



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

MONDAY

JULY 14, 2014

6:00 P.M.

NOTE: These minutes are action minutes only recording motions and votes. Video tapes of all meetings are available for review at the Town Office.

Attending:

*Mayor Carol Duprey
Councilor David Ryder
Councilor Bill Shakespeare
Councilor Greg Sirois
Councilor Jean Lawlis
Councilor Tom Brann
Councilor Ivan McPike*

*Town Attorney Thomas Russell
Town Manager Susan Lessard
Town Clerk Denise Hodsdon
Town Planner Bob Osborne
Citizens*

Mayor Duprey called the meeting to order at 6:03 pm.

- A. PLEDGE OF ALLEGIANCE** – *Mayor Duprey led the Pledge of Allegiance*
- B. CONSENT AGENDA** – *The Consent Agenda was accepted without objection.*
 - 1. SIGNATURES**
 - 2. SECRETARY'S REPORTS**
 - 3. COMMUNICATIONS**
 - a. Circle K #7057 – Victualers License Renewal**
 - 4. REPORTS**
 - a. Finance Committee Minutes – 6/2/2014**
 - b. Bangor Humane Society – Stray Animal Report – May 2014**
 - c. Infrastructure Committee Minutes – 5/27/2014**
- C. PUBLIC COMMENTS** – *None.*
- D. POLICY AGENDA**
 - 1. NEWS, PRESENTATIONS & AWARDS** – *Manager Lessard offered condolences to the Community of Corinna and the family of Corinna Town Manager Kimberly Godsoe who recently passed away unexpectedly.*
 - 2. PUBLIC HEARINGS**

- a. **Shoreland Zoning Ordinance Text Amendment re Resource Protection** – *Mayor Duprey opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Ryder, seconded by Councilor McPike to pass the text amendment regarding Resource Protection. Unanimous vote in favor.*
- b. **Shoreland Zoning Ordinance Map Amendment** - *Mayor Duprey opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Sirois, seconded by Councilor Shakespeare to adopt the shoreland zoning map amendment. Unanimous vote in favor.*
- c. **Shoreland Zoning Ordinance Text Amendment re Timber Harvest** - *Mayor Duprey opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Ryder to pass the Shoreland Zoning Ordinance text amendment re timber harvesting. Unanimous vote in favor.*
- d. **Zoning Ordinance Text Amendment re Business B District** - *Mayor Duprey opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Sirois, seconded by Councilor Lawlis to adopt the Zoning Ordinance text amendment re Business B District. Unanimous vote in favor.*
- e. **Zoning Ordinance Map Amendment, Western Avenue** - *Mayor Duprey opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Sirois, seconded by Councilor Ryder to adopt the Zoning Ordinance Map amendment for Western Avenue. Vote on the motion was 6 in favor (Ryder, Sirois, Brann, Shakespeare, McPike and Duprey) and 1 opposed (Lawlis) – motion carried.*
- f. **Subdivision Ordinance Text Amendment re Open Space** - *Mayor Duprey opened the hearing. Alex King of 75 Ichabod Lane spoke in favor of the amendment. No one spoke in opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor Sirois, seconded by Councilor Ryder to accept the Subdivision Ordinance text amendment re open space as presented. Unanimous vote in favor.*
- g. **Proposed Amendment to Council Compensation Ordinance** - *Mayor Duprey opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The*



~~D-4-b~~
D-2-a

TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Shoreland Zoning Ordinance Text Amendment Resource Protection District
DATE: June 5, 2014

These draft Shoreland Zoning Text Amendments concern modifications to the Resource Protection District that are a companion piece to the proposed map amendments changing Resource Protection District to Limited Residential District for five local jurisdictional wetlands. This item originates from the Planning Board and addresses a change that is needed in order to make the noted map amendments. The Board held a public hearing on the item at their April 9, 2014 meeting and referred it to their Ordinance Committee meeting on April 23, 2014 and then made an "ought to pass" recommendation at the subsequent May 14, 2014 meeting.

There were no proponents or opponents to this item at the Planning Board Public Hearing on April 9, 2014.

This amendment also reflects comments from the Maine Department of Environmental Protection.

All shoreland zoning amendments must be approved by the DEP prior to them taking effect locally.

6/16/14 - Introduced for Public Hearing
7/14/14 - Adopted by Town Council

TOWN OF HAMPDEN
Draft

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

Additions are underlined

Deletions are ~~strikethrough~~

13. Establishment of Shoreland Districts

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

- (1) Water bodies and Wetlands. Areas within 250 feet, horizontal distance, of the *shoreline* of ~~freshwater wetlands and wetlands~~ associated with *great ponds* and *rivers*, (~~depicted on the Town of Hampden Fresh Water Wetlands Map prepared by the DEP and dated 1989~~) which have ~~Wetland Identification Number: 118, 123, 136, 137, 138, 139, 147, 148, 149, 153 and 157~~ are rated as moderate or high value waterfowl and wading bird habitat, including nesting and feeding areas, by the ~~Maine Department of Inland Fisheries and Wildlife (MDIF&W)~~ that are ~~depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006.~~ which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph "*wetlands associated with great ponds and rivers*" shall mean areas characterized by *non-forested wetland vegetation* and hydric soils that are contiguous with a *great pond* or *river*, and have a surface elevation at or below the water level of the *great pond* or *river* during the period of normal high water. "*Wetlands associated with great ponds or rivers*" are considered to be part of that *great pond* or *river*.
- (2) Floodplains. Floodplains along *rivers* defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps. This district shall also include 100 year floodplains adjacent to *tidal waters* as shown on FEMA's Flood Insurance Rate Maps.
- (3) Slopes. Areas of two or more contiguous acres with *sustained slopes* of 20% or greater.
- (4) Other Smaller Wetlands. Areas of two (2) or more contiguous acres supporting *wetland vegetation* and hydric soils, which are not part of a freshwater or *coastal wetland* as defined, and which are not surificially connected to a *water body* during the period of normal high water.

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

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

~~D4c~~
D-2-b



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Shoreland Zoning Ordinance Map Amendment
DATE: June 5, 2014

The Town Council referred these draft Shoreland Zoning Map Amendments to the Planning Board for public hearing and recommendation. The Board held a public hearing on the item at their April 9, 2014 meeting, sent it to their Ordinance Committee for its April 23, 2014 meeting and then made an "ought to pass" recommendation at their May 14, 2014 meeting.

The Planning Board heard from both proponents and opponents of the map amendments. Jim Kiser was a supporter of the proposed amendments noting that the changes are consistent with recent changes in the statute and Chapter 1000. Several residents questioned why the Town would change the ordinance to allow additional development in sensitive environmental areas.

The purpose of these draft Shoreland Zoning Ordinance Map amendments is to acknowledge that the State of Maine no longer requires that areas adjacent to jurisdictional wetlands with moderate and high value waterfowl habitat are no longer required to be zoned Resource Protection but rather they may be Limited Residential. The draft Shoreland Zoning Ordinance Map amendments also further defines portions of the edge of three jurisdictional wetlands by a licensed wetland delineator. The revised location requires that the Shoreland Zoning map both change the edge of the waterbody as well as remove area that is no longer subject to shoreland zoning.

1. Wetland involved is on Kennebec Road. This jurisdictional wetland is between Back Winterport Road and Monroe Road (and is the headwater of Baker Brook). Land area within 250 feet of this jurisdictional wetland to be changed from Resource Protection to Limited Residential.
2. Wetland involved is on Kennebec Road. This jurisdictional wetland is between Wessnette Drive and Emerald Drive on Brown Brook. Land area within 250 feet of this jurisdictional wetland to be changed from Resource Protection to Limited Residential.
3. Wetland involved is on Back Winterport Road near the railroad crossing. Land area within 250 feet of the jurisdictional wetland to be changed from Resource Protection to Limited Residential. (NOTE: Per DEP the forested wetland portion of this shoreland zone must remain Resource Protection District).
4. Wetland involved is on Carmel Road South near Kennebec Road located on Brown

6/16/14 - Introduced for Public Hearing
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Brook. Land area within 250 feet of the jurisdictional wetland to be changed from Resource Protection to Limited Residential.

5. Wetland involved is on Patterson Road (near Ichabod Lane) located on Webber Brook. Land area within 250 feet of the jurisdictional wetland to be changed from Resource Protection to Limited Residential.
6. Wetland involved is on Meadow Road at Patterson Road located on Brown Brook. This change is the result of new information about the extent of the jurisdictional wetland area from a licensed wetland delineator. The result of the new delineation is to reduce the size of the jurisdictional wetland and to also reduce the area subject to shoreland zoning. The zoning designation remains Limited Residential District.
7. Wetland involved is on Patterson Road (near Ichabod Lane) located on Webber Brook. Land area. This change is the result of new information about the extent of the jurisdictional wetland area from a licensed wetland delineator. The result of the new delineation is to move the edge of the jurisdictional wetland on two land parcels and to also modestly move the area subject to shoreland zoning. The zoning designation remains Limited Residential.
8. Wetland involved is on Kennebec Road. This jurisdictional wetland is between Back Winterport Road and Monroe Road (and is the headwater of Baker Brook). This change is the result of new information about the extent of the jurisdictional wetland area from a licensed wetland delineator. The result of the new delineation is to move the edge of the jurisdictional wetland and to also modestly move the area subject to shoreland zoning. The zoning designation is subject to the changes proposed in item 1 as well.

This amendment also reflects comments from the Maine Department of Environmental Protection.

All shoreland zoning amendments must be approved by the DEP prior to them taking effect locally.

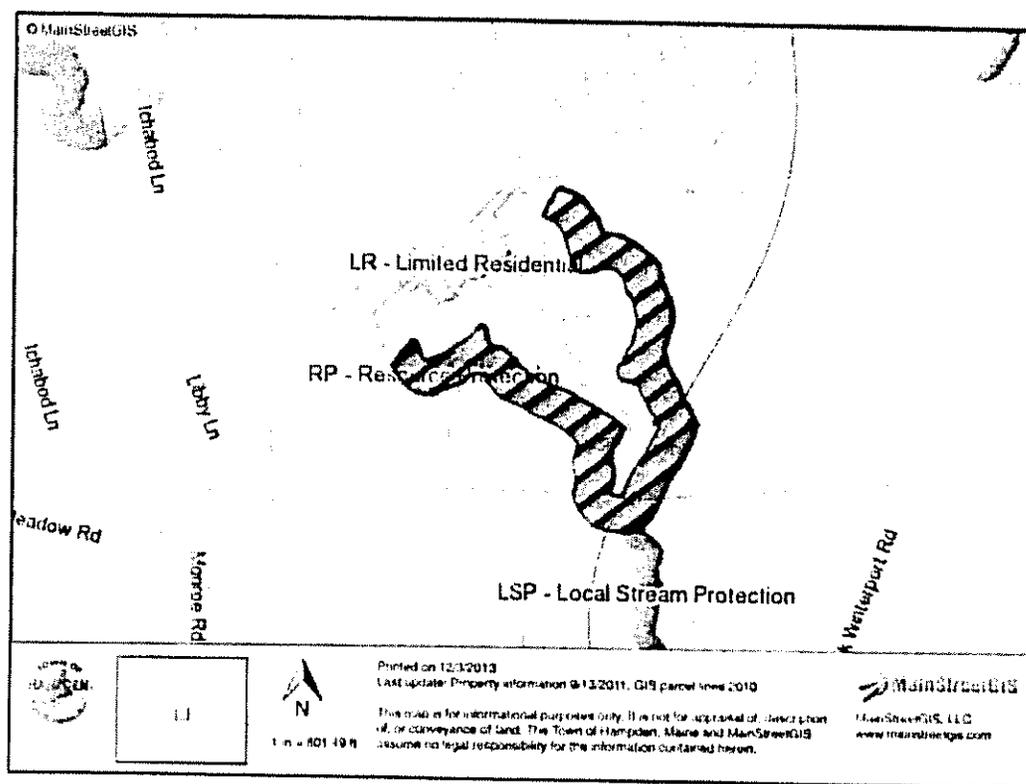
TOWN OF HAMPDEN Draft

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

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Town of Hampden, Maine - Web GIS Maps and Property Information

<http://www.mainstreetmaps.com/cgi-bin/V/gis.exe>



Resource Protection to Limited Residential District

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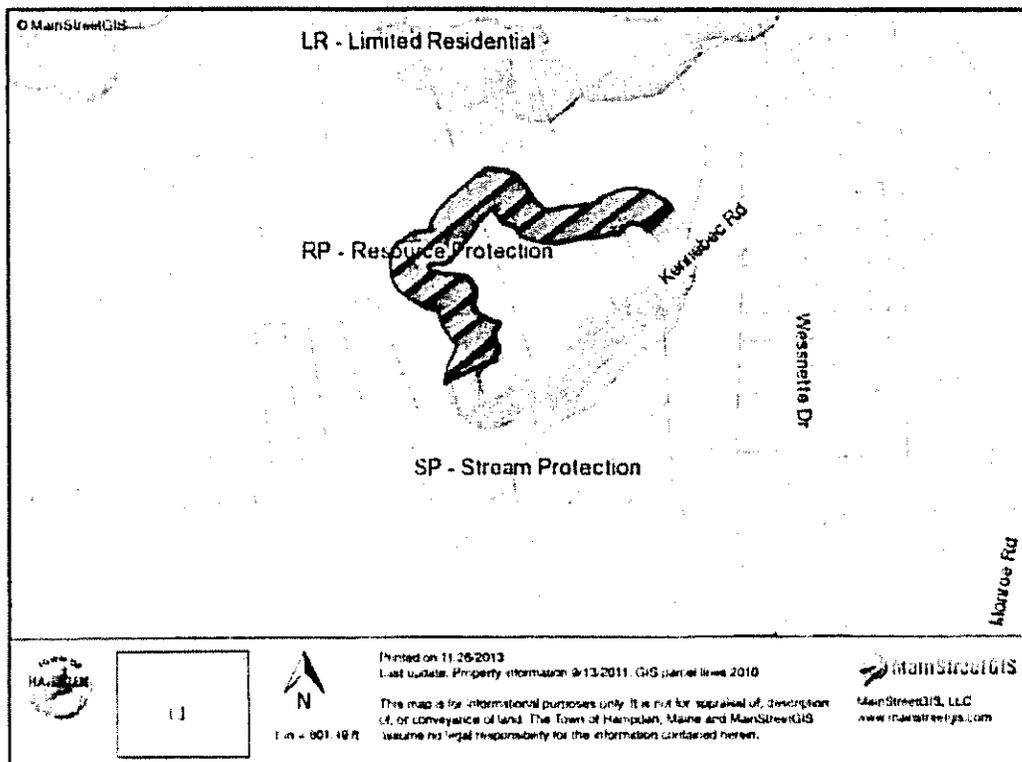
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Town of Hampden, Maine - Web GIS Maps and Property Information

<http://www.mainstreetmaps.com/cgi-bin/Ygis.exe>



Resource Protection to Limited Residential District

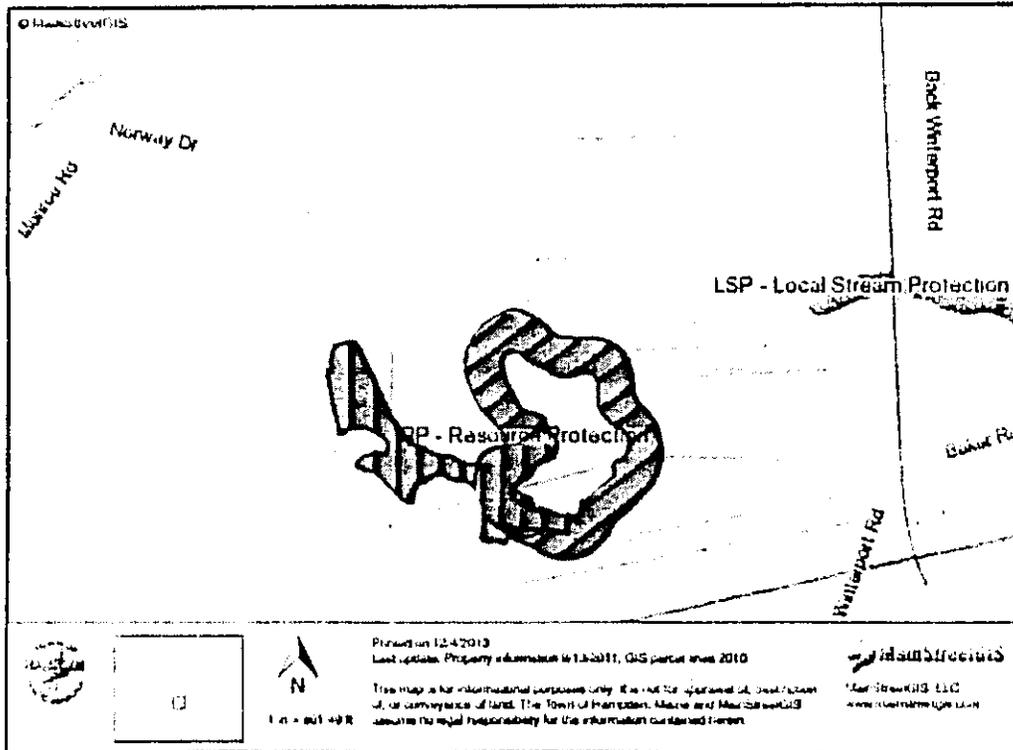
TOWN OF HAMPDEN Draft

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Resource Protection



Resource Protection to Limited Res.

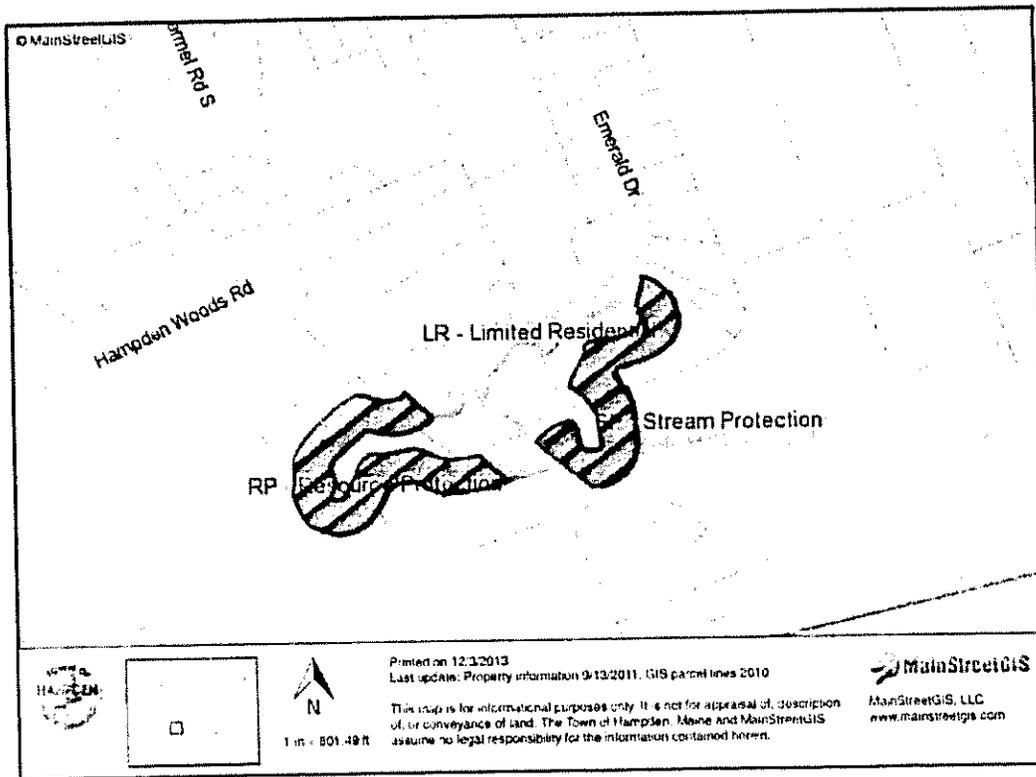
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4. Wetland involved is on Carmel Road South near Kennebec Road located on Brown Brook. Land area within 250 feet of the jurisdictional wetland to be changed from Resource Protection to Limited Residential.

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Resource Protection to Limited Residential District

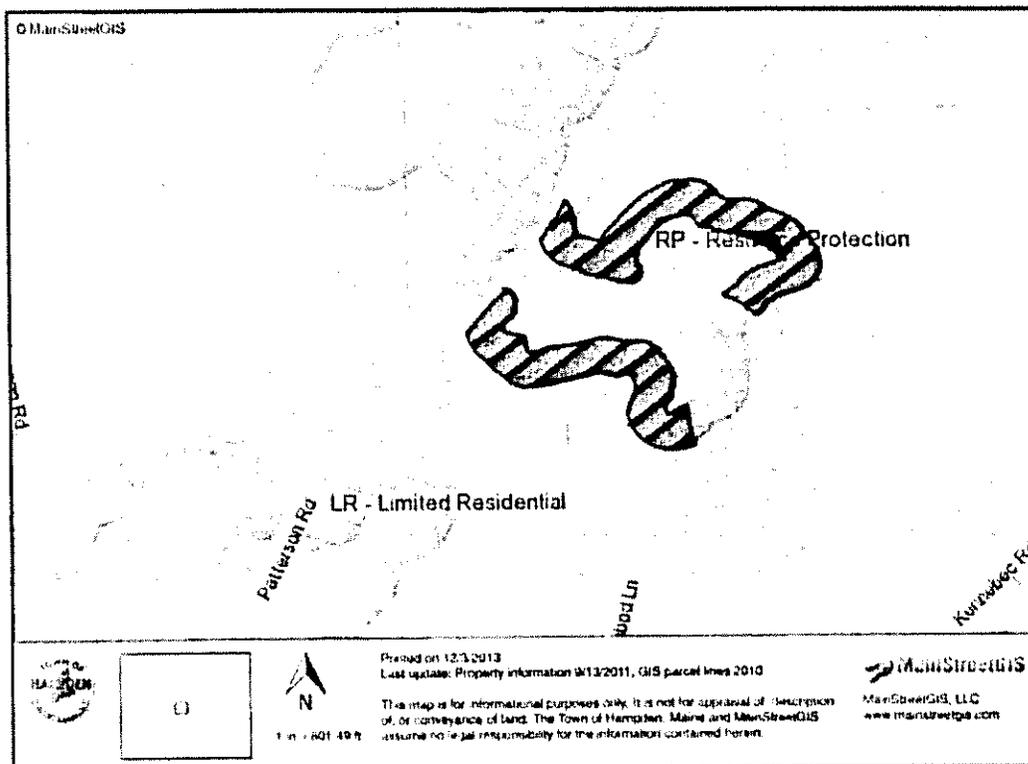
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Resource Protection to Limited Residential District

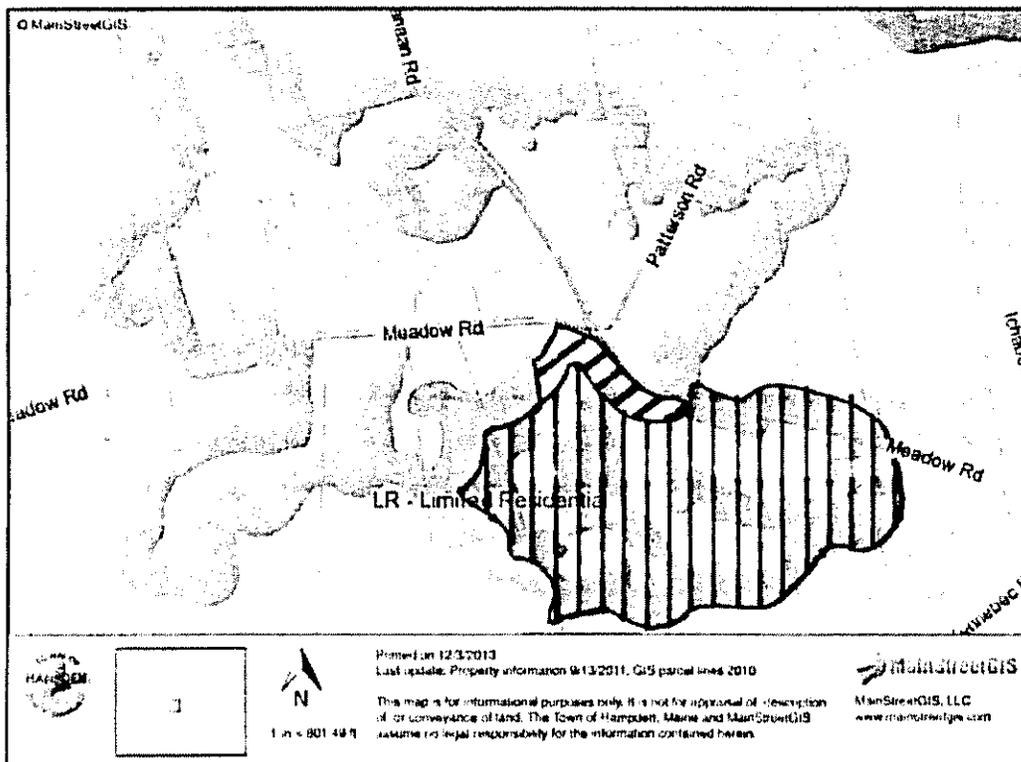
TOWN OF HAMPDEN Draft

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

6. Wetland involved is on Meadow Road at Patterson Road located on Brown Brook. This change is the result of new information about the extent of the jurisdictional wetland area from a licensed wetland delineator. The result of the new delineation is to reduce the size of the jurisdictional wetland and to also reduce the area subject to shoreland zoning. The zoning designation remains Limited Residential District.

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Limited Residential District



Remove Shoreland Zoning Regulations

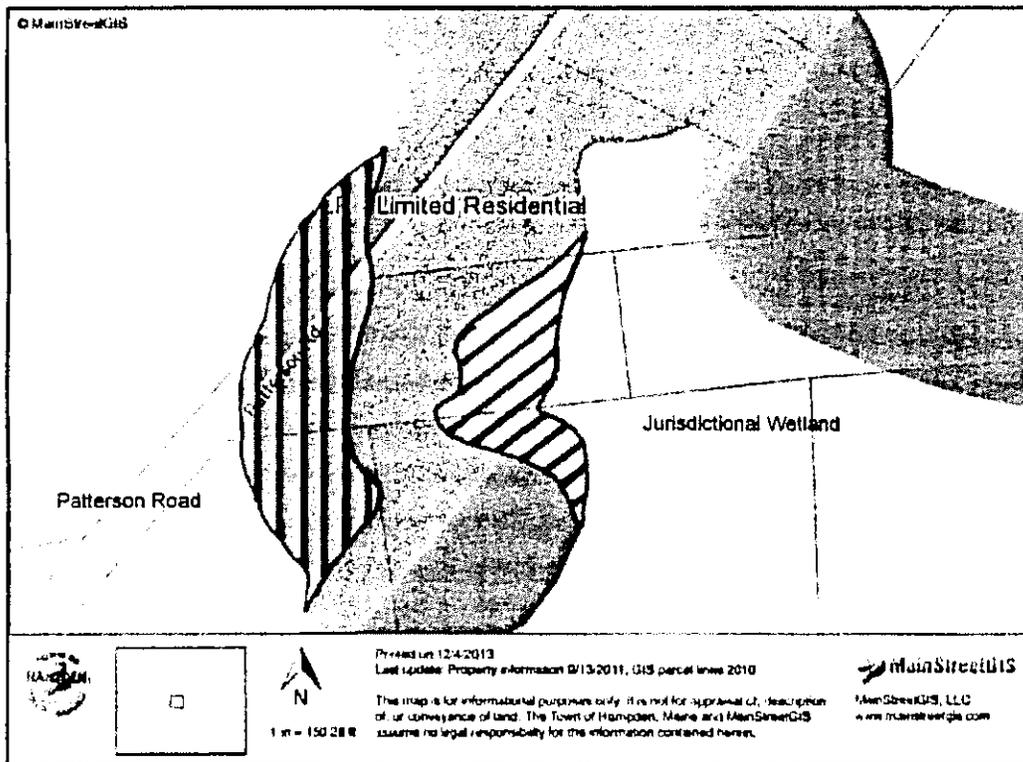
TOWN OF HAMPDEN Draft

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

7. Wetland involved is on Patterson Road (near Ichabod Lane) located on Webber Brook Land area. This change is the result of new information about the extent of the jurisdictional wetland area from a licensed wetland delineator. The result of the new delineation is to move the edge of the jurisdictional wetland on two land parcels and to also modestly move the area subject to shoreland zoning. The zoning designation remains Limited Residential.

Town of Hampden, Maine - Web GIS Maps and Property Information

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Remove Shoreland Zoning Regulations



Limited Residential District

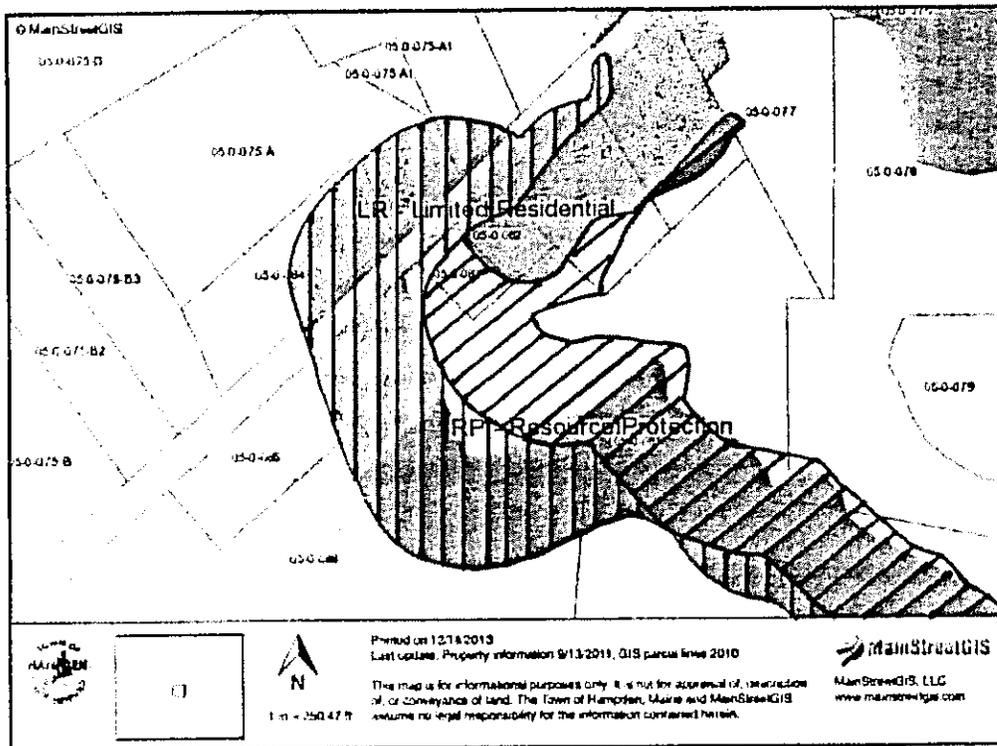
TOWN OF HAMPDEN Draft

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

8. Wetland involved is on Kennebec Road. This jurisdictional wetland is between Back Winterport Road and Monroe Road (and is the headwater of Baker Brook). This change is the result of new information about the extent of the jurisdictional wetland area from a licensed wetland delineator. The result of the new delineation is to move the edge of the jurisdictional wetland and to also modestly move the area subject to shoreland zoning. The zoning designation is subject to the changes proposed in item 1 as well.

Town of Hampden, Maine - Web GIS Maps and Property Information

<http://www.mainstreetmaps.com/cgi-bin/V/gis.exe>



Remove from Shoreland Zoning



Resource Protection to Limited Residential

~~D-4-d~~
D-2-C



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Shoreland Zoning Ordinance Text Amendment: Timber Harvest
DATE: May 22, 2014

These draft Shoreland Zoning Text Amendments concerning timber harvesting activities were referred to the Planning Board for public hearing and recommendation. The Board held a public hearing on the item at their April 9, 2014 and then made an "ought to pass" recommendation.

There were no proponents or opponents to this item at the Planning Board Public Hearing.

The Council may recall that at the time the Shoreland Zoning Ordinance was adopted by the Town of Hampden the State of Maine was moving toward allowing municipalities to pass shoreland zone timber harvesting review and permitting to Maine Department of... Forestry but at that time it was not quite ready for implementation. Hampden's Shoreland Zoning Ordinance contains text that contemplates both self regulation as well as passing the duties to Forestry. Forestry recommends In order to pass this duty to Forestry through what they call option one the Town simply purge all language from the shoreland zoning ordinance regarding timber harvesting.

The Please find attached a copy of the basic amendments needed to select Option 1 for the State of Maine to take over the permitting of timber harvesting in the Shoreland Zone.

6/16/2014 - Introduced for Public Hearing
7/14/14 - Adopted by Town Council

**TOWN OF HAMPDEN
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The Town of Hampden Hereby Ordains
Proposed Amendments to the Shoreland Zoning Ordinance

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4. Effective Date

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

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

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

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

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

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

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

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

TOWN OF HAMPDEN
Draft

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Proposed Amendments to the Shoreland Zoning Ordinance

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TABLE 1. LAND USES IN THE SHORELAND ZONE

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

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

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

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

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

⁵ Reserved.

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

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

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

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

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

¹¹ Reserved. .

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

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

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

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

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

~~(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:~~

~~(a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high water line, timber harvesting may be conducted when the following conditions are met:~~

~~(1) The ground is frozen;~~

~~(2) There is no resultant soil disturbance;~~

~~(3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75 foot strip of land;~~

~~(4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 1/2 feet above ground level, are cut in any 10 year period; and a well distributed stand of trees and other natural vegetation remains; and~~

~~(5) A licensed professional forester has marked the trees to be harvested prior to a shoreland permit being issued by the Town of Hampden.~~

~~(b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 1/2 inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.~~

~~(2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:~~

~~(a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:~~

~~(i) Within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond or a river flowing to a great pond, and within seventy five (75) feet, horizontal distance, of the normal high water line of other water bodies, tributary streams, local streams or the upland edge of a wetland, there shall be no clearcut openings and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.~~

~~(ii) At distances greater than one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, and greater than seventy five (75) feet, horizontal distance, of the normal high water line of other water bodies or the upland edge of a~~

~~wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.~~

~~(b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.~~

~~(c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high water line of a water body or tributary stream shall be removed.~~

~~(d) Timber harvesting equipment shall not use stream channels as travel routes except when:~~

~~(i) Surface waters are frozen; and~~

~~(ii) The activity will not result in any ground disturbance.~~

~~(e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.~~

~~(f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.~~

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

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

~~(1) Shoreline integrity and sedimentation. — Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within~~

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

~~(2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O 1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.~~

~~(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.~~

~~(b) Adjacent to great ponds, rivers and wetlands:~~

~~(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high water line or upland edge of a wetland; and~~

~~(ii) Between 50 feet and 250 feet, horizontal distance, of the normal high water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.~~

~~(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:~~

~~(a) Option 1 (40% volume removal), as follows:~~

~~(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;~~

~~(ii) A well distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,~~

~~(iii) Within 75 feet, horizontal distance, of the normal high water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.~~

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

~~(i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;~~

~~(ii) A well distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,~~

~~(iii) Within 75 feet, horizontal distance, of the normal high water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.~~

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

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

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

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

~~(a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.~~

~~(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.~~

~~(c) Setbacks:~~

~~(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25 foot setback is required.~~

~~(ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of~~

~~additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~

~~(5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.~~

~~(a) Land management roads and associated ditches, excavation, and fill must be set back at least:~~

~~(i) 100 feet, horizontal distance, from the normal high water line of a great pond, river or freshwater or coastal wetland;~~

~~(ii) 50 feet, horizontal distance, from the normal high water line of streams; and~~

~~(iii) 25 feet, horizontal distance, from the normal high water line of tributary streams~~

~~(b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~

~~(c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.~~

~~(d) New land management roads are not allowed within the shoreland area along a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high water line and screened from the river by existing vegetation.~~

~~(e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or~~

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

- ~~(f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.~~
 - ~~(g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the non-conforming conditions are not made more nonconforming.~~
 - ~~(h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~
 - ~~(i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.~~
- ~~(6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows:~~
- ~~(a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.~~
 - ~~(b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the non-conforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high water line must conform to the provisions of Section 15(O-1).~~
 - ~~(c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.~~

~~(d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.~~

~~(e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:~~

- ~~(i) a map showing the location of all proposed permanent crossings;~~
- ~~(ii) the GPS location of all proposed permanent crossings;~~
- ~~(iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and~~
- ~~(iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.~~

~~(f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:~~

- ~~(i) concentrated water runoff does not enter the stream or tributary stream;~~
- ~~(ii) sedimentation of surface waters is reasonably avoided;~~
- ~~(iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;~~
- ~~(iv) fish passage is not impeded; and,~~
- ~~(v) water flow is not unreasonably impeded.~~

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

~~(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:~~

~~(i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2-1/2 times the cross-sectional area of the river, stream, or tributary stream channel.~~

~~(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:~~

- ~~1. use of temporary skidder bridges;~~
- ~~2. removing culverts prior to the onset of frozen ground conditions;~~
- ~~3. using water bars in conjunction with culverts;~~
- ~~4. using road dips in conjunction with culverts.~~

- (iii) ~~Culverts utilized in river, stream and tributary stream crossings must:~~
- ~~1. be installed at or below river, stream or tributary stream bed elevation;~~
 - ~~2. be seated on firm ground;~~
 - ~~3. have soil compacted at least halfway up the side of the culvert;~~
 - ~~4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and~~
 - ~~5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.~~
- (iv) ~~River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.~~
- (v) ~~Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.~~
- (h) ~~Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:~~
- (i) ~~Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.~~
 - (ii) ~~Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.~~
 - (iii) ~~River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.~~
- (i) ~~Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:~~

~~(i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.~~

~~(ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.~~

~~(iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:~~

- ~~1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25-year frequency water flows;~~
- ~~2. it shall be designed to provide an opening with a cross sectional area at least 3 1/2 times the cross sectional area of the river, stream or tributary stream channel; or~~
- ~~3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.~~

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

~~(7) Slope Table~~

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

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

TOWN OF HAMPDEN
Draft

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

Additions are underlined Deletions are ~~strikethrough~~

17. Definitions.

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

~~*DBH.*~~ “~~DBH~~” means the diameter of a standing tree measured 4.5 feet (breast height) from ground level.

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

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

~~*Land management road.*~~ “~~Land management road~~” means a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for ~~timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.~~

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

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

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

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

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

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

~~D4e~~
D-2-d



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendment, Business B District
DATE: May 21, 2014

The Town Council referred this Zoning Ordinance Text Amendment concerning the Business B District to the Planning Board for public hearing and recommendation. The Board held a public hearing on the item at their April 9, 2014 meeting, sent it to committee for its April 23, 2014 meeting and then made an "ought to pass" recommendation at their May 14, 2014 meeting with a couple of friendly amendments. The Board recommended that buildings over 35 feet in height be a Conditional Use and that storage facility be deleted from the list of contemplated uses in the district.

One of the goals was to make certain that existing uses did not become non-conforming uses after the map amendment is approved. Thus, added to the permitted uses is single family dwellings (and home occupations). Added to the conditional uses are: automobile and truck sales and service, storage facility, church and funeral home.

Additionally, the conditional uses do not contain a number of uses that seem likely to be useful to the district including: mixed residential/commercial uses, day care facility and child care center, preschool, commercial school, place of assembly, nursing home, community facility, community building, hotel and motel and buildings for essential services.

A second goal is the following: The Business B District's yard requirements are significantly larger than the now in effect Village Commercial's and looking out for those single family residences that are to become part of the Business B District staff suggests borrowing the concept from the Residential B District that provides relief for the existing smaller lots with regard to yard setbacks.

Finally, there may be need of buildings in the district in excess of 35 feet in height. With that in mind staff has added language that would allow taller buildings with an additional setback consistent with the concept that was previously developed for other commercial districts.

6/16/14 - Introduced for Public Hearing
7/14/14 - Adopted by Town Council

TOWN OF HAMPDEN
Draft

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

Additions are Double Underlined Deletions are ~~Strikethrough~~

3.13. Business B District

3.13.1. Purpose - This district is intended to provide a location for larger commercial developments (in excess of 10,000 sq. ft. of floor area) in central locations of Hampden.

3.13.2. Permitted Uses (Subject to Site Plan Review) - Business and professional offices, retail and service businesses, take-out restaurant, small restaurant, single family dwelling, home occupation (subject to Article 4.10), accessory uses or structures and essential service.

3.13.3. Conditional Uses (Subject to Site Plan Review) - Sit-down restaurant, fast-food restaurant, outdoor dining restaurant, tavern, drive-thru business, automobile and truck sales and service, church, mixed residential/commercial uses, limited to a maximum of four (4) dwelling units, day care facilities and child care center (subject to Article 4.19), preschool, commercial school, place of assembly, nursing home, funeral home, community building, community facility, hotel and motel, buildings over 35 feet in height and buildings for essential services

3.13.4. Lot Dimensions

Minimum Lot Area	-	1 acre
Minimum Road Frontage	-	125 feet*
Minimum Setbacks:		
Street Yard	-	35 feet*
Other Yards	-	30 feet*
Maximum Lot Cover	-	20 percent
Maximum Building Height	-	35 feet

*Any lawfully existing lot of record situated in a Business B District containing road frontage of 100' or less as of June 1, 2014 served by public sewer with existing single family dwellings and accessory structures with minimum street yard and other yards of not less than 10 feet each. Any such lots containing between 100' and 124' of road frontage may be developed for single family dwellings and accessory structures with minimum street and other yards of 10 feet each, plus 0.5 feet per side yard for each foot of road frontage in excess of 100'.

3.13.5. Special District Regulations

1. Along any boundary line adjacent to a residential district a Class III landscaped buffer strip shall be provided.
2. Shopping centers shall provide accommodations for pedestrians, bicyclists, handicap accessibility and public transportation. (Adopted: 11-8-83) (Amended: 8-8-94)
3. Buildings with the exception of one and two unit dwellings constructed, reconstructed, moved or structurally altered, shall comply with the following standards:

- a. Buildings shall have a pitched roof with a minimum pitch of six (6) in twelve (12), or have a roof form and pitch consistent with adjacent structures within 300 feet or if in the development of structures in excess of 10,000 square feet, has an appearance similar to that of a pitched roof.
 - b. Buildings shall have exterior siding that is compatible with those of the adjacent buildings, such as brick or masonry veneers, wood siding, wood shingles, aluminum or vinyl siding simulating a clapboard pattern, or hardboard siding. Inconsistent architectural elements created by illumination, form or color shall be discouraged.
 - c. Buildings in excess of 10,000 square feet shall treat the predominately visible street facade(s) within the guidelines of the above materials to provide a consistent architectural appearance.
4. In order to evaluate consistency with Special District Regulation 3, the site plan submission shall include elevation drawings with details as to how the above standards are met. *(Amended: 07-19-00)*
 5. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 and no part of the vehicle queue shall be located within 100 feet of a residential structure. *(Amended: 12-6-04)*
 6. 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)*
 7. 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)*
 8. Notwithstanding the maximum building height regulation herein building height may be up to 60 feet maximum height under the following condition: Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each base yard setback requirement.

EXAMPLE: A 60 foot tall building is proposed. By subtracting the base district building height from the proposed height the following is the result $60 - 35 = 25$ which is added to the minimum yard requirement.

	Minimum Setbacks: Modified Setback	
Street Yard	- 35 feet	60 feet
Other Yard	- 30 feet	55 feet

D-4-f
D-2-e



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Map Amendment, Western Avenue
DATE: May 21, 2014

This Zoning Ordinance Map amendment was referred to the Planning Board for public hearing and recommendation. The Board held a public hearing on the item at their April 9, 2014 meeting, sent it to committee for its April 23, 2014 meeting and then made an "ought to pass" recommendation at their May 14, 2014 meeting.

It is important to note that while much of the public comment has been favorable some has not. The town has received favorable comment from the Frosts, McCues and Gilpatricks. The Pellerines at 54 Western Avenue next to the parish house are not in favor of the amendment and that land parcel is proposed to be changed from Residential A to Business B. Marjorie Bowen next door to McCues also spoke against the amendment and her parcel is just beyond the subject zone change.

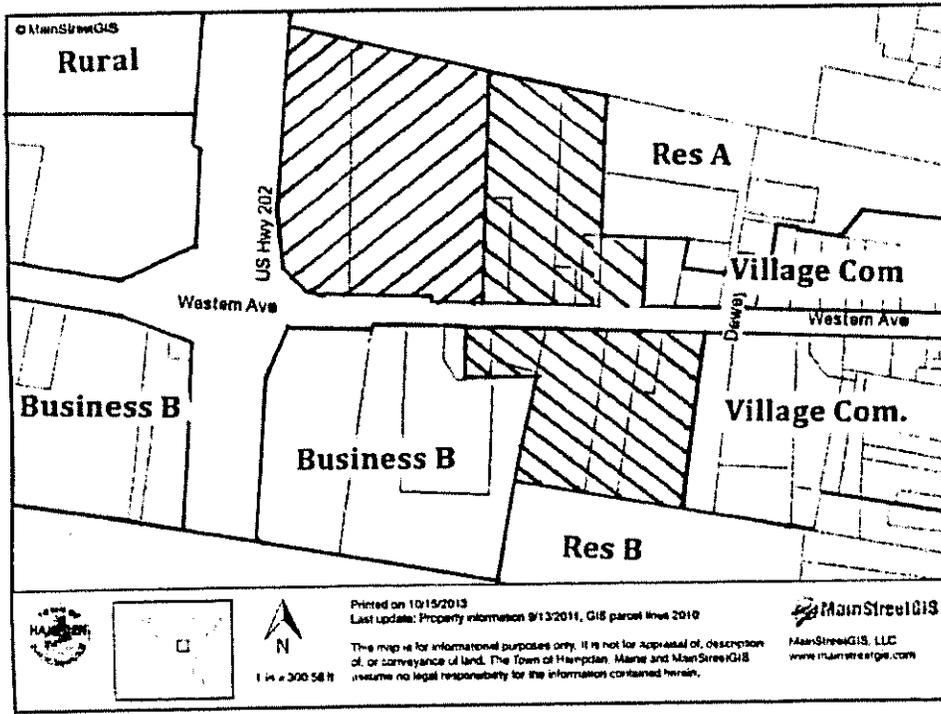
The land parcels involved include the following: Starting on the north side of Western Avenue, east of Route 202 are Map 31, Lots 14 and 15 (Catholic Church and parsonage), Map 32, Lots 1 (Pellerin), Map 32, Lots 2, 3 and 3A (all owned by Frost) and Map 32, Lot 4 and 5 (owned by McCue). On the south side of Western Avenue, starting with the front corner of the Katahdin Trust Bank, Map 36, Lots 30, 29 and 28 (Gilpatrick), and Map 36, Lots 27 and 27A (TDS).

The total land area to be rezoned on the north side of the street is 13.25 acres (10 acres from Res. A to Business B District and the remaining 3.25 acres from Village Commercial to Business B District. The land area to be rezoned on the south side of the street is 6 acres all from Village Commercial to Business B District.

6/16/2014 - Introduced for Public Hearing
7/14/14 - Adopted by Town Council

TOWN OF HAMPDEN
Draft

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



 Residential A to Business B
  Village Com. to Business B

1/15/21

~~D-4-g~~

D-2-f



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Subdivision Open Space Amendment
DATE: May 21, 2014

The Town Council referred this Subdivision Ordinance text amendment concerning Open Space to the Planning Board for public hearing and recommendation. The Board held a public hearing on the item at their April 9, 2014 meeting, sent it to committee for its April 23, 2014 meeting and then made an "ought to pass" recommendation at their May 14, 2014 meeting with a friendly amendment adding "*This exemption shall also apply to further division of lots in previously approved subdivisions*" to the stated exemptions for open space dedication.

6/16/2014 - Introduced for Public Hearing
7/14/14 - Adopted by Town Council

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

542. *Area Required* - The area of land set aside shall be based on the open space requirements of the Zoning Ordinance. If no open space requirement exists in the Zoning Ordinance, the applicant shall be required to provide land in accordance with the following: 500 square feet per unit, or five (5) percent of the parcel to be developed, whichever is greater.

Exception: No open space dedication is required in Minor Subdivisions (four lots or less) in the Rural District if the total aggregate area of the proposed lots exceeds the minimum lot area required in the Zoning Ordinance by at least 10 percent. No fee in lieu of open space is required for subdivisions that satisfy this exception. The intent of this exception is to avoid creating very small open spaces that do not serve the interests of the subdivision or the Town while maintaining the densities that the ordinances contemplate. This exception shall also apply to further division of lots in previously approved subdivisions.

D-5-b
D-2-g

Town Council Compensation Ordinance

The Town of Hampden hereby ordains that the following amendments to the Town Council Compensation Ordinance be enacted

Deletions shown by ~~strikeout~~.
Additions shown by underlining.

Section 1. Pursuant to Sec. 203 of the Town Charter, the Hampden Town Council hereby determines that effective July 1, 2014 the annual salary of the chairman and councilors shall be as follows:

Chairman	\$35.00 <u>1.00</u> /meeting
Other Councilors	\$30.00 <u>1.00</u> /meeting

Section 2. For the purposes of this Ordinance, a meeting shall include all regular or special meetings of the Town Council, as well as the meetings of its committees. In order to be eligible for compensation for a meeting, the chairman or councilor must have been present at the meeting.

~~Section 3. Pursuant to Sec. 203 of the Town Charter, the foregoing increase in salary shall become effective as of the first regularly scheduled meeting in January 2006, said meeting being the commencement of the terms of councilors elected at the next regular election scheduled for November 8, 2005.~~

Section 3. This Ordinance shall apply retroactively to July 1, 2014.

6/16/14 - Introduced for Public Hearing
7/14/14 - No action by Town Council following hearing

hearing was closed. Following discussion, no motions were made relative to this proposed amendment.

- h. Application for Victualers License received from Jin Rong Chen d/b/a Nealley's Corner Store at 1230 Kennebec Road - Mayor Duprey opened the hearing and no one spoke in favor or opposition and there were no general questions or comments. The hearing was closed. Motion by Councilor McPike, seconded by Councilor Sirois to approve the Victualers License application for Nealley's Corner Store. Unanimous vote in favor.**

3. NOMINATIONS – APPOINTMENTS – ELECTIONS – None

4. UNFINISHED BUSINESS

- a. Acceptance of Safety Enhancement Grant – Motion by Councilor McPike, seconded by Councilor Sirois to accept the grant. Unanimous vote in favor.**
- b. Route 1A Sidewalk Repair – Use of Streets & Roads Reserve Funds – Recommendation of Infrastructure & Finance Committees – Motion by Councilor Ryder, seconded by Councilor McPike to expend up to \$5,000 from Streets & Roads reserve fund to repair the Route 1A sidewalk. Unanimous vote in favor.**
- c. Annual Salt Contract – Infrastructure Committee Recommendation – Motion by Councilor McPike, seconded by Councilor Sirois to accept the salt contract with International Salt at the price of \$53.98 per ton for the 2014-15 winter. Unanimous vote in favor.**
- d. Elm Street East Culvert Bid Award and Use of Streets & Roads Reserve Funds – Recommendation of Infrastructure & Finance Committees – Motion by Councilor Sirois, seconded by Councilor McPike to accept the bid from Maine Earth in the amount of \$65,707.00 with funding to come from the Streets & Roads reserve account. Unanimous vote in favor.**

5. NEW BUSINESS

- a. Wheelden Heights Road Closure to Non-resident Traffic on 7/19/14 from 12:00 to 6:00 pm – Infrastructure Committee Recommendation – Motion by Councilor Lawlis, seconded by Councilor Ryder to authorize closing Wheelden Heights to non-resident traffic on July 19th from 12:00 to 6:00 pm. Unanimous vote in favor.**
- b. Emergency Street Signs – Use of Grant Funds – Recommendation of Infrastructure and Finance Committees – Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the use of**

funds from the safety enhancement grant to install the emergency street signs. Unanimous vote in favor.

- c. **Littlefield Avenue Paving & Reclamation – Award to Wellman Paving and Use of Streets & Roads Reserve Funds – Recommendations of Infrastructure & Finance Committees –** *Motion by Councilor Sirois, seconded by Councilor Shakespeare to move forward with paving of Littlefield Avenue and award the project to Wellman Paving in the amount of \$8991.50, with funding to come from the Streets & Roads reserve account. Unanimous vote in favor.*
- d. **Local Road Assistance Program – 2014/15 Funds Acceptance – Finance Committee Recommendation –** *Motion by Councilor Sirois, seconded by Councilor Ryder to accept funds from the Local Roads Assistance Program in the amount of \$64,916.00. Unanimous vote in favor.*
- e. **Executive Session Pursuant to 1 MRS §405(6)(E) – Discussion of legal rights and responsibilities related to potential litigation regarding a land use issue –** *Motion by Councilor Brann, seconded by Councilor Shakespeare to enter into executive session pursuant to 1 MRS §405(6)(E) to discuss legal rights and responsibilities related to potential litigation with the Town Attorney. Following discussion, vote on the motion was 3 in favor (Shakespeare, Lawlis and Brann) and 4 opposed (Duprey, Ryder, McPike and Sirois); motion did not carry. It was decided that this could be discussed in open meeting, but because the item was not identified on the agenda, it will be added to the agenda for the next Council meeting.*

E. COMMITTEE REPORTS

Infrastructure Committee – Councilor Ryder reported that the committee authorized the solicitation of bids for replacing flooring in the Public Safety department.

Planning & Development – Councilor McPike reported that the committee discussed the naming of the waterfront park. Economic Development Director Dean Bennett will ask for suggestions from the Hampden Historical Society and McLaughlin's. Dean is also going to contact the City of Bangor relative to their snow dump located near the waterfront park and how it impacts our project.

F. MANAGER'S REPORT – A copy of the Manager's Report is attached and made a part of the minutes.

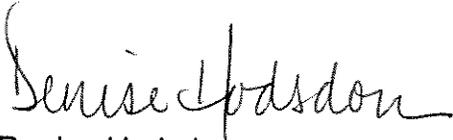
G. COUNCILORS' COMMENTS

Councilor Shakespeare thanked Councilor Brann for giving money to residents so they could take a cab home from the last meeting. He informed the Council that the historic map is being framed, the cost of which will be paid by donated funds.

Councilor Lawlis and Councilor McPike reminded everyone that the Town has started with the zero-sort recycling program at the transfer station. They noted that the amount of garbage will be reduced with this program in place.

Councilor Ryder commented that he was happy with Buck Construction and the job they did on Route 1A. He thanked the Hampden Garden Club for maintaining the gardens at the pool and in front of the Town Office.

H. ADJOURNMENT – *There being no further business, the meeting was adjourned at 7:45 pm.*

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

Denise Hodsdon
Town Clerk

MANAGER'S REPORT

July 7, 2014

Fiscal Year End – I am pleased to report that fiscal year end went smoothly on June 30th. The computer system made the transition seamlessly and the staff, as always, did a great job getting everything completed.

Turtlehead Park – The marina project is now complete and includes both trails and the parking lot and landscaping. I would encourage everyone to go down and check it out! Be careful of poison ivy though – public works is working on eliminating as much of it as possible. This is an absolutely beautiful area and a real asset to the community.

Channel 7 Broadcast – The Town of Hampden was featured on Channel 7 on June 27th and aired it aired their 6 p.m. broadcast from the Hampden Municipal Building. The Farmer's Market was in operation and the Mayor was interviewed for the broadcast and discussed ongoing projects being done by the Town. It was great to have positive press for the community!

Local Cable Channel 7 – After a month of downtime I am happy to report that our local cable channel is up and running again for transmission of Council and Planning Board and School Board meetings. The 'fix' included a new amplifier installation and then some fine tuning work by Justin Foster, our NESCOM student who operates the Town cable tv recording system.

The Bus – The manager of the BAT system is on vacation this week. I called their office for an update on where the Saturday bus service issue was with them – whether they had to have a public meeting or not – and have not heard back yet. At the earliest *will be 1st of August.*

Zero-Sort Recycling – The program has gotten off to a good start. Staff has fielded a lot of questions about how it works, and we will be inviting Jim Dunning from Casella to the next Council meeting for an update and the opportunity for questions. The only issue thus far has been that people are used to parking by the recycling area and strolling back and forth between that area and the trash compactors. Now they are being asked to use one line then the other and not stay parked in the area. That will take some adjustment but it is necessary to keep the lines moving.

Route 1A – Public Works will be working on paving sections of the Route 1A sidewalk this week.

Arthur – Despite some power outages, we had very little damage locally from the remnants of Arthur that went through over the weekend. Even the Route 1A sewer project held up well with all the rain.