

Town of Hampden

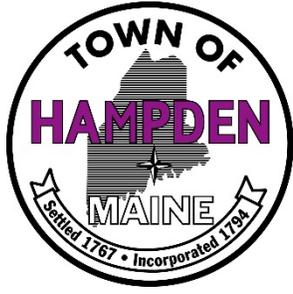
Planning Board

Wednesday November 9, 2016, 7:00 pm

Municipal Building Council Chambers

Agenda

1. Administrative
 - a. Minutes – October 12, 2016
2. Old Business – None
3. New Business
 - a. Public Hearing: Site Plan Review, Home Occupation. Scott Small proposes to operate a home occupation to sell artwork at his property at 104 Shaw Hill Road in the Rural District, Tax Map 7, Lot 63-A.
 - b. Discussion on Zoning Ordinance
 1. Home Occupation – proposed language to replace §4.10; creates tiered system to address various types of businesses conducted at a person's home.
 2. Use Table – discussion on draft table to replace paragraph sections throughout Article 3 listing permitted and conditional uses in all zoning districts.
4. Planning Board Comments
5. Adjournment



Town of Hampden

Planning Board

Wednesday October 12, 2016, 7:00 pm

Municipal Building Council Chambers

Minutes

In Attendance:

Planning Board

- Peter Weatherbee, Chairman
- Kelley Wiltbank
- James Davitt
- Michael Avery
- Eugene Weldon
- Joan Reilly
- Andrew Scott, Alternate

Staff & Others

- Karen Cullen, AICP, Town Planner
- Tim Brochu (for Southbranch LLC)
- Lee Cliff (of Southbranch LLC)
- Jim Kiser (for Emera Maine)
- Kevin Peterson (of Emera Maine)

Chairman Weatherbee called the meeting to order at 7:00 pm.

1. Administrative – minutes of September 14, 2016 meeting: One typo noted, “rage” should be “range” on page 2 under the Bog Road sketch plan. Approved as corrected upon motion by Member Davitt with second by Member Scott; 4/0/3 (Members Avery, Reilly, and Weldon not present at that meeting).
2. Old Business: none.
3. a. Public Hearing: Bog Road Final Subdivision Plan; Southbranch LLC proposes to subdivide 121.8 acres in the Rural District on Bog Road into 7 lots. The site is located on the north side of Bog Road and the west side of Souadabscook Stream and consists of three parcels: Tax Map 11, Lots 9, 10, and 3-A. No new roads or other infrastructure will be built; each new lot will have frontage on Bog Road.

Chairman Weatherbee read the hearing notice into the record and confirmed with Planner Cullen that the proper notice for the hearing had been given. He then opened the public hearing at 7:01 pm.

Tim Brochu of CES, representative for owner Lee Cliff (Southbranch LLC) stated he had presented the sketch plan last month and then described the application: subdividing three existing parcels into seven lots, one has about 100 acres and the remaining six range in size from about 2.5 to 3.5 acres. All the lots meet the minimum standards and have land area suitable for installation of a well and a septic system. There will be no new roads or other infrastructure, all lots have frontage on Bog Road and each will have a well and septic system. Tim said he

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had received comments from Planning and has addressed those in revised plans submitted tonight.

There being no other speakers on the application, Chairman Weatherbee closed the hearing at 7:03 pm.

Member Avery asked what the changes to the plan were; Planner Cullen stated they were adding the abutters to the property across Bog Road, correcting the notation of the shoreland zoning district (from “general development” to “limited residential”) and submitting the Secretary of State’s registration information for Southbranch LLC. The Board reviewed the plan submitted tonight. Karen Cullen noted the plan is in compliance with the requirements and is ready for action by the Board.

Motion by Member Weldon to determine that the application is complete and to approve the Bog Road Subdivision as submitted and as detailed in the Planning Board Order; seconded by Member Scott. Motion carried 7/0/0.

Chairman Weatherbee noted that the Board will sign the plan and order at the conclusion of the meeting tonight.

b. Public Hearing: Site Plan Review – Emera Maine proposes a solar array for electric generation on a 3.7 acre area of their site located at 28 Penobscot Meadows Drive, Tax Map 10, Lot 40A. This parcel is in the Industrial Park district.

Chairman Weatherbee opened the hearing at 7:07 pm, read the hearing notice into the record, and confirmed with Planner Cullen that the official notice had been given.

Kevin Peterson of Emera Maine described the proposal: a solar array to provide up to 640kW AC to provide power to the operations center. There will be battery storage to extend the use of the power generated beyond daylight hours, and it is designed to allow the power to be switched on or off the grid at any time. The arrays are located in open areas of the site, and will be mounted on poles, some will be fixed and some will be tracking to follow the sun across the sky to maximize power generation.

There being no other speakers, Chairman Weatherbee closed the hearing at 7:09 pm.

The Board then discussed the application; the following issues were addressed:

- Due to the location of the array and existing tree lines, the public won't see the array.
- About 80 percent of the power needed to run the operations center will be generated by the arrays.
- The arrays will be roughly 10 feet high; the heights will vary depending on the terrain and whether they are fixed or tracking. As such, none will extend above the tree line.
- Glare to abutters across the railroad tracks or to train drivers should not occur based on the existing trees, the height of the arrays, and the angle of the arrays. It was noted that in the event glare ever does become an issue, some sort of screening may be needed to mitigate the glare.
- Jim Kiser, representing Emera Maine, noted that they are also asking the Board to eliminate the staggered line of pine trees that were shown along the boundary line with the railroad on the site plan for the previous phase that was approved by the Planning Board in 2015. This request is being made to prevent future shading of the arrays. He noted the original subdivision plan required a 50 foot buffer in this area, which is not impacted by this proposal.
- While not a requirement since the site is not within the FAA's jurisdictional area for the Bangor airport, Jim Kiser noted that they had the FAA review the plan to ensure there would not be an issue with glare to pilots; the FAA had no problem with the plan.
- Impervious area is based on the impervious elements on the ground surface and not on the area of the arrays, since the ground under the arrays will be grassed and will allow infiltration of precipitation. Jim Kiser noted this is how Maine DEP handles this, and nothing in local ordinances requires otherwise.
- Discussion regarding whether these are structures subject to setbacks or not, some members of the Board felt they are while the Code Enforcement Officer had determined they are not. At issue is the area of the arrays on the northeast boundary with the adjacent parcel, which is also owned by Emera Maine. After extensive discussion a compromise was made, the applicant will add notations to the plan indicating that the area in question (50 feet into the abutting parcel along the line of the arrays) is to be considered a buffer, and in the event the parcel is developed in the future it will be converted to a setback.

Motion by Member Weldon to approve the Emera Maine Solar Array site plan as submitted and as detailed in the Planning Board Order, with the following conditions:

1. That the staggered row of pine trees shown on the previously approved site plan along the boundary with the railroad line be eliminated to prevent future shading of the solar arrays. In the event that glare becomes an issue in the future, the Planning Board reserves the right to request that the owner of the solar array add screening to mitigate the glare.
2. That the area along the northeast boundary where the arrays extend into the setback (said area being roughly 280 feet along the boundary with parcel 10-0-042-F starting 50 feet from the southernmost corner of that parcel and extending 50 feet into that parcel) be noted on the plan with shading and a note stating that it is considered to be a buffer and that in the event the solar panels or their support system are deemed to be structures, then this area will become a setback and the boundary between the two parcels will be modified accordingly to include this area within the operations center parcel (10-0-040-A).

The motion was seconded by Member Scott. Motion carried 7/0/0.

- c. **MRC/Fiberight Project Update:**
Planner Karen Cullen reported that nothing has been received by the project proponent regarding potential modifications to the Planning Board Order for this project. The memo submitted in the packet for tonight speaks for itself and is all we have at this point. If the proponent submits a request for modification it will be brought to the Planning Board at the next available meeting.
4. **Planning Board Comments:**
Chairman Weatherbee noted that the reports on the two applications heard tonight are an official part of the record.

The meeting was adjourned at 8:28 pm by motion of Member Weldon with second by Member Avery; motion carried 7/0/0.

Respectfully submitted by Karen Cullen, Town Planner

Materials reviewed at the meeting:

- Application, Report from Planner Cullen, draft Planning Board Order, and revised subdivision plan for Bog Road final subdivision
- Application, Report from Planner Cullen, and draft Planning Board Order for Emera Maine site plan
- Memorandum from Planner Cullen – Project Update on MRC/Fiberight (including Oct. 3, 2016 letter from CES to Town Manager Jennings)

Town of Hampden
Land & Building Services



Report on Application
Home Occupation Permit
Scott Small Artist Studio, Retail Sales

To: Planning Board
From: Karen M. Cullen, AICP, Town Planner *KME*
Date: November 1, 2016
RE: Report on Home Occupation Application for Scott Small

Project Information

Applicant: Scott Small
Site Location: 104 Shaw Hill Road
Zoning District: Rural
Proposal: Operate a retail sales business to sell own original artwork to the general public; open one day per week.

I have reviewed this application for a home occupation and have determined it to be in compliance with the requirements of Section 4.10, Home Occupation Permit, of the Zoning Ordinance.

The application, sketch plan (revised copy of plot plan submitted in 2014 for building permit to construct the studio building), and correspondence including photographs of the studio building are attached to this report for your review. In addition, a draft Order (decision) is also attached for your review.



HOME OCCUPATION PERMIT APPLICATION

Please note that this application must be submitted with plans in conformance with Section 4.1 and 4.10 the Hampden Zoning Ordinance. *Incomplete applications will not be processed. All fees must be paid for application to be processed. Proper number of copies of application must be submitted in order to be processed.* All town ordinances are available at www.hampdenmaine.gov for review.

Date: 9/27/2016

APPLICANT:

Name: Scott Small

Address: 104 Shaw Hill Road

Phone: 207-370-2223 Cell: 207-735-7763 Email: scottsmall@scottsmallart.com

AGENT:

Name of agent or representative: _____

Address: _____

Phone: _____ Cell: _____ Email: _____

THE SITE:

Location of site: 104 Shaw Hill Road Hampden tax map and lot number: 07-0-063-A

Zoning district: Rural Existing use of property: Home work studio

Legal interest in the parcel: Scott L. Small

Owner of parcel if other than applicant: _____

Owner's address: _____

PROPOSED PROJECT:

Proposed use of property: 500 sq. ft. to sell sculptures & paintings
(Please include floor area per use, seating if applicable, and land area).

Proposed starting date: Oct. 15, 2016 Final completion date: Nov. 15 2016

(APPLICATION CONTINUES ON REVERSE SIDE.)

Will your project result in more than one acre of disturbed land area? Yes No.

If yes, you are required to obtain either a Construction General Permit or Stormwater Permit by Rule from the Maine Department of Environmental Protection. If you are in the Urbanized Area of Town and discharge stormwater to the Municipal Separate Storm Sewer System (MS4) a Post-construction Stormwater Management Application shall be submitted to the Town pursuant to the Town of Hampden Post-construction Stormwater Management Ordinance.

FEES: Application fee is: \$75.00 for structures under 3,000 sq. ft. and total site improvements under 5,000 sq. ft.; \$150.00 for structures between 3,000 and 20,000 sq. ft. and total site improvements under 50,000 sq. ft.; and \$500.00 for structures in excess of 20,000 sq. ft. and more than 50,000 sq. ft. of site improvements.

Application fee amount: \$75.00

Draw account contribution: The Town of Hampden requires applicants to provide \$600.00 for the Town to hire an engineer to review their plans and, if necessary, \$1,000.00 for an engineer to review their traffic analysis. Draw account contribution is: _____ (Any unspent portion of the draw account will be returned to applicant, however, if additional funds are required, applicant agrees to cover all costs that the Town of Hampden may incur. **Complete and accurate submissions require less time to review.**)

CERTIFICATION: By signing this form I certify that the information provided on these plans, text, and associated testimony is true and correct. I certify that all site improvements will be constructed in strict conformance with Planning Board approved plans. Furthermore, I acknowledge that if the constructed site improvements are not built in accordance with the zoning ordinance and Planning Board approved plans that I am obliged to take corrective action that may include obtaining a revised Planning Board approval or the removal of non-conforming uses and structures and site improvements. (Agents that lack authority to certify said items should not sign this form.)

Signature: Scott Small Date: 9/29/2016

OFFICE USE ONLY

Date received: 9/29/16 Date complete: _____

Fees paid: Amount/Date: 7500 9/29/16 Draw paid: Amount/Date: _____

Conditional Use determination: _____

Planning Board action: _____ Date: _____

Conditions: _____



Karen Cullen <planner@hampdenmaine.gov>

photos of Scott Small building

1 message

Scott Small <scottsmall@scottsmallart.com>

Tue, Oct 4, 2016 at 12:28 PM

To: planner@hampdenmaine.gov

Karen, attached are the photos you requested. The plan for this building is to show paintings and sculptures to sell. I would like to be open one day a week from 9 am to 5 pm. Art is a very hard thing to sell. I don't expect much traffic. I would like to have the opportunity for the public to see my work. I hope the pictures and explanation will allow me to sell on my property. Sincerely, Scott Small





Karen Cullen <planner@hampdenmaine.gov>

New pavement for Scott Small

1 message

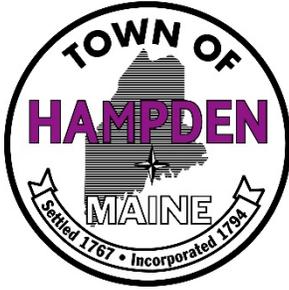
Scott Small <scottsmall@scottsmallart.com>
To: Karen Cullen <planner@hampdenmaine.gov>

Wed, Oct 5, 2016 at 1:12 PM

Karen, I have new pavement for parking at my studio. The driveway is complete. I am attaching the photos. - Scott Small







Town of Hampden
Land & Building Services

Planning Board Order
Home Occupation Permit – Scott Small

Approval Date: November 9, 2016

Project Name: Scott Small Artist Studio – Retail Sales

Location of Project: 104 Shaw Hill Road

Assessor's Reference: 07-0-063-A

Deed Reference: B4911/P349

Zoning District: Rural

Total Acreage: Approximately 3.18 acres

Type of Use: Artist studio; use 500 square feet for retail sales of own artwork

Building Area: 600 square feet

Applicant: Scott Small
104 Shaw Hill Road
Hampden, ME 04444

Owner: Same as Applicant

Plans Prepared by: Applicant

Plans Dated: NA

Application Date: September 29, 2016

Public Hearing: November 9, 2016

*PB Members:*¹ Peter Weatherbee, Michael Avery, Kelly Wiltbank, James Davitt,
Morton Syversen, Eugene Weldon, and Joan Reilly

PB Action: _____. This Home Occupation Permit is approved under Section
4.10 of the Hampden Zoning Ordinance.

¹ Planning Board Members who were appointed to vote on this case.

Summary Description of Application: This application is to allow retail sales of the applicants artwork to the general public at his existing studio located on his property on Shaw Hill Road. Mr. Small's proposal is to open to the public one day a week from 9 am to 5 pm. There is off-street parking available for at least two cars.

Findings: After the public hearing duly noticed and held, the Hampden Planning Board made the following findings as required by Section 4.10 of the Hampden, ME Zoning Ordinance:

1. The proposed home occupation will be conducted by a resident of the property and there will be no non-resident employees.
2. The proposed home occupation is subordinate to the residential use of the property, it is located in an accessory building and occupies less than 50% of the total finished floor area of the residence (500 sq. ft. versus 1,440 sq. ft.).
3. The proposed home occupation will not alter the appearance of the property from that of a single family residential property, and will not create emissions or impacts to abutting properties, nor will it create fire or other hazards to abutting properties.
4. The proposed home occupation will comply with the sign requirements of the Zoning Ordinance.
5. The proposed home occupation will provide for adequate and safe ingress and egress to the studio building from the street, provides two parking spaces, and will not create more than ten trips by customers in any one day.
6. The proposed home occupation will not use commercial vehicles in excess of $\frac{3}{4}$ ton capacity.
7. The proposed home occupation will not cause an increase in the use of utilities or public facilities beyond that of a typical single family residential property.

Based on these findings, the Hampden Planning Board voted _____ to approve the Home Occupation Permit for Scott Small to open his studio for retail sales to the general public as previously described.

For the Hampden Planning Board:

Peter Weatherbee, Chairman

Date

Michael Avery

Kelly Wiltbank

James Davitt

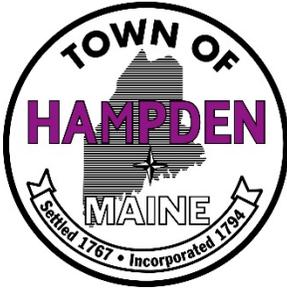
Morton Syversen

Eugene Weldon

Joan Reilly

Notes:

1. *A copy of this decision is on file with the Land & Building Services Office at the Town Offices, 106 Western Avenue, Hampden, ME 04444.*
2. *This decision is subject to appeal in accordance with Article 6 of the Hampden Zoning Ordinance within 30 days after the date this decision is made by the Planning Board.*



Town of Hampden
Land & Building Services

Memorandum

To: Planning Board
From: Karen M. Cullen, AICP, Town Planner *KMC*
Date: November 1, 2016
RE: Amendment to Zoning – Home Occupation

I have drafted new language for Section 4.10 of the zoning ordinance. The proposed language is based on language I had drafted for other communities in the past, revised to take into consideration the current language as well as the typical/likely home occupation uses in Hampden. It is very similar to language I had drafted for Ware MA, which is remarkably similar to Hampden in many ways.

This proposed language breaks the “use of residence for business purposes” into three categories which are meant to address the various types of business uses that typically occur in towns like Hampden these days:

- Home Business is a person running a business or working from home where there is no outward sign of any business activity being conducted at the property, e.g. artists, desktop publishers, telecommuters, certain types of contractors, etc.
- Customary Home Occupation is a business where there is an obvious business presence at the property, e.g. lawyer, accountant, beautician, real estate agent, etc.
- Home Based Contractor is someone (usually in the building or construction trades) who runs a small business from the residential property and has some equipment and/or material stored on the site for the business, e.g. cabinet maker, landscaper, plumber, etc. Larger businesses with many employees are supposed to be located in commercial or industrial districts as they are not secondary to a residential use.

By creating this tiered system, it is possible to have review and approval processes that make more sense for the type of business being proposed and also provide a better relationship (or rationale) between the business use and the regulations they are subject to. For example, it doesn't make a lot of sense to require someone who telecommutes for a full time job to go through a public hearing and provide a site plan sketch, since there would be no impact on abutters or the neighborhood from the business.

The Planning & Development Committee will be reviewing this on November 2, 2016, and depending on their comments, I would like to discuss it with the Planning Board or have the Board refer to the Ordinance Committee on November 9th. Assuming we move forward with this approach, I will be drafting the related amendments to relevant sections of the ordinance, such as 4.1, site plan review.

Proposed Home Occupation language:

- 4.10 Use of Residence for Business Purposes. There are three categories of businesses (including professions and trades) that may be conducted in or at a residence (dwelling) as an accessory use: a home business, a customary home occupation, and a home based contractor.
- 4.10.1 Home Business — A business, profession, or trade which is conducted by a resident of the premises entirely within the residence or an accessory building, and does not involve more than occasional business vehicular traffic to the property. Examples include but are not limited to artists, desktop publishers, software developers, craftsmen, contractors who only operate an office at the home, and people who work at home and conduct business by mail or electronic communication (including employees who telecommute). Home businesses are subject to the provisions of §4.10.4 and §4.10.5 below.
- 4.10.2 Customary Home Occupation — A business, profession, or trade which is conducted by a resident of the premises entirely within the residence or an accessory building, and involves an increase in traffic for clients, customers, patients, associates, or employees. Examples include but are not limited to lawyers, accountants, beauticians, professional consultants (such as mental health, design, and real estate), and small retail businesses not exceeding 300 square feet GFA. Customary Home Occupations are subject to the provisions of sections 4.10.4 and 4.10.6 below.
- 4.10.3 Home Based Contractor — A business which is conducted by a resident of the premises accessory to a residential use, but not entirely enclosed within the residence or one or more accessory buildings. Examples include but are not limited to building, plumbing, electrical, cabinetry, landscaping, and other similar contractors who perform their work off-site but use the residence as a base of operations including an office and small scale storage of equipment and materials. This category is meant to serve the needs of small businesses with limited space needs, with the expectation that once the business has grown to a larger size it will be moved to a more appropriate location in a commercial or industrial district. Home Based Contractors are subject to the provisions of sections 4.10.4 and 4.10.7 below.
- 4.10.4 General Requirements.
- 4.10.4.1 The activity must be operated by residents of the dwelling unit.
- 4.10.4.2 The activity must be clearly incidental and secondary to the primary use of the premises as a residence.
- 4.10.4.3 The activity must not change the character of the premises or surrounding neighborhood. There shall be no window displays or other features not normally associated with residential use.
- 4.10.4.4 If carried on within the principal residential structure, the activity shall not occupy more than thirty (30%) percent of the floor area. If carried on within an accessory structure the total floor area dedicated to the business use shall not exceed fifty (50%) percent of the total finished floor area of the principal residential structure.

- 4.10.4.5 The activity shall not cause sound, noise, odors, dust, gas, fumes, smoke, light or other dangerous emissions discernable or detectable from beyond the property line of the subject property, beyond that which is normally associated with residential use. In addition, no business activity shall be allowed which creates a fire hazard to the premises or neighboring premises or which creates electrical interference such that it causes visual or audible interference in any radio or television receivers off the premises. The applicant shall demonstrate that the proposed business activity will not interfere with the peaceful use and enjoyment of residential properties located in the area of the proposed use.
- 4.10.4.6 One (1) unlighted, unreflective sign no greater than four (4) square feet may be erected on the premises. Off-premises Official Business Directional Signs, as defined in 23 M.R.S.A. section 1903, are prohibited. *[Ed note: I'm not sure this is legal. From MRSA: "Official business directional sign" means a sign erected and maintained in accordance with this chapter, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services for the traveling public and points of scenic, historical, cultural, recreational, educational and religious interest. Other information may be displayed by means of logos authorized pursuant to section 1910.]*
- 4.10.4.7 No commercial vehicles in excess of 10,000 pounds gross vehicle weight (GVW) shall be used for the delivery of products, foods, or materials to and from the premises.
- 4.10.4.8 A permit shall be granted to a person or corporation and is not granted to run with the land nor is the permit transferable to a subsequent owner or renter.
- 4.10.5 Home businesses are permitted in all zoning districts without need for a special permit, but must conform to the following provisions in addition to those listed in section 4.10.4 above:
- 4.10.5.1 The business must be conducted entirely within the residence or an accessory building.
- 4.10.5.2 No non-resident employees are permitted on site.
- 4.10.5.3 There shall be no exterior display, no exterior storage of materials or equipment, no parking or storage of business vehicles or equipment greater than 10,000 pounds gross vehicle weight, and no other variation from the residential character of the premises other than a sign in conformance with §4.8, Signs.
- 4.10.5.4 The business shall not generate traffic that is inconsistent with the traffic associated with a single-family residence, either in quantity or type.
- 4.10.6 Customary Home Occupations are permitted in all zoning districts by conditional use permit, if in compliance with the following provisions in addition to those listed in section 4.10.4 above:
- 4.10.6.1 The business must be conducted entirely within the residence or an accessory building.

- 4.10.6.2 Not more than two non-resident people shall be employed in the business at the site.
 - 4.10.6.3 There shall be no exterior display, no exterior storage of materials or equipment, and no other variation from the residential character of the premises other than a sign in conformance with §4.8, Signs.
 - 4.10.6.4 No home occupation shall be approved or allowed to operate if it generates more than twenty (20) auto trips by customer/clients in any one day.
 - 4.10.6.5 The business shall not necessitate more than four parking spaces for clients, customers, patients, non-resident employees, or other business related demands. Required parking must be accommodated off-street, and new parking areas must be screened from the view of abutters and from public ways (streets or pedestrian ways) utilizing vegetation, fencing, and/or topography. To the extent practical, parking areas should be located at the side or rear of the residence or accessory buildings.
- 4.10.7 Home Based Contractors are permitted by conditional use permit, if in compliance with the following provisions in addition to those listed in section 4.10.4 above:
- 4.10.7.1 The parcel on which the business is operated is within the Rural district.
 - 4.10.7.2 The parcel must be a minimum of two acres in size.
 - 4.10.7.3 Not more than eight vehicles associated with the business (maximum of four construction equipment such as loader/backhoe, skidder, etc.) shall be parked at the site at any given time, including employee vehicles and construction vehicles, but excluding personal vehicles not typically used for the operation of the business.
 - 4.10.7.4 The activities related to the business may be conducted in part outdoors, but all such activities, equipment, and storage shall be substantially and permanently screened from the view of abutters and from public ways by buffers such as vegetation, fences, and/or topography.
 - 4.10.7.5 No more than 25% of the parcel, exclusive of areas covered by buildings, shall be used for business activities, including outdoor storage or parking.
 - 4.10.7.6 The total square footage of buildings used for storage or garaging of vehicles or equipment associated with the business shall be no greater than 2,000 square feet. This shall not be construed to mean that a greater number of vehicles may be parked at the site than is permitted above.
 - 4.10.7.7 The Planning Board shall take into consideration the road network serving the proposed business location in regard to safety of the residents of the vicinity and the types of vehicles to be used by the business, including delivery trucks, and the projected number of trips to and from the site each day.

4.10.8 Application Procedure

- 4.10.8.1 Applicants for a Home Business shall submit a request to the Land & Building Services office on the form provided, for review by the Code Enforcement Officer. If the he/she determines that the proposed business meets the criteria of this category, then he/she shall sign the form stating that the proposed home business does not require approval under sections 4.10.6 or 4.10.7 (i.e. a conditional use permit is not required).
- 4.10.8.2 Applicants for a Customary Home Occupation or a Home Based Contractor shall submit an application for a conditional use permit to the Land & Building Services office. A sketch plan as described in section 4.1 shall be submitted along with the application form.
- 4.10.8.3 Applicants shall demonstrate that they have adequate right, title and interest in a property in order to apply for a Home Business, Customary Home Occupation, or Home Based Contractor.
- 4.10.8.4 Additional Conditions Necessary for Approval of Home Occupations. If in the judgment of the Planning Board additional improvements or safeguards are necessary in order to make a proposed home occupation safe, sanitary or less intrusive in a neighborhood the Board may place conditions on the approval of the home occupation that further limit the operation of the business, provide for screening or buffer yards, or improve traffic safety. (Amended: 03-21-05)
- 4.10.9 Alterations to Land and Buildings of Previously Approved Home Occupations. If additions or alterations have been constructed, or are proposed for construction to primary use residences or to accessory use buildings which in the opinion of the Code Enforcement Officer significantly alter a Planning Board approved home occupation the Code Enforcement Officer shall require that the home occupation use seek a revision from the Planning Board. In order to determine if the alterations or additions alter the approved Home Occupation the Code Enforcement Officer shall review the municipal documents on file including the minutes of the Board meeting at which the Home Occupation was approved. The Code Enforcement Officer shall not issue a building permit or certificate of compliance for such additions or alterations that have not received Planning Board Home Occupation permit approval unless the applicant surrender the home occupation permit and or conditional use/site plan home occupation use approval in writing. (Amended: 03-21-05)
- 4.10.10 Discontinuation and Abandonment of a Legacy Home Occupation. If a home occupation, created under the provisions of the Ordinance prior to January 1, 2005, has been discontinued or abandoned for a period of 12 months the home occupation use may not be re-established without first receiving a Home Occupation Permit under the provisions of Article 4.10 of this ordinance. The Code Enforcement Officer shall have authority to issue a determination that the use has been discontinued or abandoned for a 12-month period. (Amended: 03-21-05)



Town of Hampden

Memorandum

To: Planning Board
 From: Karen M. Cullen, AICP, Town Planner *KMC*
 Date: November 1, 2016
 RE: Zoning Ordinance - Uses

As you are aware, Hampden's Zoning Ordinance is organized by district, with the permitted uses and conditional uses listed out in paragraph form. This format does not allow readers to easily see what uses are permitted or prohibited within a single district, nor does it allow readers to see how uses are handled across the fifteen districts.

A common format for listing the uses permitted by right, conditional use, or are prohibited is within a table which lists the uses down one side and the districts across the top, and includes codes to specify whether the use is permitted by right, permitted subject to site plan review, permitted by conditional use approval, or not permitted for each district. I am drafting such a table for Hampden, based on the existing Zoning Ordinance (i.e. no modification to content, just format).

I presented a draft of this table to the Planning & Development Committee on October 19th, and it was well received; they have directed me to continue working toward a use table to replace the current paragraph format for uses. As you will see there are some oddities in the table that may prompt some desired changes beyond combining listed uses that are essentially the same. As we move through the process there may be other substantive changes to the uses allowed in each of the districts to address desired future uses. I am including the draft of the table in your packet but expect to have another draft ready by the 9th which I will bring to the meeting.

Key: P = Permitted by Right, S = Permitted by Right but subject to Site Plan Review, C = Conditional Use, "-" = Not Listed, and ① means there is some inconsistency within the ordinance.

Defined	Residential Districts				Business Districts									Industrial Districts		
	Rural	Res A	Res B	Seasonal	Rural Bus	Bus	Bus B	Village Com	Village Com II	Comm Service	Water-front I	Inter-change	Ind Park	Ind	Ind 2	
Agricultural/Recreational Uses:																
✓ agriculture	P	-	-	P	-	-	-	-	-	-	-	-	-	-	①	
agric product processing when not accessory to agric use	C	-	-	-	-	-	-	-	-	-	-	-	-	-	①	
forestry	P	-	-	P	-	-	-	-	-	-	-	-	-	-	①	
✓ commercial nursery	C	-	-	-	-	-	-	-	-	-	-	-	-	-	①	
boarding of animals, including training and grooming	C	-	-	-	-	-	-	-	-	-	-	-	-	-	①	
veterinary hospital	C	-	-	-	-	-	-	-	-	-	-	-	-	-	①	
non-commercial park or playground	-	P	P	P	-	-	-	-	-	-	-	-	-	-	-	
public and non-profit recreational facility	-	-	-	S	-	-	-	-	-	-	-	-	-	-	-	
private recreational facility	-	-	-	C	-	-	-	-	-	-	-	-	-	-	①	
indoor recreational facility	C	-	-	-	-	-	-	-	C	-	-	S	-	-	①	
✓ outdoor recreational facility	S	-	-	-	-	C	-	-	-	S	S	C	-	-	①	
golf course	S	-	-	-	-	-	-	-	-	-	-	-	-	-	①	
✓ campground	C	-	-	C	-	-	-	-	-	-	-	-	-	-	①	
water recreational facility	-	-	-	C	-	-	-	-	-	-	-	-	-	-	①	
buildings and parking for recreational facilities	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
community recreation organization	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	
Residential Uses:																
single family dwelling	P	P	P	-	C	P	P	P	P	p ¹⁵	-	p ¹⁷	-	-	-	
✓ certified manufactured home	P	p ²⁶	P	-	-	p ²⁶	p ²⁶	p ²⁶	p ²⁶	-	-	-	-	-	-	
seasonal dwelling	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	
two-family dwelling	P	C ²	-	-	C	P	-	P	P	-	-	-	-	-	-	
three family dwelling	S ¹	-	-	-	-	S	-	C	S ¹⁴	-	-	-	-	-	-	
four family dwelling	S ¹	-	-	-	-	S	-	C	S ¹⁴	-	-	-	-	-	-	
✓ multi-family structure	-	-	S ⁴	-	-	-	-	-	S ¹⁴	-	-	-	-	-	-	
✓ multi-family attached structure	-	-	S	-	-	-	-	-	-	-	-	-	-	-	-	
✓ cluster subdivision (cluster development)	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
✓ mobile home park	C	-	S	-	-	-	-	-	-	-	-	-	-	-	-	
living quarters for security personnel	-	-	-	-	-	-	-	-	-	-	-	-	C	C	C ^{22, 23}	
Uses Accessory to Residential Uses:																
✓ home day care	P	P	P	-	-	-	-	P	-	-	-	-	-	-	-	
✓ home occupation	S	S	S	-	S	S	S	S	-	-	-	S	-	-	-	
✓ customary rural business	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
✓ animals other than usual pets	-	C ³	C ³	-	-	-	-	C ³	-	-	-	-	-	-	-	
Educational Uses:																
✓ daycare facility	C	-	C	-	-	-	C	C	-	-	-	-	S ¹⁹	-	-	
✓ child care center	C	-	C ³	-	-	-	C	-	-	-	-	-	-	-	①	
✓ preschool	-	-	-	-	-	-	C	C	-	-	-	-	-	-	①	
non-profit school	C	C	C	-	-	-	-	-	-	-	-	-	-	-	-	
✓ public school	C	C	S	-	-	-	-	-	-	-	-	-	-	-	-	
commercial school	-	-	-	-	-	C	C	-	C	C	C	-	-	-	①	
Medical Uses:																
✓ nursing home	C	C	C	-	-	C	C	C	-	-	-	-	-	-	-	
✓ congregate care facility	-	C	S	-	-	-	-	-	-	-	-	-	-	-	-	
✓ elderly housing	-	-	S	-	-	-	-	-	-	-	-	-	-	-	-	
hospital or clinic	C	-	-	-	-	-	-	-	-	-	-	-	-	-	①	
✓ medical marijuana registered dispensary	-	-	-	-	-	-	-	-	-	C	-	-	C	C	-	
✓ medical marijuana cultivation facility	-	-	-	-	-	-	-	-	-	C	-	-	C	C	-	
✓ methadone clinic	-	-	-	-	-	-	-	-	-	C	-	-	C	C	-	
Utility/Government Uses:																
✓ essential service	S	S	S	S	S	S	S	C	S ¹⁴	S	S	S	S	S	S ²³	
buildings necessary for essential service	C	C	C	C	C	C	C	C	C	S	S	C	S ¹⁹ /C ²¹	C	S ²³	
public or private utility service providers and their related operation, service, and maintenance activities	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	
✓ wireless communications facilities	S	-	-	-	S	-	-	-	-	-	-	S	S	S	S ²³	
government and institutional uses	-	-	-	-	-	-	-	-	-	-	-	-	S ¹⁹	-	①	
government structure or use except for storage or repair facility	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	
✓ community facility (including solid waste)	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
✓ community facility	-	-	C	-	-	S	C	C	S ¹⁴	-	-	-	-	-	-	
✓ community building	-	C	C	-	-	-	C	-	-	-	-	-	-	-	-	
Institutional Uses:																
church	C	C	C	-	-	C	C	-	-	C	-	-	-	-	-	
non-profit club	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
community service organization	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	
✓ institutional buildings in excess of 35' in height	-	-	C	-	-	-	①	-	-	-	-	-	-	-	-	
cemetery	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Commercial/Office Uses:																
✓ retail sales	-	-	-	-	①	S	S	S/C ⁹	S ¹²	S	S	S	S ²⁰	S/C ²⁴	①	
"other retail uses"	-	-	-	-	C	①	①	①	①	①	①	①	①	①	①	
grocery/superette store	-	-	-	-	S	①	①	①	①	①	①	①	①	①	①	
drug store	-	-	-	-	S	①	①	①	①	①	①	①	①	①	①	
gift shop	-	-	-	-	-	①	①	①	①	①	①	S	①	①	①	
✓ service business	-	-	-	-	①	S	S	S/C ⁹	S ¹⁴	S	S	S	-	-	①	
office and service business	-	-	-	-	-	-	-	-	-	-	-	-	S ¹⁹	-	①	
✓ business or professional office	-	-	-	-	S	S	S	S/C ⁹	S ¹⁴	S	S	S	-	-	-	
automotive uses	-	-	-	-	C ⁶	①	①	-	-	①	-	①	-	-	①	
✓ automobile service	-	-	-	-	①	C	①	-	-	S	-	①	-	-	①	
automobile and truck sales and service	-	-	-	-	①	①	C	-	-	①	-	①	-	-	①	
automobile and truck service station and repair facility	-	-	-	-	①	①	①	-	-	①	-	S	-	-	①	
reconstruction, replacement, or expansion of existing automobile service business	-	-	-	-	-	-	-	-	C	-	-	-	-	-	①	
boat sales, service, and storage	-	-	-	-	-	-	-	-	-	-	S	-	-	-	①	
bed & breakfast	-	-	C ⁵	-	-	-	-	-	-	-	-	-	-	-	-	
✓ motel	-	-	-	-	C	C	C	-	C	S	S	S	-	-	①	
✓ hotel	-	-	-	-	C	C	C	-	C	S	S	S	-	-	①	
restaurant	-	-	-	-	C	①	①	①	①	①	①	①	①	①	①	
✓ take-out restaurant	-	-	-	-	-	S	S	S ¹⁰	S	S	S	S	S	S	S ²³	
✓ small restaurant	-	-	-	-	-	S	S	S ¹⁰	S	S	S	S	S ¹⁹	-	①	

Key: P = Permitted by Right, S = Permitted by Right but subject to Site Plan Review, C = Conditional Use, "-" = Not Listed, and ① means there is some inconsistency within the ordinance.

Defined	Residential Districts				Business Districts								Industrial Districts		
	Rural	Res A	Res B	Seasonal	Rural Bus	Bus	Bus B	Village Com	Village Com II	Comm Service	Water-front I	Inter-change	Ind Park	Ind	Ind 2
✓ sit-down restaurant	-	-	-	-	①	C	C	C ¹⁰	C	S	S	S	S ¹⁹	-	①
✓ fast-food restaurant	-	-	-	-	①	C	C ⁸	C ¹¹	C	C ⁸	-	C ⁸	-	-	①
✓ outdoor dining restaurant	-	-	-	-	①	C	C	C ¹⁰	C	C	C	C	-	-	①
✓ tavern (tavern, neighborhood)	-	-	-	-	-	C	C	C ¹⁰	C	C	C	C	-	-	①
✓ bar	-	-	-	-	-	-	-	-	-	C	C	C ¹⁸	-	-	①
bar in conjunction with hotel or conference center	-	-	-	-	-	-	-	-	-	-	-	-	S ¹⁹	-	①
✓ dance hall	-	-	-	-	-	-	-	-	-	C	C	C ¹⁸	-	-	①
places of assembly such as hotel and conference center	-	-	-	-	-	-	-	-	-	-	-	-	S ¹⁹	-	①
✓ place of assembly	-	-	-	-	-	C	C	C	S ¹⁴	S	S	-	-	-	-
funeral home	-	-	C	-	-	-	C	-	-	-	-	-	-	-	①
self-service laundromat	-	-	-	-	S	-	-	-	-	-	-	-	-	-	①
✓ drive-thru business	-	-	-	-	-	C	C	C	C	C	-	-	-	-	①
mixed residential/commercial use	-	-	-	-	-	C ⁷	C ⁷	C ⁷	S ¹³	-	-	-	-	-	-
outdoor storage of articles, goods, or materials	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-
buildings in excess of 35' in height	-	-	①	-	-	-	C	-	-	-	-	-	C	C	-
Industrial Uses:															
✓✓✓ processing & excavation, gravel pit, quarry activities	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-
stockpiles not accessory to excavation, gravel pit, or quarrying	C	-	-	-	C	C	-	-	-	C	C	C	C	C	C ²³
wholesale distribution	-	-	-	-	-	-	-	-	-	C	-	-	-	S/C ²⁵	①
truck terminal	-	-	-	-	-	-	-	-	-	C	-	S	-	-	①
light industrial operations	-	-	-	-	-	-	-	-	-	C ¹⁶	-	-	-	-	①
✓ water-dependent uses along Penobscot River (functionally water-dependent uses)	-	-	-	-	-	-	-	-	-	C	C	-	-	-	①
any establishment which provides in excess of 5,000 sq ft of outdoor display or storage of goods or equipment	-	-	-	-	-	-	-	-	-	C	C	C	-	-	①
manufacturing	-	-	-	-	-	-	-	-	-	-	-	-	S	S/C ²⁵	①
compounding	-	-	-	-	-	-	-	-	-	-	-	-	S	S/C ²⁵	①
assembling	-	-	-	-	-	-	-	-	-	-	-	-	S	-	①
packing	-	-	-	-	-	-	-	-	-	-	-	-	S	-	①
packaging	-	-	-	-	-	-	-	-	-	-	-	-	-	S/C ²⁵	①
treatment	-	-	-	-	-	-	-	-	-	-	-	-	S	S/C ²⁵	①
✓ processing	-	-	-	-	-	-	-	-	-	-	-	-	-	S/C ²⁵	①
warehousing	-	-	-	-	-	-	-	-	-	-	-	-	S	S/C ²⁵	①
research and testing operations	-	-	-	-	-	-	-	-	-	-	-	-	S	-	①
✓ business park	-	-	-	-	-	-	-	-	-	-	-	-	S	-	①
consulting operations	-	-	-	-	-	-	-	-	-	-	-	-	S	-	①
other industrial operations which conform to the performance standards of this Ordinance	-	-	-	-	-	-	-	-	-	-	-	-	S	①	①
✓ commercial and industrial uses	-	-	-	-	①	①	①	①	①	①	①	①	①	①	S ²³

Note: a check in the "Defined" column means the ordinance includes a definition of the term. In some cases, defined terms are not identical to the listed uses - italicized text denotes the actual terms defined.

Footnotes:

- requires connection to public sewer and water
- only allowed as a conversion of single family to two family
- requires minimum of 2.5 acres and 50' setback for pens, pastures, or structures for housing animals
- a single structure with max of 6 units requires public water and additional 10,000 sq. ft. per unit over base area requirement
- must be re-use of an existing building, alterations and expansions are allowed
- includes new or used car sales or service, gasoline station, farm and RV sales and service
- limited to max 4 dwelling units per building
- requires min lot size of 1.5 acres and min frontage of 200'; drive-thru lane min 100' from any resid structure
- permitted by right if max 6,000 sq ft GFA, by conditional use if greater than 6,000 sq ft GFA
- max size 6,000 sq ft GFA
- requires min lot size of 1.5 acres and min frontage of 200'; drive thru lane min 75' from any resid structure, and max size of building 6,000 sq ft GFA
- limited to 6:00 am to 11:00 pm
- permitted by right if limited to 4 units maximum, by conditional use if greater than 4 units
- permitted by right if max 10,000 sq ft GFA, by conditional use if greater than 10,000 sq ft GFA
- provided it was in existence as of 12/6/2004
- maximum 10,000 sq ft; examples include warehousing assembly or fabrication [whatever that is!]
- provided it is in an existing structure on Old Coldbrook Road
- provided it is located a minimum of 500' from a residence
- provided it is within a Business Park (see section 3.1.2 for site plan requirements)
- provided it is within a Business Park and does not exceed 5,000 sq ft GFA per retail business space or module
- conditional use if not located within a Business Park
- limited to one dwelling unit per use
- no structure or building may be constructed within 300' of the Route 202 right-of-way
- must be part of and accessory to an industrial use; permitted use provided it does not exceed 5,000 sq ft GFA; conditional use if exceeds 5,000 sq ft GFA
- permitted by right if less than 5,000 sq ft GFA, by conditional use if 5,000 sq ft GFA or greater
- per state law, certified manufactured home is automatically permitted anywhere a single family residence is permitted