is nothing else required of them in the short term.

This approach has been all too common in the past several years and has created numerous situations whereby an individual purchases a lot from the developer and has every assurance that the road will be completed in a timely manner (or by the time they expect to be moving into their house). The individual relies on this information and applies for a building permit to begin construction on the house. Several months later, when the individual completes the project and is asking the Town for a Certificate of Compliance they discover that the road (which they were assured by the developer would

be) has not yet been accepted by the Town Council and they are not eligible for a Certificate of Compliance

At a staff meeting several months ago we discussed this matter at length and the general consensus coming out of that meeting was that an Ordinance change may be in order. I feel that it is my responsibility to inform you and the Council when there appears to be a conflict with language contained in the Zoning Ordinance. I am asking that you please make the Council aware of this issue and submit this issue for referral to their Ordinance Committee for further review.

Respectfully Submitted.

Attachment

5.3.1.8. Building permits for structures located on subdivision lots shall not be issued until all public improvements, including placement of all property pins by a Professional Land Surveyor, and road construction with the possible exception of final paving are completed. Once these improvements are completed to the satisfaction of the Town designated engineering consultant, the Code Enforcement Officer may issue building permits, 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.~~