

**Planning and Development Committee**  
**March 2, 2016**  
**6:00 PM**  
**Conference Room**  
**AGENDA**

1. Approval of February 22, 2016 Minutes
2. Committee Applications:
3. Updates:
  - Subdivision Ordinance Rework Private Roads - March 16<sup>th</sup>
  - Codification – April 18<sup>th</sup>
  - MRC/Fiberight Timeline Update
4. Old Business:
  - A. Draft Mineral Extraction Repeal - Attorney
  - B. Draft Home Occupation - Attorney
  - C. Subdivision Ordinance Criteria Rework
5. New Business:
  - A. David Hughes, Epstein Realty  
Business Park Agreement
6. Zoning Considerations/Discussion
7. Citizens Initiatives:
8. Public Comments:
9. Committee Member Comments:
10. Adjourn

**Planning and Development Committee**  
**February 22, 2016**  
**6:00 PM**  
**Conference Room**  
**DRAFT MINUTES**

Attendees:

Committee

Ivan McPike - Chair  
Stephen Wilde  
Dennis Marble  
Terry McAvoy  
David Ryder  
Mark Cormier  
Greg Sirois

Staff

Angus Jennings, Manager  
Dean Bennett, Community Dev Director

1. Approval of February 4, 2016:

Minutes were unanimously approved

2. Committee Applications: None

3. Updates:

Planning Board Actions  
Planning Item Target Dates  
Current Development Reviews

Community Development Director (CDD) provided a memo in the Committee packet detailing current activity and anticipated completion dates of draft amendments.

Chairperson McPike asked if any Committee Members had questions.

Mayor Ryder inquired as to the standing of the Subdivision Amendments. CDD explained that the Planning Board Ordinance Committee asked that the Private Street Amendments be re-worked to ensure that the Subdivision Law process was consistently administered whether a subdivision proposed private or public streets. The Planning Board Ordinance Committee was uncomfortable with what appeared to be a dual process of review depending on type of street, rather than division of land, on which the subdivision law is based. CDD further explained that the Planning Board Ordinance Committee requested that the guidelines that were previously developed to implement the state criteria be shortened to the greatest extent possible.

Mayo Ryder indicated his displeasure with the delay and asked that these amendments be addressed sooner than suggested in the CDD's memo. CDD said he would change priorities and try to get the revised Subdivision Private Road draft to P&D at their March 16<sup>th</sup> P&D Meeting.

Mayo Ryder also asked about the status on the sign at the Marina. CDD explained that in order for the municipal sign to include the businesses at the marina location, the businesses would have to own the parcel on which the sign was established, and that the parcel would have to be contiguous with the current business properties, in accordance with Maine Department of Transportation regulations. The municipal sign placement is allowed, however, when including the businesses, the concept becomes problematic if not impossible. CDD stated there was no interest expressed by the businesses to explore property acquisition. CDD stated that unfortunately potentially available ways to assist the marina businesses with signage has been thoroughly explored and exhausted.

4. Old Business:

A. Discussion of Municipal Solid Waste Disposal Proposals

- MRC/Fiberight
- PERC Proposal

Chairperson McPike initiated the discussion by asking for any comments or concerns other Members would like to express.

Noticing Municipal Review Committee Executive Director Greg Louder and MRC Board Member Karen Fussell were in attendance, Chairperson McPike asked if they would be willing to respond to issues raised by the Committee.

Discussions involved a range of topics with regard to the MRC Proposal, including tonnage guarantee, liability for unacceptable waste, and what change if any would there be, as a practical matter, on the residents of Hampden.

**Committee Action: Motion made by Member McAvoy, seconded by Member Marble, to "Recommend to the Town Council that they enter into a waste disposal contract with the Municipal Review Committee/Fiberight." Vote: 7-0.**

5. New Business: None
6. Zoning Considerations/Discussion: None
7. Citizens Initiatives: None
8. Public Comments: None
9. Committee Member Comments: None
10. Adjourn: 6:55pm

**TOWN OF HAMPDEN  
Draft**

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

**SUBDIVISION ORDINANCE**

*Prepared for the*

**TOWN OF HAMPDEN, MAINE**

*By*

*PENOBSCOT VALLEY REGIONAL PLANNING COMMISSION  
FEBRUARY 1982*

Financial assistance in the preparation of this document was provided by Maine's Coastal Program through funding provided by the U. S. Department of Commerce, Office of Coastal Zone Management, under the Coastal Zone Management Act of 1972 as amended.

ADOPTED BY HAMPDEN TOWN COUNCIL: May 17, 1982

EFFECTIVE DATE: June 17, 1982

TEXT AMENDED

AMENDED: April 4, 1983	deletion			
EFFECTIVE: May 6, 1983				
AMENDED: May 7, 1984	331.2.5			
EFFECTIVE: June 6, 1984				
AMENDED: November 18, 1985	532.6	1030		
EFFECTIVE: December 18, 1985				
AMENDED: December 1, 1986	620			
EFFECTIVE: January 1, 1987				
AMENDED: September 21, 1987	545.3D	554.4		
EFFECTIVE: October 20, 1987				
AMENDED: October 5, 1987	331.2.4	332.1.1	332.1.4	342.5
EFFECTIVE: November 3, 1987				
AMENDED: March 7, 1988	565			
EFFECTIVE: April 6, 1988				
AMENDED: June 6, 1988	331.2.2	332.1.2		
EFFECTIVE: July 5, 1988				

TEXT AMENDED

AMENDED: September 19, 1988 EFFECTIVE: October 18, 1988	1030						
AMENDED: March 13, 1989 EFFECTIVE: April 11, 1989	deletion						
AMENDED: June 19, 1989 EFFECTIVE: July 19, 1989	332.2.3	332.2.4	332.2.12	443	460.26	554.4	
AMENDED: June 3, 1991 EFFECTIVE: July 3, 1991	544.3	545.3D					
AMENDED: April 6, 1992 EFFECTIVE: May 6, 1992	deletion						
AMENDED: October 4, 1993 EFFECTIVE: November 3, 1993	513	531.8					
AMENDED: December 20, 1993 EFFECTIVE: January 19, 1994	1031						
AMENDED: February 7, 1994 EFFECTIVE: March 9, 1994	1021	1032	1033				
AMENDED: December 4, 1995 EFFECTIVE: January 3, 1996	552.15.C	552.25	552.26				
AMENDED: May 20, 1996 EFFECTIVE: June 19, 1996	541	543					
AMENDED: February 12, 2002 EFFECTIVE: March 14, 2002	410 475	420 481	431 483.3	432 521	450 531.3A	460.3 532.3	470 532.5
AMENDED: February 12, 2002 EFFECTIVE: March 14, 2002	520	530					
AMENDED: November 17, 2003 EFFECTIVE: December 17, 2003	320	330					
AMENDED: October 3, 2005 EFFECTIVE: November 2, 2005	521	522	524	552.15.B	552.16		
AMENDED: August 6, 2007 EFFECTIVE: September 5, 2007	565						
AMENDED: July 14, 2014 EFFECTIVE: August 13, 2014	542						

**TOWN OF HAMPDEN, MAINE  
SUBDIVISION ORDINANCE  
TABLE OF CONTENTS**

<b>ARTICLE 100 - DECLARATION OF PURPOSE</b> .....	4
<b>ARTICLE 200 - AUTHORITY AND ADMINISTRATION</b> .....	4
210. Authority.....	4
220. Administration and Enforcement.....	4
<b>ARTICLE 300 - PROCEDURES FOR SUBDIVISION REVIEW</b> .....	5
310. Introduction.....	5
320. Pre-application Meeting and Submission of a Sketch Plan.....	5
330. Review of Major Subdivision.....	6
331. Preliminary Plan.....	6
332. Final Plan.....	11
340. Review of Minor Subdivision.....	15
350. Performance Standards for Subdivisions.....	19
360. Design Guidelines.....	30
<b>ARTICLE 400 - IMPROVEMENT GUARANTEES</b> .....	34
410. Improvement Guarantees Required.....	34
420. Procedure.....	34
430. Time Limit.....	34
440. Inspection and Certification.....	35
450. Release of Guarantee.....	35
460. Reduction of Guarantee.....	35
470. Incomplete or Unsatisfactory Work.....	36
480. Improvement Guarantee Option.....	36
<b>ARTICLE 500 - GENERAL REQUIREMENTS AND DESIGN STANDARDS</b> .....	37
510. General Requirements.....	38
520. Lots.....	38
530. Drainage Requirements.....	39
540. Open Space and Recreation Land.....	41
550. Street Standards.....	43
560. Utilities.....	46
570. Buffer Strip.....	47
<b>ARTICLE 600 - WAIVER AND MODIFICATIONS OF THESE REGULATIONS</b> .....	47
<b>ARTICLE 700 - VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING</b> .....	46
<b>ARTICLE 800 - AMENDMENTS</b> .....	48
<b>ARTICLE 900 - APPEALS</b> .....	48
<b>ARTICLE 1000 - DEFINITIONS</b> .....	48

ARTICLE 100  
**DECLARATION OF PURPOSE**

The purpose of these standards shall be to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment, to promote the development of an economically sound and stable community, and to uphold the state Subdivision Law (MRSA) Title 30-A MSRA §4401 through §4407 as amended Title 30, Section 4956.

ARTICLE 200  
**AUTHORITY AND ADMINISTRATION**

**210. Authority** - This Ordinance is enacted pursuant to and consistent with Title 30-A MSRA §4401 through §4407 as amended Title 30 MRSA Section 4956; the Subdivision Law.

**220. Administration and Enforcement**

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

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

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

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

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

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

ARTICLE 300  
***PROCEDURES FOR SUBDIVISION REVIEW***

**310. *Introduction*** - The subdivider's application for subdivision approval will not be considered complete until a Final Plan, including all required information, has been submitted to the Planning Board. While the subdivider may submit the Final Plan and all related materials to the Planning Board without any prior contact with the board, the subdivider is encouraged to follow the procedures outlined in this Ordinance. The procedures herein outlined are designed to prevent problems related to the statutory time limits for reviewing complete applications and to provide opportunity for a dialogue between the Planning Board and the subdivider so that the approved subdivision will be designed and built in a manner that fulfills the purpose of this ordinance.

**320. *Preapplication Meeting and Submission of a Sketch Plan***

321. The subdivider shall submit at least twelve (12) copies of a sketch plan and application to the code enforcement officer at least fifteen (15) days in advance of the regularly scheduled meeting at which she/he wishes it to be considered. The subdivider or his/her authorized agent shall be present at the meeting to discuss the proposal with the Planning Board.

322. The purposes of this preapplication conference between the subdivider and the Planning Board are:

1. To classify the subdivision as a major or a minor subdivision.
2. To provide an opportunity for the subdivider and the Planning Board to informally review the subdivider's ideas for use of the land;
3. To discuss procedures for subdivision review and approval;
4. If road construction is involved in the proposal, to classify the road as either minor or collector;
5. To discuss any apparent potential problems associated with the subdivision; and
6. To arrange for on-site inspection of the subdivision site.

323. The sketch plan shall consist of an outline of the proposed subdivision, drawn on a map drawn to scale, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch. Accompanying the sketch plan shall be a written application which includes a description of existing covenants and easements and zoning; medium intensity soils survey information (obtainable from the Penobscot County Soil Conservation Service); information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots, typical lot width, and depth, plans regarding sewer and water service and road construction; and any proposed nonresidential areas. An application form, available at the town office, shall be used to submit the written information.

324. Other than the classification of the subdivision and the roads, if necessary, no binding commitments shall be made between the subdivider and the board at this stage.

325. The Planning Board shall act on the sketch plan within forty-five (45) days of the time it is submitted and shall notify the subdivider of its action in writing, within fifteen (15) days of its action.

326. Inspection of the site. In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the code enforcement officer and the Planning Board or an individual appointed by the chairman to act as the board's representative for the inspection. The on-site inspection must be considered the next step in the subdivision review process.

### **330. Review of Major Subdivision**

#### **331. Preliminary Plan**

331.1. *Purpose* - The purpose of Preliminary Plan review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seem appropriate based on state and local laws and regulations. The intent is that all major issues relative to the subdivision will be identified and resolved prior to the submission of the Final Plan.

#### **331.2. Procedure**

1. Within six (6) months after classification of the sketch plan as a major subdivision by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan for a major subdivision. The Preliminary Plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of the Preliminary Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance, payable by check to the Town of Hampden, Maine. *(Amended: 06-06-88, 11-17-03)*
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
4. The time of submission of the Preliminary Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which fifteen (15) copies of the application for Preliminary Plan approval, complete and accompanied by the required fee and all data required by section 331.3 of this Ordinance shall have been filed with the code enforcement officer. *(Amended: 10-05-87)*
5. A public hearing shall be held by the Planning Board at the time of submission of the preliminary subdivision plan. Said hearing shall be advertised in a newspaper of general circulation in the town at least ten (10) days prior to the hearing. A notice of said hearing shall be mailed to each land owner abutting the proposed development and to each landowner within three hundred (300) feet of the property line of the proposed development. Landowners shall be considered to be those against whom property taxes are assessed. Failure of any landowner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the code enforcement officer. The applicant shall

bear all associated costs of advertisements and notifications. If site plan review is required it shall be combined with this hearing. *(Amended: 05-07-84)*

6. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public and the Town Council relative to any municipal ordinance, standard, or regulation which is applicable to the proposed subdivision and relative to the relationship of the subdivision to the ordinance, standard, or regulation.
7. Within thirty (30) days after the public hearing, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within thirty (30) days of the public hearing shall constitute approval of the Preliminary Plan.
8. When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
  - A. The specific changes which it will require in the Final Plan;
  - B. Specific information which is over and above that required in section 332.2 of this Ordinance which will be required in the Final Plan review (such additional information must be reasonably related to the review of the subdivision);
  - C. The character and extent of the required improvements for which waivers have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare.
9. Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

331.3. *Submissions* - The preliminary subdivision plan shall be submitted, in the appropriate number of copies, which may be either printed or reproduced on paper. The Preliminary Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn to a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. The Preliminary Plan and supporting data shall include the following information.

331.3.1. *Information About the Applicant*

- |                       |                                                                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>map &amp; text</i> | 1. Name of owner indicated on the map plan and in accompanying written information.                                                                                                              |
| <i>map &amp; text</i> | 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information.                                                                                    |
| <i>text</i>           | 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information. |

- text* 4. Name of applicant's authorized representative in accompanying written information.
- map & text* 5. Name, address, and number of registered professional engineer or land surveyor indicated on the map plan and in accompanying written information.
- text* 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information.
- text* 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information?
- text* 8. What interest does applicant have in any property abutting parcel to be subdivided in accompanying written information?
- text* 9. State whether preliminary plat plan covers entire, contiguous holdings of applicant or not in accompanying written information.

*331.3.2. Information About the Parcel to be Subdivided*

- text* 1. Location of property: Book and page (from register of deeds) in accompanying written information.
- text* 2. Location of property: Map and lot (from assessor's office) in accompanying written information.
- map* 3. Map survey of tract to be subdivided, certified by a registered land surveyor, tied to established reference points (attach to application) indicated on the map plan.
- map & text* 4. Current zoning of property indicated on the map plan and in accompanying written information.
- text* 5. Acreage of parcel to be subdivided in accompanying written information.
- map & text* 6. A soils report, identifying soil types and location of soil test areas indicated on the map plan. Evidence of soil suitability according to the Maine State Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one (1) soil test per lot if subsurface sewage disposal is proposed.
- map* 7. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided indicated on the map plan.
- map & text* 8. Indicate the nature of any restrictive covenants to be placed on the deeds indicated on the map plan and in accompanying written information.

331.3.3. *Information About the Subdivision*

- |                       |                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>map &amp; text</i> | 1. Proposed name of subdivision indicated on the map plan and in accompanying written information.                                                                                                                                                                                                                                                                                                |
| <i>map &amp; text</i> | 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.                                                                                                                                                                                                                                                                                                |
| <i>map</i>            | 3. Date, north point, graphic map scale indicated on the map plan.                                                                                                                                                                                                                                                                                                                                |
| <i>map</i>            | 4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells indicated on the map plan.                                                                                                                                                                                                                                  |
| <i>map &amp; text</i> | 5. Location of all parcels to be dedicated to public use and the conditions of such dedication indicated on the map plan and in accompanying written information.                                                                                                                                                                                                                                 |
| <i>map</i>            | 6. A location map, drawn at a scale in which one (1) inch equals no more than five hundred (500) feet, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area indicated on the map plan. The location map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision (attach to application). |
| <i>map</i>            | 7. Location and size of significant existing physical features including but not limited to wetlands, floodplains, watercourse, rock outcrops and trees of twelve-inch caliper diameter at chest height indicated on the map plan.                                                                                                                                                                |
| <i>map</i>            | 8. Location and size of any existing sewers, watermains, culverts and drains on the property indicated on the map plan.                                                                                                                                                                                                                                                                           |
| <i>map</i>            | 9. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and other open spaces indicated on the map plan.                                                                                                                                                                                                                               |
| <i>map</i>            | 10. Contour lines at an interval of not more than two (2) feet in elevation, unless otherwise specified by the Planning Board indicated on the map plan. All elevations shall be referred to USGS datum.                                                                                                                                                                                          |
| <i>map</i>            | 11. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalks indicated on the map plan.                                                                                                                                                                                                                                    |
| <i>map</i>            | 12. Storm drainage plan indicating the approximate location and size of proposed lines, catch basins and means of disposal indicated on the map plan.                                                                                                                                                                                                                                             |
| <i>map</i>            | 13. The approximate location and size of all proposed water and sewer lines, valves, pump stations and hydrants. Also connections to existing sewer and water systems or alternative methods of water supply and sewage disposal shall be shown indicated on the map plan.                                                                                                                        |
| <i>map</i>            | 14. Location of all other existing and proposed utilities such as electricity and telephone indicated on the map plan.                                                                                                                                                                                                                                                                            |

- map* 15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted indicated on the map plan. This information may be indicated on a Preliminary Plan print.
- map* 16. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale in which one (1) inch equals not more than five hundred (500) feet showing an outline of the subdivided area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract indicated on the map plan. The part of the subdivider's holding submitted, shall be considered in light of the entire holding.
- map* 17. If the preliminary application covers more area than the Final Plan will cover, a map showing the phasing of the entire project, drawn at a scale in which one inch equals not more than five hundred (500) feet and indicating the proposed timing of each phase indicated on the map plan.

332. *Final Plan*

332.1. *Procedure*

1. Within six (6) months of the date of Planning Board action on the Preliminary Plan, the subdivider shall submit the Final Plan to the Planning Board. Failure to submit the Final Plan within the designated time period shall require resubmission of the Preliminary Plan to the Planning Board. However, the subdivider may submit a Final Plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within three (3) years of the date of approval of the preceding phase. The Final Plan shall consist of two (2) original transparencies of all maps or drawings and fifteen (15) copies of all items necessary to complete the submission. *(Amended: 10-05-87)*
2. The application for approval of the Final Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance. The cost of the following improvements shall be included in the calculation of cost: sewer, storm drainage, and/or street work. The subdivider shall be responsible for providing the Town Manager with an estimate of construction cost, prepared by an engineer acceptable to the Town Manager. The Town Manager shall be responsible for certifying the acceptability of the estimate. *(Amended: 06-06-88, 11-17-03)*
3. The subdivider, or his duly authorized representative shall attend the meeting of the Planning Board to discuss the Final Plan.
4. The time of submission of the Final Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which the complete application, accompanied by the required fee, shall have been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time of submission of the Final Plan. *(Amended: 10-05-87)*
5. Within thirty (30) days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.
6. Prior to submitting the Final Plan, the subdivider shall file an improvement guarantee with the Town Manager. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount and form of the guarantee shall be that defined under Article 400 of this Ordinance.
7. *Public hearing* - The board may vote to hold a public hearing on the proposed subdivision. If so, such hearing shall be held within thirty (30) days of having received a complete Final Plan (as determined under section 332.1 item 5.). The manner described in section 331.2 item 5 of this Ordinance. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation.
8. *Review and Action on Final Plan* - The board shall, within thirty (30) days of a public hearing; or within sixty (60) days of having received a complete application, if no public

hearing is held; or within such other time limit as may be mutually agreed to by the board and the subdivider, review the application and deny or grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and state law and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.

9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and any conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the Final Plan.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County registry of deeds within ninety (90) days of the approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety-day periods.

332.2. *Submissions* - The Final Plan shall be submitted in the appropriate number of paper and transparent copies. The Final Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. In addition to all items required on the Preliminary Plan and information requested by the Planning Board during the Preliminary Plan review, the following items shall be required as part of the Final Plan submission unless otherwise indicated by the Planning Board.

- map* 1. *Registered Land Surveyor or Engineer* The name, registration number, seal and signature of the surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross-section and profile sheets also indicated on the map plan.
- map* 2. *Streets* - The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings indicated on the map plan.
- map* 3. *Street Profiles and Details* - Profiles of centerlines of proposed new streets on sheets separate from the plat, at a horizontal scale on one inch equals 40 feet and vertical scale of one inch equals four (4) feet; profiles of all proposed sewers shall be shown on street profiles, when applicable, at the same scale. All elevations shall refer to USGS datum

indicated on the map plan. Detail drawings of any construction methods required for the accommodation of utilities and street appurtenances shall be included. (Amended: 06-19-89)

- map 4. *Street Cross Section* - Cross section at fifty-foot horizontal intervals of proposed new streets, on sheets separate from the plan at the scale of 1 inch equals 5 feet horizontal and 5 feet vertical indicated on the map plan. (Amended: 06-19-89)
- map 5. *Sewer profiles*. Profile of sanitary sewer, if not shown on street profiles, on sheets separate from the plan, at the same scale indicated for street profiles indicated on the map plan.
- map 6. *Storm drainage plan*. Indicating the location and size of the proposed lines, catchbasins, underdrains, their profiles and means of disposal indicated on the map plan.
- map & text 7. *Open spaces*. The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider indicated on the map plan and in accompanying written information. If open space or recreation land is to be dedicated to the town, accompanying the plan must be a copy of the minutes of the Town Council, attested by the town clerk, in which the Town Council agrees to accept such open space or recreation land. Also accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that he is satisfied with the legal sufficiency of the documents conveying such land dedication.
- map 8. *Lots* - The location, bearing and length of every line, with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.
- map 9. *Permanent Reference Monuments* - The location of permanent monuments and pins, set at all lot corners, and identified as existing or proposed indicated on the map plan.
- text 10. *Improvement Guarantee* - Accompanying the plat shall be a letter from the Town Manager indicating that the form, duration, and amount of the improvement guarantee is sufficient and that it has been filed with him in accompanying written information.
- map 11. *Approval Space* - Suitable space to record on the approved plan the date and conditions of approval, if any indicated on the map plan. This space shall be similar to the following example:

*(Additional Suggested Text)*

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Approved: Town of Hampden Planning Board

\_\_\_\_\_

Chairman

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date Approved: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Conditions: \_\_\_\_\_

- text* 12. *Accompanying Data* - The plans shall show the proposed location of all utilities (ie. Water, sewer, electrical, telephone) with written letters from each respective utility indicating their approval for the proposed design and location as shown on the plans. Also there shall be a letter from the Fire Chief approving the number, size and location of hydrants proposed and a letter from the Town Manager indicating the Town's approval of rental charges in accompanying written information. *(Amended: 06-19-89)*
- text* 13. *Easements* - If any easements have been required by the Planning Board, title to the easement, drawn up in a form and substance acceptable to the town or the Hampden Water District if applicable) shall be provided to the town (or the Hampden Water District if applicable) by the subdivider before final approval is granted in accompanying written information.

### 340. *Review of Minor Subdivision*

341. *General* - The Planning Board may require, in advance, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision or a minor subdivision plan comply with all or any of the requirements specified for major subdivision or major subdivision plans.

#### 342. *Procedure*

1. Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plan. The subdivision plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of a minor subdivision shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance payable by check to the Town of Hampden, Maine. *(Amended 11-17-03)*
3. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plan.
4. The time of submission of the subdivision plan shall be considered to be the date of the regular monthly meeting of the Planning Board, at least fifteen (15) days prior to which the application, complete and accompanied by the required fee has been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the subdivision plan at the time of submission of the subdivision plan.
5. Fifteen (15) paper copies and two (2) transparent copies of the subdivision application, containing all information required in section 343 of this Ordinance shall be submitted. *(Amended: 10-05-87)*
6. Within thirty (30) days from receipt of a subdivision plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed it shall notify the subdivider and begin its full evaluation of the proposed subdivision.

7. In the event that the Planning Board determines to hold a public hearing on the proposed subdivision, it shall hold such public hearing within thirty (30) days of having received a complete subdivision application, and shall cause notice of the date, time and place of such hearing to be given to the subdivider and to be published in a newspaper of general circulation in Hampden at least two (2) times, the date of the first publication shall be at least seven (7) days prior to the hearing. The decision to hold a public hearing is discretionary, and in making its decision the Planning Board may consider the size and location of the subdivision, its community impact, and whether any written requests for such hearing have been received.
8. The Planning Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of the time of submission, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30-A MSRA §4401 through §4407 as amended Title 30, MRSA, section 4956, the state subdivision law, and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.
9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the subdivision.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan, unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within ninety (90) days of the date of approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety (90) day periods.
12. If the Planning Board fails to take action within thirty (30) days of a public hearing or within sixty (60) days of the time of submission of a complete subdivision plan, if no hearing is held, or within the mutually agreed to time, as specified above, the subdivision plan shall be deemed disapproved.

343. *Submissions* - The subdivision plan of a minor subdivision shall be submitted in appropriate number of paper and stable transparent copies. The subdivision plan shall be not less than eight and one-half (8-1/2") inches by eleven (11") inches and not more than forty-eight (48") inches by thirty-six (36") inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100') feet and shall be oriented so the north direction is the same on all sheets.

The application for approval of a minor subdivision shall include all of the following information:

343.1. *Information About the Applicant*

- map & text* 1. Name of owner indicated on the map plan and in accompanying written info.
- map & text* 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information.
- text* 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information.
- text* 4. Name of applicant's authorized representative in accompanying written information.
- map* 5. Name, address, seal, signature, and number of the land surveyor who prepared the plan indicated on the map plan.
- text* 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information.
- text* 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information?
- text* 8. What interest does the applicant have in any property abutting parcel to be subdivided in accompanying written information.

343.2. *Information About the Parcel to be Subdivided*

- text* 1. Location of property: book and page (from register of deeds) in accompanying written information.
- text* 2. Location of property: map and lot (from assessor's office) in accompanying written information.
- map & text* 3. Current zoning of property indicated on the map plan and in accompanying written information. Show location of zone boundaries on the parcel if any zone boundary crosses the parcel.
- text* 4. Acreage of parcel to be subdivided in accompanying written information.
- map* 5. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided as per tax assessor's records indicated on the map plan.

- map & text* 6. Indicate the nature of any covenants or deed restrictions which are intended to cover all or part of the tract indicated on the map plan and in accompanying written information.
- map & text* 7. An actual field survey of the boundary lines of the parcel, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and shall be marked by permanent monuments, and shall be referenced and shown on the plan indicated on the map plan and in accompanying written information.
- map* 8. Location of any watercourses, floodplain, wetland, or unique natural features on the parcel indicated on the map plan.

343.3. *Information About the Subdivision*

- map* 1. Proposed name of subdivision indicated on the map plan.
- map & text* 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.
- map* 3. Date, north point, graphic map scale indicated on the map plan.
- map* 4. The location of permanent monuments or pins, set at all lot corners and identified as existing or proposed indicated on the map plan.
- map* 5. The location, bearing and length of every lot line with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.
- map* 6. Suitable space to record on the approved plan the date and conditions of approval, if any. This space shall be similar to the following example:

*(Additional Suggested Text)*

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Date Approved: \_\_\_\_\_  
 Date Signed: \_\_\_\_\_  
 Conditions: \_\_\_\_\_

Approved: Town of Hampden Planning Board

\_\_\_\_\_  
 Chairman  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- map* 7. Soils report. A soils report, identifying soil types and location of soil test areas. If subsurface sewage disposal is to be used, evidence of soil suitability for subsurface sewage disposal as determined by the Maine Plumbing Code shall be presented. There shall be at least one soils test per lot.
- map* 8. Location and name of existing public streets and way.

350. Performance Standards for Subdivision The performance standards in this section are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404, Review Criteria). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a subdivision plan. Compliance with the design guidelines of Sections 350 and 360 and Article 500 shall be considered to be evidence of meeting the appropriate performance standards. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. All proposed subdivisions shall be in conformity with the Comprehensive Plan and subsequent amendments or revisions or policy statement of Hampden and with the provisions of all pertinent state and local codes and ordinances.

(Note: the boldface text that follows is directly from the statute).

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that

350.1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents;
5. The applicable state and local health and water resource rules and regulations
6. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
7. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients,
8. ~~The homeowner association covenants, if the subdivision utilizes a homeowner association, will include a requirement to follow the guidelines in the most current edition of "Best management Practices for the Application of Turf Pesticides and Herbicides" as published by the State of Maine Pesticide Control Board.~~

**350.2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;**

1. ~~The statutory criterion is that the proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. This means an adequate supply of good quality water. Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan or a separate document to be recorded in the Registry of Deeds.~~
2. ~~Any subdivision within 1,000 (one thousand) feet of an existing public water supply will be connected to and source it's water supply from that public system unless the relevant water authority indicates in writing that it does not have the capacity to serve the subdivision or it can be demonstrated that the water extension costs are greater than the full cost of establishing private wells for all of the lots in the subdivision.~~
3. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Hampden Water District and the Hampden Public Safety.
4. ~~When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan and subsequent amendments or revisions, or within 1000 feet of the existing water service, water supply shall be from individual wells or a private community water system, with a map provided showing where the water supply is located.~~
  - A. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - B. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
  - C. When a central water supply system is provided by the applicant the location and protection of the source, the design, construction and operation of the system will conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R, 231) and evidence of conformance provided.
  - D. Hampden Public Safety Department must approve in writing the adequacy and accessibility of water supply for the proposed subdivision, whether the water is from public or private sources.

**350.3. Public water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;**

In meeting the standards, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies. A letter from the Hampden Water District shall be provided addressing any identified deficiencies or absence thereof.

**350.4. Soil Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;**

1. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
2. The procedures outlined in the erosion and sedimentation control plan, shall be implemented during the site preparation, construction, and clean-up stages.
2. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
4. Cutting or removal of vegetation along or adjacent to waterbodies shall not result in shoreline erosion or sedimentation.
3. Development proposed within any shoreland zone will provide evidence of conformance with Shoreland Zoning regulations.

**350.5. Traffic Conditions. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;**

1. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision, avoiding traffic congestion, and provide adequate unimpeded access to emergency vehicles and personnel to all lots and structures within the subdivision, in such a manner as to:
  - A. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
  - B. Avoid traffic congestion on any street; and
  - C. Provide safe and convenient circulation on public streets and within the subdivision;  
and

D. Provide adequate, unimpeded access to emergency vehicles and personnel to all lots and structures within the subdivision at all times under normal and adverse conditions. A letter from Public Safety Department shall be provided indicating their satisfaction with the emergency vehicle access to and within the subdivision.

2. More specifically, access and circulation shall also conform to the following standards:

A. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing or proposed streets, that the Comprehensive Plan and subsequent amendments or revisions has classified as residential access streets. Gates or other form of permanent access restriction across access roads, streets or pedestrian ways are not permitted.

B. The street giving access to the subdivision and neighboring streets and intersections that can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the Comprehensive Plan and subsequent amendments or revisions has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection.

C. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets

D. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.

E. Unless not feasible for topographic and other site conditions, provisions in the form of rights of way or street stubs shall be made for street connections to adjoining lots of similar existing or potential use within areas of Hampden designated as growth areas in the Comprehensive Plan, and subsequent amendments or revisions. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Public Works Director, Superintendent of Highways, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic. In non-residential subdivisions such access will be provided to adjoining lots or similar existing or potential use, if it will: (1) facilitate fire protection services as approved by the fire chief; or (2) enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

E. Street Names, Signs and Lighting. Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be named in accordance with Town of Hampden ordinances and shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to approval of the Board. The developer shall either install street name, traffic

safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as required or approved by the Board and the cost of the installation and the operating costs will be borne by the applicant.

- F. Clean-up. Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

**350.6. Sewage Disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized:**

**1. Public System.**

- ~~A. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point.~~

~~Exceptions: This requirement is intended to facilitate the expansion of the public sewer system but is not absolute. The requirement is not intended to require sewer pump stations to satisfy the standard. The requirement is not intended to establish sewer extension costs that would exceed the full cost of establishing septic systems for all of the lots in the subdivision.~~

- B. When it is proposed that a subdivision be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations (if permitted under the Sewer Ordinance), shall be installed at the expense of the applicant.
- C. The Public Works Department sewer department shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
- D. The Public Works Department shall review and approve the construction drawings for the sewerage treatment. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the Public Works Department, servicing sewer department or department.
- E. If the proposed system is to be public sewer with private wells the plan must include metering of well water with the full cost of the devices and the reading of the meters borne by the owner/resident. Such plan shall be presented to the Town Council for approval before final subdivision plan is granted by the Planning Board.

**2. Private Systems.**

- ~~A. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan and subsequent amendments or revisions and as per the Comprehensive Plan and subsequent amendments or revisions Map, connection to the public system shall not be permitted unless the public sewer extension is approved by the Town Council and paid for by the developer. Permissible private sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.~~

- B. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
- ~~C. The site evaluator shall certify in writing that all test pits that meet the requirements for a new system represent an area large enough to provide a disposal area on soils that meet the Disposal Rules.~~
- D. Unless the subdivision is a cluster development served by a clustered subsurface waste water disposal system, each proposed lot must be served by a septic system located within its boundaries, the following standards will apply:
  - ~~1). Each proposed lot must be served by a septic system located within its boundaries. (see 3) below).~~
  - ~~2). If the depth to a limiting factor, as defined by the above rules is less than 24 inches, both the septic system and a replacement system site must be located within each proposed lot. Both the Primary and The reserve area shall be shown on the plan and restricted so it will not be built on.~~
  - ~~3). Septic systems serving a structure on one lot are not allowed to be located on abutting or neighboring lots except under the following conditions:  
Conditions to be determined.~~
  - ~~4). Septic systems shall be designed to ensure that there is no net increase in the flow of nitrates across the perimeter of the subdivision as a result of the subdivision's septic systems.~~
- ~~E. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.~~

**350.7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;**

Major subdivisions shall be required to obtain a letter from the Public Works Department Hampden Public Works director stating that the municipal solid waste disposal system has adequate capacity for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

If in the opinion of the Hampden Public Works director there is not adequate capacity to dispose of solid waste applicant shall be required to make alternate arrangements with an alternative disposal facility and provide a letter from that private solid waste disposal facility stating that they have adequate capacity for the disposal for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

**350.8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;**

A. If any portion of the subdivision is designated an important historical or prehistorical importance, appropriate measures for the protection of those resources have been included in the plan and a letter provided by the Maine Historic Preservation Commission approving of these measures.

B. A letter shall be provided by the Department of Inland Fisheries and Wildlife that the proposed subdivision will not have an adverse affect on the following:

1. Habitat for species appearing on the official state or federal lists of endangered or threatened species;

2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;

3. Shorebird nesting, feeding and staging areas and seabird nesting islands;

4. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or

5. High or moderate value deer wintering area or travel corridor

1. Preservation of Natural Beauty and Aesthetics

A. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan;

2. Retention of Open Spaces and Natural or Historic Features

A. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation;

B. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan;

3. Protection of Significant Wildlife Habitat

A. A report shall be required if any portion of a proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:

1) Habitat for species appearing on the official state or federal lists of endangered or threatened species;

- ~~2) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;~~
  - ~~3) Shorebird nesting, feeding and staging areas and seabird nesting islands;~~
  - ~~4) Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or~~
- ~~B. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;~~
- ~~C. Or other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report shall be prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports;~~
- ~~D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights of way, or should be included in the open space with provisions made for continued public access;~~

**350.9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;**

All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. If all of the land within a subdivision will be owned as a condominium, i.e., owned in common by all dwelling unit owners, minimum dimensional requirements will be applied to nominal lots shown on the preliminary and final plans. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

**350.10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;**

1. **Financial Capacity.** The applicant shall have financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations (See 4.10 Improvement Guarantees). When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development.
2. **Technical Ability.** The applicant shall retain contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

**350.11. Surface waters; outstanding river segments (where applicable). Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.**

There are no Outstanding River Segments in the Town of Hampden.

Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation of water bodies.

Note: A, A(1) and A(2) regarding Outstanding River Segments are not applicable in Hampden, Maine.

**350.12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;**

**I. Ground Water Quality.**

A. If the Board determines there is reason to believe that the ground water quality will be adversely affected by the subdivision, a hydrologic assessment may be required. The assessment shall contain sufficient information to conclude whether the subdivision will or will not adversely affect quality and quantity of ground water.

1). A map showing the basic soils types;

2). The depth to the water table at representative points throughout the subdivision;

3). Drainage conditions throughout the subdivision;

4). A plan that indicates proposed subsurface waste disposal fields location and a 100 foot radius circle line surrounding each field indicating the minimum setback for private wells. The plan should also indicate any existing private wells or subsurface wastewater disposal fields on adjoining properties that might affect the placement of wells or septic systems within the proposed subdivision.

B. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation);

C. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

D. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

E. If ground water contains contaminants in excess of the secondary standards, the subdivision

~~shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.~~

E. If an assessment is required, subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

2. *Ground Water Quantity.* If the Board determines there is reason to believe that the subdivision will have negative impact on the level of the water table, an assessment by a licensed/certified hydrogeologist may be required. ~~the ground water withdrawals by a proposed subdivision will not have a material adverse impact on the level of the water table in the immediate vicinity of the subdivision.~~

**350.13. . *Flood areas.* Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the areas shall be identified and development shall meet the provisions of Hampden's Floodplain Management Ordinance,

1. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages;

2. Adequate drainage shall be provided so as to reduce exposure to flood hazards;

3. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

**350.14. *Freshwater wetlands.* All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;**

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 1987 (or most recent) edition of the Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

350.14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

350.15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

350.16. Storm water. The proposed subdivision will provide for adequate storm water management;

Adequate provision shall be made for the management of the quantity, and if required, quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, storm drains and best management practices equivalent to those described in The Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), in conformance with the policies of the Comprehensive Plan and subsequent amendments or revisions. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains and to meet the following standards;

1. Quantity. Peak discharge rates shall be generally limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean,

2. Quality.

- A. Storm water run-off in subdivisions, must be treated by the use of Best Management Practices equivalent to those described in the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), to achieve, by design, 40% reduction in total suspended solids;
- B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.
- C. Proposed projects which need a storm water permit from the Maine Department of Environmental Protection, pursuant to Chapter 500 and Chapter 502 regulations, shall meet both the State regulations and the requirements of this Ordinance and other applicable local ordinances, this ordinance. In the case of any conflicting requirements, the stricter shall be applied.

**350.17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;**

**350.18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;**

Subdivisions proposed within the watershed of a great pond, shall submit sufficient evidence that the proposed subdivision will not unreasonably increase the great pond's phosphorus concentrations,

**350.19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and**

When a subdivision is proposed that crosses municipal boundaries, the adjoining municipality shall be notified and evidence submitted by the applicant that the determination has been made as to the effects of the subdivision within the adjoining municipality,

**350.20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester,**

**For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.**

~~360. *Design Guidelines.* This section is intended to provide an example of design guidelines, that if followed will result in meeting the appropriate performance standards of Section 350. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this section may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.~~

~~361. *Sufficient Water.*~~

~~1. *Well Construction.*~~

~~A. *Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.*~~

~~B. *Wells shall be prohibited within 30 feet of the traveled way of any street and any drainage easement area. Well head location preference shall be given to locations that do not directly drain from the road to the well head such as uphill locations and areas where drainage is diverted by ditch rows unless this is not feasible. This restriction shall be included as a note on the plan and deed restriction to the affected lots.*~~

~~362. *Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.*~~

~~1. *Access to Open Spaces.* Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, vehicular access where applicable, lookouts, etc. where necessary and appropriate.~~

~~2. *Preservation of Historic Features.* Applicant shall seek in writing a letter from Maine Historic Preservation requesting information on the proposed subdivision parcel if it is on the database for historic or archeological known locations. Proposed subdivisions that include or are adjacent to buildings or sites on the National Register of Historic Places, a Local Historic District or Landmark as identified in the Town of Hampden Historic Preservation Ordinance or that the Comprehensive Plan and subsequent amendments or revisions has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. Applicant shall seek the written advice of the Maine Historic Preservation Commission and the Hampden Historic Preservation Commission in reviewing such plans.~~

~~3. *Protection of Significant Wildlife Habitat and Important Habitat Areas.* The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and~~

~~provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions that include significant wildlife habitat or resources identified in Section 350.8 Protection of Significant Wildlife Habitat.~~

~~A. Protection of Habitat of Endangered or Threatened Species;~~

- ~~1). Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space;~~
- ~~2). Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing;~~

~~B. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic Salmon Spawning and Nursery Areas;~~

- ~~1). There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high water mark of the following habitat areas:
 
  - ~~a. Shorebird nesting, feeding and staging areas and seabird nesting islands;~~
  - ~~b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;~~
  - ~~c. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or~~
  - ~~d. Other important habitat areas identified in the Comprehensive Plan and subsequent amendments or revisions;~~~~
- ~~2). This restriction shall appear as a note on the plan and as a deed restriction to the affected lots;~~

~~C. Protection of Deer Wintering Areas. The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas;~~

~~D. Protection of Important Shoreland Areas;~~

- ~~1). Except as in areas described in Section 12.3.C.2, within all areas subject to the state mandated 250 foot Shoreland zone:
 
  - ~~a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4<sup>+</sup>2 feet above the ground level on any lot in any ten year period;~~
  - ~~b. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whatever is greater, including land previously developed;~~~~

~~2). These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.~~

~~E. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.~~

~~36.3. Impact on Water Quality or Shoreline. Within a strip of land extending 100 feet inland from the normal high water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots that include any such land shall contain the following restrictions:~~

- ~~1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the footpath shall be limited to six feet.~~
- ~~2. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 <sup>1</sup>/<sub>2</sub> feet above ground level may be removed in any ten year period.~~
- ~~3. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.~~
- ~~4. Pruning of tree branches on the bottom third of the tree is permitted.~~

ARTICLE 400  
**IMPROVEMENT GUARANTEES**

**410. Improvement Guarantees Required**

Before the submission of a Final Plan, the subdivider in all major subdivisions as defined in Section 1024 shall provide the town with improvement guarantees, in the form of one or more of the guarantee options listed below in an amount that will cover at least one hundred (100) percent of the cost of completing the improvements, including sewer, water, storm drainage, or street work, should the subdivider fail to complete the required improvements or fail to complete them satisfactorily in accordance with the approved final subdivision plan. Furthermore, the subdivider shall guarantee the improvements against all defects from materials and/or workmanship for a period of one year from the date of acceptance thereof by the Town. *(Amended 02-12-02)*

**420. Procedure**

The subdivider shall file with the Town Manager a proposed improvement guarantee (including a written guarantee agreement) and the Town Manager shall determine whether the form, amount, and the duration of the improvement guarantee are sufficient. In the event the Town Manager refuses to approve the proposed improvement guarantee as filed by the subdivider, he shall so inform the subdivider and shall inform the subdivider of his reasons for rejecting the guarantee. This shall be done in writing. In the event the Town Manager approves the proposed improvement guarantee as filed by the subdivider, he shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Town Manager. The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider. *(Amended 02-12-02)*

**430. Time Limit**

431. *Completion Deadline.* All required improvements within a subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the town during said two-year period plus at least eighteen (18) months following the expiration of the two-year period. The additional eighteen-month period is required as protection to the town in the event the subdivider fails to complete the required improvements and for the one year guarantee period. *(Amended 02-12-02)*

432. *Extension.* The Town Manager may extend the completion deadline for two (2) additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six (6) months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Town Manager shall require that the improvement guarantee be extended in duration to cover the extended period of time, plus an additional eighteen month period. Before extending the initial deadlines, or the initial extension, the Town Manager shall review the form and amount of the improvement guarantee to make certain it remains adequate. *(Amended 02-12-02)*

**440. Inspection and Certification**

441. The Town Manager or his duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Town Manager or his representative who is carrying out these inspections. Upon completion of the improvements the Town Manager shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved

final subdivision plan. If the improvements have not been satisfactorily completed, the Town Manager shall list the defects.

442. Upon completion of the improvements, the subdivider shall file the following with the Town Manager:

1. A statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;
2. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.

443. No final inspection will be conducted by the manager between November 15<sup>th</sup> and April 15<sup>th</sup>. This does not prohibit council acceptance of improvements inspected between April 15<sup>th</sup> and November 15<sup>th</sup>. *(Amended: 06-19-89)*

#### **450. Release of Guarantee**

As soon as the Town Manager or his authorized representative has inspected the improvements and certified that they are satisfactorily completed, the subdivider has filed the letter required in Section 442 of this Ordinance with the Town Manager, and the one year guarantee period has expired, the Town Manager shall release the previously required improvement guarantee to the subdivider. *(Amended 02-12-02)*

#### **460. Reduction of Guarantee**

1. When all required improvements have been substantially and satisfactorily completed, the Town Manager may release up to fifty (50) percent of the improvement guarantee. The improvement guarantee shall be reduced in value by no more than fifty (50) percent until all required improvements are satisfactorily completed.
2. Conditional acceptance may be authorized providing:
  - A. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.
  - B. The binder pavement layer is placed on all areas proposed to be paved.
  - C. The developer supplies the manager with an improvement guarantee (section 410), documented by a written estimate from a reputable paving contractor, for the placement of the final finished pavement layer. Said guarantee shall be released in accordance with Section 450. *(Amended: 06-19-89)*
3. Upon acceptance of the improvements by the Town, the Town Manager shall release up to eighty-five (85) percent of the improvement guarantee, and shall release the remaining portion fourteen (14) months after acceptance of the improvements by the Town, unless the Town Manager has provided notice of a guarantee claim pursuant to Section 475, in which case the guarantee shall remain in place until any such claims have been resolved to the satisfaction of the Town Manager. *(Amended 02-12-02)*

**470. *Incomplete or Unsatisfactory Work***

If the Town Manager determines, according to the procedures laid out in section 440 of this Ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan, within the agreed upon time, he shall inform the subdivider in writing of the town's intent to exercise its rights against the improvement guarantee, he shall exercise any and all such rights; and may cause the incomplete or unsatisfactory work to be completed. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the town. (Amended 02-12-02)

475. *Defective Improvements.* If the Town Manager, or designee, determines that the improvements suffer from defective workmanship or materials, the Town Manager, or designee, shall notify the subdivider in writing of the defects by not later than 30 days after the expiration of the one year guarantee period. If the defects are not corrected to the satisfaction of the Town Manager within 60 days after the issuance of the notice to the subdivider, the Town Manager, or designee, shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee, shall exercise any and all such rights, and may cause the defective workmanship or materials to be corrected. Any guarantee assets unused in the correction of any defects may be returned to the subdivider at the discretion of the Town. (Amended 02-12-02)

**480. *Improvement Guarantee Option***

481. *Performance Bond* - Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Hampden and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. (Amended 02-12-02)

482. *Property Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee personal property, including stocks and bonds. The value of such property shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager.

482.1. *Personal Property Escrow* - If personal property is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The subdivider shall provide the town with evidence of the value of the personal property satisfactory to the Town Manager.
2. The subdivider shall, at his expense, provide the town with a title opinion from an attorney, satisfactory to the town, that there exists no outstanding recorded security interest in said property; the subdivider shall provide the town with evidence, satisfactory to the Town Manager, of ownership of the proposed property.
3. The subdivider shall enter into an agreement with the town and execute a security interest in favor of the town, which shall be filed as required by law; said agreement shall provide that the ownership of the property shall be transferred to the town, unless the subdivider satisfactorily completes the required improvements in accordance with this Ordinance and with the approved final subdivision plan. Said agreement and security interest shall contain such additional provisions as may be required by the Town Manager.

4. In the case of stocks, bonds, or other securities, the subdivider shall deliver to the town or its designated trustee the original certificate for said security, together with a stock or bond power endorsed in blank by the subdivider authorizing the transfer of ownership on the books of the corporation. In the case of other personal property, the subdivider shall deliver to the town, or its designated trustee, the personal property together with a satisfactory security interest in such property.
5. In the case of stocks, bonds, or other securities, the Town Manager may require that the value of said securities exceed the estimated cost of the required improvements in order to protect the town from market fluctuations, or may at his option reject stocks, bonds or other securities that in his opinion do not provide the town with satisfactory security.

483. *Letter of Credit* - Under this improvement guarantee option, the subdivider shall provide, as a guarantee, an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Town Manager, such letter of credit to be in form satisfactory to the Town Manager. The amount of such letter of credit shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. The letter of credit shall be deposited with the Town Manager and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs as estimated for the subdivider by a registered professional engineer and approved by the Town Manager, of completing all required improvements;
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Hampden immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the limit of credit stated in the letter. *(Amended 02-12-02)*

484. *Cash Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee, cash held in an account at a bank or other reputable institution subject to the approval of the Town Manager. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and approved by the Town Manager. The subdivider shall enter into an agreement with the town that shall stipulate the terms under which a cash escrow may be accepted by the town.

ARTICLE 500  
**GENERAL REQUIREMENTS AND DESIGN STANDARDS**

In considering applications for subdivisions of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 600 of this Ordinance.

**510. General Requirements**

511. *Conformity with other laws and regulations.* All proposed subdivisions shall be in conformity with the comprehensive plan of the Town of Hampden, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws, and regulations.

512. *Character of the land.* Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the one-hundred-year frequency floodplain, on wetland which must be filled or drained, on land created by diverting a watercourse, or on land subject to slumping, mass wasting, or land slides. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal land.

513. *Soils* - Subdivisions which contain poor soils due to organic materials, clays, or seasonal high water table (less than 24 inches below grade) shall provide appropriate construction techniques, including but not limited to, underdrains and geotextiles in public road construction. *(Amended: 10-04-93)*

**520. Lots**

521. *Lots to be Buildable* - The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties as a result of other natural conditions. Lots should not be of such dimension as to later encourage the creation of a second building lot out of the first. Land area delineated as freshwater wetlands, located between the upper edges of perennial or intermittent streams, or designated for stormwater detention facilities shall not be included as lot area for the purpose of the minimum lot area requirement applicable to the subdivision lots. *(Amended 10-03-05)*

Notwithstanding the provisions of this subsection, non-cluster Rural District lots comprised of less than two acres of upland may be approved if the Planning Board finds that the lot contains a minimum of one acre of generally contiguous upland area, not delineated as freshwater wetlands, and determines that the lot is suitable for development. *(Amended 10-03-05)*

Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from this provision. *(Amended 02-12-02)*

522. *Side Lines* - All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a waiver from or modification of this rule will give a better street or lot plan.

Notwithstanding this subsection, variations to the right angle/radial of the street line are encouraged where the Planning Board determines that variations of no more than 20 degrees will improve the layout of the lots by meeting one or more of the following objectives: Simplification of lot layouts

by elimination of unnecessary property corners, foster creation of parallel side lot lines, foster improved solar access, accommodation of pre-existing features such as perimeter property lines or natural physical features such as wetlands and drainage ways. It is not the intent of the side lines rule to promote the placement of additional pins and monuments located in close proximity to the front property line. *(Amended 10-03-05)*

523. *Corner Lots* - In general, corner lots should be larger than interior lots to provide for proper building setback from each street and to provide a desirable building site.

524. *Lot Frontage* - Lot frontage shall be deemed acceptable only if it is on a road or street as defined in the Hampden Zoning Ordinance. Tie lines must be shown at the front setback line to demonstrate that the lot meets the frontage requirement of the zoning district at the setback unless the lot frontage exceeds the minimum frontage requirement by at least five feet. *(Amended 10-03-05)*

### 530. *Drainage Requirements*

531. *General* - The subdivider will be required to provide surface water and storm drainage management facilities appropriate to the finished subdivision. The following requirements must be met for both minor and major subdivisions. Minor subdivisions of single family dwellings in the Rural District are exempt from the following requirements.

1. A storm water management system will be designed to infiltrate, detain or retain water falling on the site during a design storm, such that the post-development peak discharge and runoff shall not exceed the peak discharge and runoff from the site prior to the development.
2. Pipe systems shall be designed to pass the peak discharge of a ten-year frequency, twenty-four-hour duration storm. Open channel systems shall be designed to contain a design storm. In addition, areas expected to be flooded by the design storm will be indicated on the plans, and be considered part of the drainage and storm water management system.
3. The storm water management system will take into consideration the upstream discharge and runoff which must pass over or through the development site. The system will be designed to pass upstream discharge and runoff, generated by the design storm, through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.
  - A. The surface water and stormwater management system shall be designed so that no water shall be stored in any ditches or drainage ways located along streets or roads during a 10 year, 24 hour storm event. *(Amended 02-12-02)*
4. Urban development which provides public sewer and water service shall be designed to handle storm water drainage by means of an enclosed system with catch basins. Where necessary to control storm water, asphalt curbing may be required.
5. *Materials and Installation*
  - A. *Pipe Culverts and Storm Drains* - Shall conform to Section 603 of the Maine Department of Transportation (MDOT) Standard Specifications for Bridges and Highways, 1990 or current version.

- B. Manholes and Catch Basins - Shall conform to Section 604 of the MDOT Standard Specifications for Bridges and Highways, 1990 or current version.
6. Drain inlet alignment shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear drain is obtained in writing from the Public Works Director after consultation with the Municipality's Engineer.
  7. Manholes/catch basins shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
  8. Upon completion, each catch basin or manhole shall be cleaned of all accumulated silt, debris, or foreign matter until public acceptance. *(Amended: 10-04-93)*
532. *Approvals* - Applications for approval of all proposed subdivisions shall include documentation that demonstrates that there will be no unreasonable effects on runoff/infiltration relationships. This documentation shall include the following, as appropriate:
1. The proposed storm water management system shall be designed by a professional engineer experienced in the design of storm water systems. The designer of the system will evaluate the effectiveness of various storm water methods and develop and make available for review the hydraulic calculations. These calculations will be based on accepted engineering practices and must demonstrate that the requirements of section 531 will be met.
  2. Where permanent embankment-type storage or retention basins are planned, the basins shall be designed in accordance with good engineering practices, such as outlined in the current Soil Conservation Service Engineering Field Manual or other appropriate references.
  3. Rights-of-way or easements will be designated for all components of the drainage and storm water management system lying outside the established street lines. Stormwater detention facilities shall not be located on lots but on separate parcels to be conveyed to the town or provided for by easement to include provisions for suitable annual maintenance. All rights-of-way and easements will be turned over to the town. Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from the provision requiring that stormwater detention facilities be separated from lots and conveyed to the Town. *(Amended 02-12-02)*
  4. The developer shall certify in writing that all components of the storm water management system will be maintained until the system is formally accepted by the municipality or a quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system.
  5. The storm water management system will be fully coordinated with the project site plans, including consideration of street patterns, pedestrian ways, open space, building siting, parking areas, recreational facilities, and other utilities. Stormwater drainage channels shall be directed to run along property lines to avoid driveway and other utility crossings. *(Amended 02-12-02)*
  6. When the construction of a development is to occur in phases, the planning of the storm water management system shall encompass the entire site which may ultimately be developed, and shall not be limited to an initial or limited phase of the development. *(Amended: 11-18-85)*

**540. *Open Space and Recreation Land*** - All subdivisions shall be required to set aside land for open space and recreation or to provide cash in lieu of land. The primary intent of this section is to provide open space and recreation land in all areas of the community. It is understood that not all developments will have land suitable for open space or recreation within their boundaries, therefore this section is designed to be as flexible as possible. To that end, this section shall allow the provision of off-site open space and recreation areas, and cash in lieu of land. In cluster development, the cash in lieu of land provision shall not apply.

**541. *Approval Authority*** - The Planning Board shall approve the means of meeting this requirement.

The Hampden Conservation Committee and Recreation Committee shall be given opportunity to make written recommendations to the Planning Board on all open space proposals within forty-five (45) days of receiving notice. Where land is to be dedicated to the town, or otherwise requires action of the Town Council, the Planning Board shall require the subdivider provide documentation as to the Town Council's decision as provided in 545.2. *(Amended: 05-20-96)*

**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. *Amended 7-14-2014, Effective Date 8-13-2014*

**543. *Standards for Land*** - The purpose of this section is to provide for permanent open space. The subdivider may offer dedicated land, conservation easements, or other means to meet the requirements of this section. These areas shall be in locations designated as open space or green belts in the Comprehensive Plan. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. *(Amended: 05-20-96)*

1. Where the open space requirement is in excess of ten (10%) percent of the land to be subdivided, the subdivider may elect to provide land identified in the Open Space and Recreation Plan, if one exists. Where off-site open space is proposed, the following standards apply:
  - A. Ten (10%) percent shall be provided within the subdivision.
  - B. The off-site open space shall be within one (1) mile of the subdivision.
  - C. The off-site open space shall have been previously designated in the Open Space and Recreation Plan.
  - D. The subdivider shall provide proper right, title or interest to the off-site land.

544. *Standards for Cash-in-Lieu of Land* - Where cash in lieu is proposed, the following standards shall apply.

1. At the time of Final Plan submission, the subdivider shall contribute to the Town of Hampden \$400/lot, \$200/unit or \$200/acre, whichever is greatest.
2. All monies placed in this fund shall be used for the purchase or development of open space or recreation land.
3. Land purchased or developed with these funds shall be located to serve the needs of the residents of the subdivision. *(Amended: 06-03-91)*

545. *Provisions for Ownership and Maintenance of Open Space or Recreation Areas* - If land is to be set aside under the provisions of this section, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such land. The means for insuring the open space will be available in perpetuity shall be:

1. Retain ownership and responsibility for maintenance of such land; or
2. Dedicate such land to public use if the town or another public agency has indicated it will accept such dedication. If the subdivider proposed that the town accept the land, the subdivider must provide the planning board, as part of the final plan, with a copy of the minutes of the meeting of the Town Council, attested by the town clerk, in which the Town Council agreed to accept such land; or
3. Provide for and establish one or more organizations for ownership and maintenance of such land. Such organization shall be either a nonprofit homeowners' corporation or a community open space trust. If such organization is formed, it shall be formed and operated in accordance with the following rules:
  - A. The organization shall be formed by the developer and be operating, with financial subsidization by the developer if necessary, before the sales or lease of any lots or units within the development.
  - B. Membership in the organization is mandatory for all purchasers of units therein and their successors.
  - C. The organization shall be responsible for maintenance of common open spaces and property. It shall also be responsible for insurance and taxes on common open space and property.
  - D. The members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with written procedures established by them. *(Amended: 09-21-87, 06-03-91)*

**550. Street Standards**

551. *Layout of Streets* - All streets in a subdivision shall be planned so as to meet the following standards:

1. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Hampden.
2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets, shall be designed so as to discourage movement of through traffic.
3. The arrangement of streets in the subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice.
4. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town under conditions approved by the Town Council.
5. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
6. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.
7. Whenever possible, subdivisions containing fifteen (15) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the official road map, if such exists, or streets on an approved Subdivision Plan.
8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked "Reserved for road realignment (or widening) purposes". Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.

552. *Design and Construction Standards* - All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the Planning Board.

Design and Construction Standards for Streets

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
1. Minimum right-of-way width	66 ft.	66 ft.
2. Minimum pavement width	24 ft.	20 ft.
3. Minimum grade	0.5%	1.0%
4. Maximum grade	8%	8%
5. Maximum grade at intersection 3% Within feet from intersection	75 ft.	50 ft.
6. Minimum centerline radii on curves	200 ft.	100 ft.
7. Minimum tangent length between reverse curves	200 ft.	100 ft.
8. Depth of subgrade grading	22 in.	22 in.
9. Sub base gravel depth	18 in.	18 in.
10. Upper base gravel	4 in.	4 in.
11. Pavement (see 552 item 2)		
A. Grade B	2-1/2 in.	2-1/2 in.
B. Grade C	1-1/2 in.	1-1/2 in.
C. Total thickness	4 in.	4 in.
12. Minimum road crown-centerline to edge of pavement.	3 in.	3 in.
13. Minimum shoulder width on each side of road.	2 ft.	2 ft.
14. Sidewalks		
A. Minimum width	5 ft.	4 ft.
B. Gravel base course	6 in.	6 in.
C. Surface pavement	2 in.	2 in.

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
15. Dead-end or cul-de-sac streets		
A. Completely paved Raddi of turn around at enclosed end		
i. Right-of-way boundary minimum	60 ft.	50 ft.
ii. Outside pavement radius - min.	40 ft.	35 ft.
B. With island (see #26)		
i. Right-of-way boundary – min.	65 ft.	55 ft.
ii. Inside pavement radius	26 ft.	25 ft.
iii. Outside pavement radius	50 ft.	49 ft.
iv. Minimum pavement width	24 ft.	24 ft.
<i>(Amended: 10-03-05)</i>		
C. Temporary (See #27)		
i. Raddi at Right-of-way - min.	50 ft.	50 ft.
ii. Gravel turn around minimum	40 ft.	40 ft.
<i>(Amended: 12-04-95)</i>		
16. Minimum pavement curb radii at intersections and where street meets cul-de-sac 20 ft. <i>(Amended: 10-03-05)</i>		
17. Grade of streets should conform as closely as possible to the original relief of the land.		
18. All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of two hundred (200') feet.		
19. Side slopes shall not be steeper than three (3') feet horizontal and one foot vertical, graded, loamed (six [6] inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.		
20. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches.		
21. In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Town Manager.		
22. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The subbase gravel shall meet the specifications for aggregate subbase courses as contained in the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation". The upper base gravel shall meet the specifications for aggregate base courses in the same standards.		
23. After the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation".		
24. The Planning Board may require curbing of roads.		

25. Where a green space is planned in the interior of a cul-de-sac, existing vegetation should be preserved where possible. Any proposed landscaping shall be of a type which requires limited maintenance. *(Amended: 12-04-95)*
26. Where a proposed street may be extended, the Planning Board may authorize a temporary cul-de-sac. Temporary cul-de-sacs shall provide an escrow account for a period of five (5) years to cover the cost of paving, which is renewable in five (5) year increments. Access shall be prohibited from a temporary cul-de-sac. *(Amended: 12-04-95)*

553. *Utilities in Streets* - The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

#### 554. *Street Names*

1. Proposed street names shall be substantially different from existing street names so as not to be confused in sound or spelling.
2. If proposed streets are extensions of existing streets they shall carry the same name.
3. Generally no street should change direction by more than ninety (90) degrees without a change in street name.
4. In general, streets shall have names, not numbers or letters. *(Amended: 09-21-87, 06-19-89)*

#### 560. *Utilities*

561. If public water and/or sewer is proposed, the system shall be designed so as to accommodate any development which can reasonably be expected to tie into the system. In determining the amount of reasonably expected development, the Planning Board shall consider existing land use, existing zoning, the character of the land, topography, and existing constraints to development (such as boggy areas), the carrying capacity of the land and of existing municipal services, and the town's Comprehensive Plan or sewer and water plan. If the system has to be built so that it is larger than would normally be required under conditions of the maximum utilization of the subdivider's contiguous land (including land on opposite sides of streets), the town will pay the difference in cost for the larger pipes. The subdivider must cover all other expenses.

562. The subdivider shall install any new public utility system according to the approved Subdivision Plan. If either the public sewer or water system follows a course which is not collinear with the road network, the Planning Board shall require that the subdivider provide the Town of Hampden or the Hampden Water District with a utility easement.

563. If individual wells are proposed for the subdivision, the Planning Board may require that the subdivider's engineer certify that sufficient water is available for the reasonable foreseeable needs of the subdivision.

564. If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system which is in conformance with the Maine State Plumbing Code can be installed on every lot.

565. Pump stations shall not be used in the construction of sewer systems in any proposed development with the Town of Hampden, Maine, except as permitted under the Town's Sewer Ordinance. *(Amended: 03-07-88) (Amended 08-06-07)*

**570. Buffer Strip** - The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.

**ARTICLE 600  
WAIVER AND MODIFICATIONS OF THESE REGULATIONS**

**610.** Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Zoning Ordinance, or any other ordinance. Upon recommendation of the Planning Board, fees may be adjusted or waived only with the approval of the Hampden Town Council.

**620.** In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. *(Amended: 12-01-86)*

**ARTICLE 700  
VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING**

**710.** Should any section or provision of these regulations be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations, and to this end, the provisions of these regulations are hereby declared to be severable.

**720.** The effective date of these regulations is June 17, 1982

**730.** These regulations shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where these regulations impose a higher standard for the protection and promotion of health and safety, the provisions of these regulations shall prevail.

**740.** A copy of these regulations shall be filed with the Town Clerk and shall be accessible to any member of the public.

**750.** The Subdivision Ordinance of the Town of Hampden as adopted at the annual meeting March 3, 1970 and as amended, is hereby repealed.

ARTICLE 800  
AMENDMENTS

**810. *Initiation of Amendment*** - An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted;
2. Request of the Town Council to the Planning Board; or
3. Written petition of ten (10%) percent of the registered voters of the town.

**820. *Proposed Amendments*** - All proposed amendments shall be referred to the Planning Board for their recommendation. Such recommendation shall be returned to the Council within thirty (30) days.

**830. *Adoption of Amendment*** - For an ordinance change to be adopted, it must be approved by a majority vote of the Town Council if the change has been recommended by the Planning Board. If the change has not been recommended by the Planning Board, a two-thirds vote of the Town Council will be necessary to adopt it.

ARTICLE 900  
APPEALS

An appeal may be taken, within thirty (30) days from the Planning Board's decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

ARTICLE 1000  
DEFINITIONS

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

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

**1021. *Subdivision.*** For purposes of these regulations, the term "Subdivision" is as defined in the MRSA, Section 30-A, §4401 as amended.

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

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

~~A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence or for open space land as defined in~~

~~Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2<sup>nd</sup> dividing occurs; or~~

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

- ~~2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.~~
- ~~3. A lot of 40 or more acres shall not be counted as a lot, except:
  - ~~A. When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in the Hampden Zoning Ordinance, or any superseding state statute.~~~~
- ~~4. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.~~
- ~~5. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.~~
- ~~6. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.~~
- ~~7. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transfer is to avoid the objectives of this Ordinance.~~

~~— Exceptions~~

~~— This Ordinance does not apply to:~~

- ~~1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;~~
- ~~2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or~~

- ~~3. Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971. (Amended: 02-07-94)~~

NOTE: For convenience the Statutory definition of subdivision as of July 24, 2014 is attached here but the reader of this ordinance is well advised to check the current statute in Title 30-A MSRA §4401.

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

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

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

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

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

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

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

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

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

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.]

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

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

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

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

1022. *Tract or parcel of land* - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

1023. *Minor Subdivision* - A subdivision with less than five (5) lots which does not involve the construction or reconstruction of a new street, or the extension of public sewer lines, or the extension of public water lines, or the construction of a storm drainage system.

1024. *Major Subdivision* - A subdivision which is not a minor subdivision.

1025. *Street* - Shall mean a right-of-way, intended for motorized traffic, in the Town of Hampden, which is either:

1. Owned, established, and maintained by the Town of Hampden, the County of Penobscot, or the State of Maine; or
2. Is shown on a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds.

1026. *Minor Street* - A street which serves primarily as an access to abutting properties.

1027. *Collector Street* - A street which connects one or more minor streets with an arterial street.

1028. *Arterial Street* - A street which serves heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

1029. *Design Storm* - A storm with a frequency or recurrence interval of twenty-five (25) years and a duration of twenty-four (24) hours.

1030. *Pump Stations* - For the purpose of this Ordinance, pump stations shall be defined as any device intended and designed for the purpose of transporting, pumping or lifting of sanitary sewage from residences, commercial institutions or central collection points to the municipal sanitary sewer system. This shall not include lift pumps used in self-contained, on-site subsurface disposal systems. (Amended: 11-18-85, 9-19-88)

1031. *Freshwater Wetland* - Freshwater Swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
2. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection. For the purposes of this Ordinance, "wetland" shall mean the same as freshwater wetland. Freshwater wetlands shall be delineated in accordance with the current authorized federal manual, unless the Planning Board approves a different delineation method. (Amended: 12-20-93)

1032. *Dwelling Unit* - "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units. (Amended: 02-07-94)

1033. *New Structure or Structures* - "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance. (Amended: 02-07-94)

**TOWN OF HAMPDEN  
Draft**

The Town of Hampden Hereby Ordains  
Proposed Amendments to the Subdivision Ordinance ~~to allow for Private Street Subdivisions~~

Text in Double Underlined was previously reviewed and approved, but has not been incorporated pending completion of the Ordinance Recodification. (Not reviewed by Planning Board)

Deletions proposed in these amendments are Strikethrough  
Additions proposed in these amendments are Double-Underlined

**SUBDIVISION ORDINANCE**

*Prepared for the*

**TOWN OF HAMPDEN, MAINE**

*By*

***PENOBSCOT VALLEY REGIONAL PLANNING COMMISSION  
FEBRUARY 1982***

Financial assistance in the preparation of this document was provided by Maine's Coastal Program through funding provided by the U. S. Department of Commerce, Office of Coastal Zone Management, under the Coastal Zone Management Act of 1972 as amended.

ADOPTED BY HAMPDEN TOWN COUNCIL: May 17, 1982

EFFECTIVE DATE: June 17, 1982

**TEXT AMENDED**

AMENDED: April 4, 1983            deletion  
EFFECTIVE: May 6, 1983

AMENDED: May 7, 1984            331.2.5  
EFFECTIVE: June 6, 1984

AMENDED: November 18, 1985    532.6    1030  
EFFECTIVE: December 18, 1985

AMENDED: December 1, 1986    620  
EFFECTIVE: January 1, 1987

AMENDED: September 21, 1987    545.3D    554.4  
EFFECTIVE: October 20, 1987

AMENDED: October 5, 1987        331.2.4    332.1.1    332.1.4    342.5  
EFFECTIVE: November 3, 1987

AMENDED: March 7, 1988        565

EFFECTIVE: April 6, 1988

AMENDED: June 6, 1988 331.2.2 332.1.2  
EFFECTIVE: July 5, 1988

TEXT AMENDED

AMENDED: September 19, 1988 1030  
EFFECTIVE: October 18, 1988

AMENDED: March 13, 1989 deletion  
EFFECTIVE: April 11, 1989

AMENDED: June 19, 1989 332.2.3 332.2.4 332.2.12 443 460.26 554.4  
EFFECTIVE: July 19, 1989

AMENDED: June 3, 1991 544.3 545.3D  
EFFECTIVE: July 3, 1991

AMENDED: April 6, 1992 deletion  
EFFECTIVE: May 6, 1992

AMENDED: October 4, 1993 513 531.8  
EFFECTIVE: November 3, 1993

AMENDED: December 20, 1993 1031  
EFFECTIVE: January 19, 1994

AMENDED: February 7, 1994 1021 1032 1033  
EFFECTIVE: March 9, 1994

AMENDED: December 4, 1995 552.15.C 552.25 552.26  
EFFECTIVE: January 3, 1996

AMENDED: May 20, 1996 541 543  
EFFECTIVE: June 19, 1996

AMENDED: February 12, 2002 410 420 431 432 450 460.3 470  
EFFECTIVE: March 14, 2002 475 481 483.3 521 531.3A 532.3 532.5

AMENDED: February 12, 2002 520 530  
EFFECTIVE: March 14, 2002

AMENDED: November 17, 2003 320 330  
EFFECTIVE: December 17, 2003

AMENDED: October 3, 2005 521 522 524 552.15.B 552.16  
EFFECTIVE: November 2, 2005

AMENDED: August 6, 2007 565  
EFFECTIVE: September 5, 2007

AMENDED: July 14, 2014 542  
EFFECTIVE: August 13, 2014

|

**TOWN OF HAMPDEN, MAINE  
SUBDIVISION ORDINANCE  
TABLE OF CONTENTS**

<b>ARTICLE 100 - DECLARATION OF PURPOSE</b> .....	4
<b>ARTICLE 200 - AUTHORITY AND ADMINISTRATION</b> .....	4
210. Authority.....	4
220. Administration and Enforcement.....	4
<b>ARTICLE 300 - PROCEDURES FOR SUBDIVISION REVIEW</b> .....	5
310. Introduction.....	5
320. Pre-application Meeting and Submission of a Sketch Plan.....	5
330. Review of Major Subdivision.....	6
331. Preliminary Plan.....	6
332. Final Plan.....	11
340. Review of Minor Subdivision.....	15
345. <u>Additional Requirements for Subdivisions with Private Roads/Streets</u> .....	19
350. Performance Standards for Subdivisions.....	19
360. Design Guidelines.....	30
<b>ARTICLE 400 - IMPROVEMENT GUARANTEES</b> .....	34
410. Improvement Guarantees Required.....	34
420. Procedure.....	34
430. Time Limit.....	34
440. Inspection and Certification.....	35
450. Release of Guarantee.....	35
460. Reduction of Guarantee.....	35
470. Incomplete or Unsatisfactory Work.....	36
480. Improvement Guarantee Option.....	36
<b>ARTICLE 500 - GENERAL REQUIREMENTS AND DESIGN</b> .....	37
<b>STANDARDS</b>	
510. General Requirements.....	38
520. Lots.....	38
530. Drainage Requirements.....	39
540. Open Space and Recreation Land.....	41
550. <u>Public Street Standards</u> .....	43
552. <u>Private Street Standards</u> .....	43
560. Utilities.....	46
570. Buffer Strip.....	47
<b>ARTICLE 600 - WAIVER AND MODIFICATIONS OF THESE REGULATIONS</b> .....	47
<b>ARTICLE 700 - VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING</b> .....	46
<b>ARTICLE 800 - AMENDMENTS</b> .....	48
<b>ARTICLE 900 - APPEALS</b> .....	48

**ARTICLE 1000 - DEFINITIONS**.....48

ARTICLE 100  
**DECLARATION OF PURPOSE**

The purpose of these standards shall be to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment, to promote the development of an economically sound and stable community, and to uphold the state Subdivision Law (MRSA) Title 30-A MSRA §4401 through §4407 as amended Title 30, Section 4956. This ordinance establishes separate and distinct construction standards and maintenance practices for Public Streets and Private Streets.

ARTICLE 200  
**AUTHORITY AND ADMINISTRATION**

**210. Authority** - This Ordinance is enacted pursuant to and consistent with Title 30-A MSRA §4401 through §4407 as amended Title 30 MRSA Section 4956; the Subdivision Law.

**220. Administration and Enforcement**

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

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

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

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

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

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

ARTICLE 300  
**PROCEDURES FOR SUBDIVISION REVIEW**

**310. Introduction** – At the subdivider's option, an application for subdivision approval may propose one or more Public Streets, one or more Private Streets, or a combination thereof. Proposed subdivisions that include one or more Public Streets shall be reviewed under the procedures set forth in section 320 and section 330, inclusive. Proposed Subdivisions containing Private Streets Private Street Subdivisions shall be reviewed under exempt from section sections 320, and 330 and 345, inclusive, and shall be reviewed under the procedures set forth in section 345.

The subdivider's application for subdivision approval will not be considered complete until a Final Plan, including all required information, has been submitted to the Planning Board. While the subdivider may submit the Final Plan and all related materials to the Planning Board without any prior contact with the board, the subdivider is encouraged to follow the procedures outlined in this Ordinance. The procedures herein outlined are designed to prevent problems related to the statutory time limits for reviewing complete applications and to provide opportunity for a dialogue between the Planning Board and the subdivider so that the approved subdivision will be designed and built in a manner that fulfills the purpose of this ordinance.

**320. Pre-application Meeting and Submission of a Sketch Plan**

321. The subdivider shall submit at least twelve (12) copies of a sketch plan and application to the code enforcement officer at least fifteen (15) days in advance of the regularly scheduled meeting at which she/he wishes it to be considered. The subdivider or his/her authorized agent shall be present at the meeting to discuss the proposal with the Planning Board.

322. The purposes of this pre-application conference between the subdivider and the Planning Board are:

1. To classify the subdivision as a major or a minor subdivision.
2. To provide an opportunity for the subdivider and the Planning Board to informally review the subdivider's ideas for use of the land;
3. To discuss procedures for subdivision review and approval;
4. If road construction is involved in the proposal, to classify the road as either minor or collector; and public or private.
5. To discuss any apparent potential problems associated with the subdivision; and
6. To arrange for on-site inspection of the subdivision site.

323. The sketch plan shall consist of an outline of the proposed subdivision, drawn on a map drawn to scale, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch. Accompanying the sketch plan shall be a written application which includes a description of existing covenants and easements and zoning; medium intensity soils survey information (obtainable from the Penobscot County Soil Conservation Service); information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots, typical lot width, and depth, plans regarding sewer and water service and road construction; and any

proposed nonresidential areas. An application form, available at the town office, shall be used to submit the written information.

324. Other than the classification of the subdivision and the roads, if necessary, no binding commitments shall be made between the subdivider and the board at this stage.

325. The Planning Board shall act on the sketch plan within forty-five (45) days of the time it is submitted and shall notify the subdivider of its action in writing, within fifteen (15) days of its action.

326. Inspection of the site. In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the code enforcement officer and the Planning Board or an individual appointed by the chairman to act as the board's representative for the inspection. The on-site inspection must be considered the next step in the subdivision review process.

### **330. Review of Major Subdivision**

#### **331. Preliminary Plan**

331.1. *Purpose* - The purpose of Preliminary Plan review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seem appropriate based on state and local laws and regulations. The intent is that all major issues relative to the subdivision will be identified and resolved prior to the submission of the Final Plan.

#### **331.2. Procedure**

1. Within six (6) months after classification of the sketch plan as a major subdivision by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan for a major subdivision. The Preliminary Plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of the Preliminary Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance, payable by check to the Town of Hampden, Maine. (*Amended: 06-06-88, 11-17-03*)
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
4. The time of submission of the Preliminary Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which fifteen (15) copies of the application for Preliminary Plan approval, complete and accompanied by the required fee and all data required by section 331.3 of this Ordinance shall have been filed with the code enforcement officer. (*Amended: 10-05-87*)
5. A public hearing shall be held by the Planning Board at the time of submission of the preliminary subdivision plan. Said hearing shall be advertised in a newspaper of general circulation in the town at least ten (10) days prior to the hearing. A notice of said hearing shall be mailed to each land owner abutting the proposed development and to each

landowner within three hundred (300) feet of the property line of the proposed development. Landowners shall be considered to be those against whom property taxes are assessed. Failure of any landowner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the code enforcement officer. The applicant shall bear all associated costs of advertisements and notifications. If site plan review is required it shall be combined with this hearing. *(Amended: 05-07-84)*

6. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public and the Town Council relative to any municipal ordinance, standard, or regulation which is applicable to the proposed subdivision and relative to the relationship of the subdivision to the ordinance, standard, or regulation.
7. Within thirty (30) days after the public hearing, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within thirty (30) days of the public hearing shall constitute approval of the Preliminary Plan.
8. When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
  - A. The specific changes which it will require in the Final Plan;
  - B. Specific information which is over and above that required in section 332.2 of this Ordinance which will be required in the Final Plan review (such additional information must be reasonably related to the review of the subdivision);
  - C. The character and extent of the required improvements for which waivers have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare.
9. Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

331.3. *Submissions* - The preliminary subdivision plan shall be submitted, in the appropriate number of copies, which may be either printed or reproduced on paper. The Preliminary Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn to a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. The Preliminary Plan and supporting data shall include the following information.

331.3.1. *Information About the Applicant*

*map & text*

1. Name of owner indicated on the map plan and in accompanying written information.

- map & text* 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information.
- text* 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information.
- text* 4. Name of applicant's authorized representative in accompanying written information.
- map & text* 5. Name, address, and number of registered professional engineer or land surveyor indicated on the map plan and in accompanying written information.
- text* 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information.
- text* 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information?
- text* 8. What interest does applicant have in any property abutting parcel to be subdivided in accompanying written information?
- text* 9. State whether preliminary plat plan covers entire, contiguous holdings of applicant or not in accompanying written information.

*331.3.2. Information About the Parcel to be Subdivided*

- text* 1. Location of property: Book and page (from register of deeds) in accompanying written information.
- text* 2. Location of property: Map and lot (from assessor's office) in accompanying written information.
- map* 3. Map survey of tract to be subdivided, certified by a registered land surveyor, tied to established reference points (attach to application) indicated on the map plan.
- map & text* 4. Current zoning of property indicated on the map plan and in accompanying written information.
- text* 5. Acreage of parcel to be subdivided in accompanying written information.
- map & text* 6. A soils report, identifying soil types and location of soil test areas indicated on the map plan. Evidence of soil suitability according to the Maine State Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one (1) soil test per lot if subsurface sewage disposal is proposed.
- map* 7. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided indicated on the map plan.
- map & text* 8. Indicate the nature of any restrictive covenants to be placed on the deeds indicated on the map plan and in accompanying written information.



331.3.3. *Information About the Subdivision*

- |                       |                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>map &amp; text</i> | 1. Proposed name of subdivision indicated on the map plan and in accompanying written information.                                                                                                                                                                                                                                                                                                |
| <i>map &amp; text</i> | 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.                                                                                                                                                                                                                                                                                                |
| <i>map</i>            | 3. Date, north point, graphic map scale indicated on the map plan.                                                                                                                                                                                                                                                                                                                                |
| <i>map</i>            | 4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells indicated on the map plan.                                                                                                                                                                                                                                  |
| <i>map &amp; text</i> | 5. Location of all parcels to be dedicated to public use and the conditions of such dedication indicated on the map plan and in accompanying written information.                                                                                                                                                                                                                                 |
| <i>map</i>            | 6. A location map, drawn at a scale in which one (1) inch equals no more than five hundred (500) feet, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area indicated on the map plan. The location map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision (attach to application). |
| <i>map</i>            | 7. Location and size of significant existing physical features including but not limited to wetlands, floodplains, watercourse, rock outcrops and trees of twelve-inch caliper diameter at chest height indicated on the map plan.                                                                                                                                                                |
| <i>map</i>            | 8. Location and size of any existing sewers, watermains, culverts and drains on the property indicated on the map plan.                                                                                                                                                                                                                                                                           |
| <i>map</i>            | 9. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and other open spaces indicated on the map plan.                                                                                                                                                                                                                               |
| <i>map</i>            | 10. Contour lines at an interval of not more than two (2) feet in elevation, unless otherwise specified by the Planning Board indicated on the map plan. All elevations shall be referred to USGS datum.                                                                                                                                                                                          |
| <i>map</i>            | 11. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalks indicated on the map plan.                                                                                                                                                                                                                                    |
| <i>map</i>            | 12. Storm drainage plan indicating the approximate location and size of proposed lines, catch basins and means of disposal indicated on the map plan.                                                                                                                                                                                                                                             |
| <i>map</i>            | 13. The approximate location and size of all proposed water and sewer lines, valves, pump stations and hydrants. Also connections to existing sewer and water systems or alternative methods of water supply and sewage disposal shall be shown indicated on the map plan.                                                                                                                        |
| <i>map</i>            | 14. Location of all other existing and proposed utilities such as electricity and telephone indicated on the map plan.                                                                                                                                                                                                                                                                            |

- map* 15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted indicated on the map plan. This information may be indicated on a Preliminary Plan print.
- map* 16. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale in which one (1) inch equals not more than five hundred (500) feet showing an outline of the subdivided area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract indicated on the map plan. The part of the subdivider's holding submitted, shall be considered in light of the entire holding.
- map* 17. If the preliminary application covers more area than the Final Plan will cover, a map showing the phasing of the entire project, drawn at a scale in which one inch equals not more than five hundred (500) feet and indicating the proposed timing of each phase indicated on the map plan.

332. Final Plan

332.1. Procedure

1. Within six (6) months of the date of Planning Board action on the Preliminary Plan, the subdivider shall submit the Final Plan to the Planning Board. Failure to submit the Final Plan within the designated time period shall require resubmission of the Preliminary Plan to the Planning Board. However, the subdivider may submit a Final Plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within three (3) years of the date of approval of the preceding phase. The Final Plan shall consist of two (2) original transparencies of all maps or drawings and fifteen (15) copies of all items necessary to complete the submission. *(Amended: 10-05-87)*
2. The application for approval of the Final Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance. The cost of the following improvements shall be included in the calculation of cost: sewer, storm drainage, and/or street work. The subdivider shall be responsible for providing the Town Manager with an estimate of construction cost, prepared by an engineer acceptable to the Town Manager. The Town Manager shall be responsible for certifying the acceptability of the estimate. *(Amended: 06-06-88, 11-17-03)*
3. The subdivider, or his duly authorized representative shall attend the meeting of the Planning Board to discuss the Final Plan.
4. The time of submission of the Final Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which the complete application, accompanied by the required fee, shall have been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time of submission of the Final Plan. *(Amended: 10-05-87)*
5. Within thirty (30) days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.
6. Prior to submitting the Final Plan, the subdivider shall file an improvement guarantee with the Town Manager. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount and form of the guarantee shall be that defined under Article 400 of this Ordinance.
7. *Public hearing* - The board may vote to hold a public hearing on the proposed subdivision. If so, such hearing shall be held within thirty (30) days of having received a complete Final Plan (as determined under section 332.1 item 5.). The manner described in section 331.2 item 5 of this Ordinance. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation.
8. *Review and Action on Final Plan* - The board shall, within thirty (30) days of a public hearing; or within sixty (60) days of having received a complete application, if no public

hearing is held; or within such other time limit as may be mutually agreed to by the board and the subdivider, review the application and deny or grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and state law and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.

9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and any conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the Final Plan.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County registry of deeds within ninety (90) days of the approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety-day periods.

332.2. *Submissions* - The Final Plan shall be submitted in the appropriate number of paper and transparent copies. The Final Plan shall be not less than eight and one-half (8-1/2) inches by eleven (11) inches and not more than forty-eight (48) inches by thirty-six (36) inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100) feet and shall be oriented so the north direction is the same on all sheets. In addition to all items required on the Preliminary Plan and information requested by the Planning Board during the Preliminary Plan review, the following items shall be required as part of the Final Plan submission unless otherwise indicated by the Planning Board.

- map* 1. *Registered Land Surveyor or Engineer* The name, registration number, seal and signature of the surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross-section and profile sheets also indicated on the map plan.
- map* 2. *Streets* - The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings indicated on the map plan.
- map* 3. *Street Profiles and Details* - Profiles of centerlines of proposed new streets on sheets separate from the plat, at a horizontal scale on one inch equals 40 feet and vertical scale of one inch equals four (4) feet; profiles of all proposed sewers shall be shown on street profiles, when applicable, at the same scale. All elevations shall refer to USGS datum

indicated on the map plan. Detail drawings of any construction methods required for the accommodation of utilities and street appurtenances shall be included. *(Amended: 06-19-89)*

- map*      4. *Street Cross Section* - Cross section at fifty-foot horizontal intervals of proposed new streets, on sheets separate from the plan at the scale of 1 inch equals 5 feet horizontal and 5 feet vertical indicated on the map plan. *(Amended: 06-19-89)*
- map*      5. *Sewer profiles*. Profile of sanitary sewer, if not shown on street profiles, on sheets separate from the plan, at the same scale indicated for street profiles indicated on the map plan.
- map*      6. *Storm drainage plan*. Indicating the location and size of the proposed lines, catchbasins, underdrains, their profiles and means of disposal indicated on the map plan.
- map & text*    7. *Open spaces*. The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider indicated on the map plan and in accompanying written information. If open space or recreation land is to be dedicated to the town, accompanying the plan must be a copy of the minutes of the Town Council, attested by the town clerk, in which the Town Council agrees to accept such open space or recreation land. Also accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that he is satisfied with the legal sufficiency of the documents conveying such land dedication.
- map*      8. *Lots* - The location, bearing and length of every line, with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.
- map*      9. *Permanent Reference Monuments* - The location of permanent monuments and pins, set at all lot corners, and identified as existing or proposed indicated on the map plan.
- text*      10. *Improvement Guarantee* - Accompanying the plat shall be a letter from the Town Manager indicating that the form, duration, and amount of the improvement guarantee is sufficient and that it has been filed with him in accompanying written information.
- map*      11. *Approval Space* - Suitable space to record on the approved plan the date and conditions of approval, if any indicated on the map plan. This space shall be similar to the following example:

*(Additional Suggested Text)*

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Approved: Town of Hampden Planning Board

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Approved: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Conditions: \_\_\_\_\_

- text* 12. *Accompanying Data* - The plans shall show the proposed location of all utilities (ie. Water, sewer, electrical, telephone) with written letters from each respective utility indicating their approval for the proposed design and location as shown on the plans. Also there shall be a letter from the Fire Chief approving the number, size and location of hydrants proposed and a letter from the Town Manager indicating the Town's approval of rental charges in accompanying written information. *(Amended: 06-19-89)*
- text* 13. *Easements* - If any easements have been required by the Planning Board, title to the easement, drawn up in a form and substance acceptable to the town or the Hampden Water District if applicable) shall be provided to the town (or the Hampden Water District if applicable) by the subdivider before final approval is granted in accompanying written information.

#### **340. Review of Minor Subdivision**

341. *General* - The Planning Board may require, in advance, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision or a minor subdivision plan comply with all or any of the requirements specified for major subdivision or major subdivision plans.

#### **342. Procedure**

1. Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plan. The subdivision plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
2. The application for approval of a minor subdivision shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance payable by check to the Town of Hampden, Maine. *(Amended 11-17-03)*
3. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plan.
4. The time of submission of the subdivision plan shall be considered to be the date of the regular monthly meeting of the Planning Board, at least fifteen (15) days prior to which the application, complete and accompanied by the required fee has been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the subdivision plan at the time of submission of the subdivision plan.
5. Fifteen (15) paper copies and two (2) transparent copies of the subdivision application, containing all information required in section 343 of this Ordinance shall be submitted. *(Amended: 10-05-87)*
6. Within thirty (30) days from receipt of a subdivision plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed it shall notify the subdivider and begin its full evaluation of the proposed subdivision.

7. In the event that the Planning Board determines to hold a public hearing on the proposed subdivision, it shall hold such public hearing within thirty (30) days of having received a complete subdivision application, and shall cause notice of the date, time and place of such hearing to be given to the subdivider and to be published in a newspaper of general circulation in Hampden at least two (2) times, the date of the first publication shall be at least seven (7) days prior to the hearing. The decision to hold a public hearing is discretionary, and in making its decision the Planning Board may consider the size and location of the subdivision, its community impact, and whether any written requests for such hearing have been received.
8. The Planning Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of the time of submission, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30-A MSRA §4401 through §4407 as amended ~~Title 30, MRSA, section 4956~~, the state subdivision law, and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.
9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the subdivision.
10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan, unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.
11. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within ninety (90) days of the date of approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety (90) day periods.
12. If the Planning Board fails to take action within thirty (30) days of a public hearing or within sixty (60) days of the time of submission of a complete subdivision plan, if no hearing is held, or within the mutually agreed to time, as specified above, the subdivision plan shall be deemed disapproved.

343. *Submissions* - The subdivision plan of a minor subdivision shall be submitted in appropriate number of paper and stable transparent copies. The subdivision plan shall be not less than eight and one-half (8-1/2") inches by eleven (11") inches and not more than forty-eight (48") inches by thirty-six (36") inches. The plan shall be drawn at a scale in which one inch equals no more than one hundred (100') feet and shall be oriented so the north direction is the same on all sheets.

The application for approval of a minor subdivision shall include all of the following information:

*343.1. Information About the Applicant*

- map & text* 1. Name of owner indicated on the map plan and in accompanying written info.
- map & text* 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information.
- text* 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state's registration in accompanying written information.
- text* 4. Name of applicant's authorized representative in accompanying written information.
- map* 5. Name, address, seal, signature, and number of the land surveyor who prepared the plan indicated on the map plan.
- text* 6. Address to which all correspondence from the Planning Board should be sent in accompanying written information.
- text* 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information?
- text* 8. What interest does the applicant have in any property abutting parcel to be subdivided in accompanying written information.

*343.2. Information About the Parcel to be Subdivided*

- text* 1. Location of property: book and page (from register of deeds) in accompanying written information.
- text* 2. Location of property: map and lot (from assessor's office) in accompanying written information.
- map & text* 3. Current zoning of property indicated on the map plan and in accompanying written information. Show location of zone boundaries on the parcel if any zone boundary crosses the parcel.
- text* 4. Acreage of parcel to be subdivided in accompanying written information.
- map* 5. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided as per tax assessor's records indicated on the map plan.

- map & text* 6. Indicate the nature of any covenants or deed restrictions which are intended to cover all or part of the tract indicated on the map plan and in accompanying written information.
- map & text* 7. An actual field survey of the boundary lines of the parcel, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and shall be marked by permanent monuments, and shall be referenced and shown on the plan indicated on the map plan and in accompanying written information.
- map* 8. Location of any watercourses, floodplain, wetland, or unique natural features on the parcel indicated on the map plan.

343.3. *Information About the Subdivision*

- map* 1. Proposed name of subdivision indicated on the map plan.
- map & text* 2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.
- map* 3. Date, north point, graphic map scale indicated on the map plan.
- map* 4. The location of permanent monuments or pins, set at all lot corners and identified as existing or proposed indicated on the map plan.
- map* 5. The location, bearing and length of every lot line with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.
- map* 6. Suitable space to record on the approved plan the date and conditions of approval, if any. This space shall be similar to the following example:

*(Additional Suggested Text)*

This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

Date Approved: \_\_\_\_\_  
 Date Signed: \_\_\_\_\_  
 Conditions: \_\_\_\_\_

Approved: Town of Hampden Planning Board

\_\_\_\_\_  
 Chairman  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- map 7. Soils report. A soils report, identifying soil types and location of soil test areas. If subsurface sewage disposal is to be used, evidence of soil suitability for subsurface sewage disposal as determined by the Maine Plumbing Code shall be presented. There shall be at least one soils test per lot.
- map 8. Location and name of existing public streets and way.

**345. Additional Requirements for Subdivisions with Private Roads/Streets~~Review of Private Street Subdivision~~**

~~346. Procedure~~

- ~~1. Upon receipt of an Subdivision application in which private street(s) is proposed, the Town Planner may refer the application to \_\_\_\_\_ the Public Works Director for review and comment, prior to scheduling the application before the Planning Board.~~

~~— The application for approval of a Private Subdivision Plan shall be accompanied by a fee paid to defray costs of inspection, plan review, administration and enforcement of this Ordinance, in accordance with the Town of Hampden Fees Ordinance, payable by check to the Town of Hampden, Maine.~~

- ~~2. The Public Works Director shall report in writing to the Planning Board as to whether or not the proposed private street conforms to the standards and specifications of this Ordinance. Said report may include any suggested conditions, for Planning Board consideration, -to be attached to the approval, that, /Permit that, in the Public Works Director's judgment, are necessary to achieve the intent of this Ordinance.~~

- ~~3. The Planning Board shall consider the application, the Public Works Director's report, and all other relevant information in determining whether the proposed private street(s) conform to the Ordinance. to \_\_\_\_\_ grant the approval of the application. If the information submitted by the applicant does not establish that the proposed private street will conform to the standards and specification of the Ordinance, the Planning Board shall not grant the approval. The Planning Board shall impose such conditions on the approval of the application as it deems necessary to achieve the intent and objectives of this Ordinance, which may include, but need not to be limited to, conditions suggested by the Public Works Director. The breach of any such condition proposed by the Planning Board shall automatically invalidate the approval.~~

~~— As a condition to the granting of any approval under this Ordinance, the Planning Board shall require that the applicant deposit with the Public Works Director a sum of money, bank letter or credit or certified check, in an amount sufficient to guarantee that the applicant shall perform the terms and conditions of the permit, including the payment of required fees. Upon completion of all improvements required by this Ordinance, any unused portion of the deposit shall be refunded to the applicant.~~

~~— Upon receipt of the required deposit and predetermined fees and approval, the Code Enforcement Officer shall issue the Permit/Approval pursuant to the terms established by the either the Planning Board approving the application.~~

- ~~4. Only the Planning Board shall have the authority to approve or deny applications for Subdivisions that propose private street(s).~~

~~347. Submissions — Applications for Subdivisions proposing private street(s) Each application for a Private Street Subdivision shall be accompanied by the following: completed plans labeled “plan of a private way” prepared and sealed by civil engineer or land surveyor registered in the State of Maine, which include information contained herein. Where the required information is incorporated in the overall site plan of a development, separate road plans shall not be required.~~

~~The application and plans for a Private Street shall include all of the following information:~~

~~1. An approval block for the signatures of the board members. A copy of the signed standard boundary survey of the roadway shall be included in the documentation.~~

~~2. The names and addresses of the lot or parcel owners to be served by the Private Street.~~

~~— A vicinity map of a minimum scale of one inch equals two thousand feet (1" = 2,000'), showing the location of the Private Street, any access roads and cross streets, road names, scale, and a north arrow.~~

~~3. Existing topography at two (2) foot contour intervals for the portions of the site sufficient to determine drainage from the Private Street easement to a suitable storm water outlet.~~

~~4. Proposed improvements (including but not limited to, roads, sewers, and ditches) shown on plan and profile indicating all materials, grades, dimensions, and bearings in compliance with the standards set forth in this Ordinance relative to Private Streets. The plans shall also show all existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, other structures, physical or natural conditions existing adjacent to such improvements, and any connections to existing public and Private Streets.~~

~~5. The plan shall delineate the proposed way(s) and each of the lots to be served by the private way(s), the location of existing buildings on the lots or parcels being served or intended to be served by the private way(s), as well as, any existing buildings or structures in or adjacent to any proposed road right-of-way. Lots shall conform to zoning requirements for size, frontage, and setbacks for the area in which they are located. The land within the right-of-way of an approved Private Street shall not be used to meet the area requirements of any lot obtaining frontage from the Private Street.~~

~~— A street plan and an erosion control plan is required for a single lot Private Street. A street plan, cross section, erosion control, utility plan, and drainage plan shall be submitted for each private way serving two or more lots. The utility plan should contain the following information: locations and size of existing and proposed utility connections, including sewer, water, power, telephone, stormwater drainage systems, power poles, light poles, and nearest hydrant(s). Plans shall show the existing or proposed location of private utilities and easements, such as gas, telephone, and electric etc.~~

~~6. A complete statement of all the terms and conditions of the proposed road easement, including copies of all agreements or intended agreements regarding the maintenance and improvements of the right-of-way and roadway. Furthermore, said maintenance agreements shall be in such form to be recordable with the Penobscot Registry of Deeds and shall specifically address the liability and responsibility of the parties to said agreement to maintain the Private Street pursuant to the~~

specifications of this Article, including, but not limited to, the responsibility of removing snow from said roads. The recorded statement which runs with the land, shall also inform subsequent purchasers that the road is private and may never be maintained or accepted by the Town of Hampden.

7. The plan shall bear notes that the Town of Hampden will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Planning Board.
8. Appropriate deed restrictions and/or master deed provisions shall provide for free and clear vehicular access for emergency service vehicles on all private roads. All Private Streets shall comply with the Town of Hampden E911 Addressing Ordinance.

**350. Performance Standards for Subdivision** The performance standards in this section are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404, Review Criteria). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a subdivision plan. Compliance with the design guidelines of Sections 350 and 360 and Article 500 shall be considered to be evidence of meeting the appropriate performance standards. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. All proposed subdivisions shall be in conformity with the Comprehensive Plan and subsequent amendments or revisions or policy statement of Hampden and with the provisions of all pertinent state and local codes and ordinances.

(Note: the boldface text that follows is directly from the statute).

**When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that**

**350.I. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:**

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents;
5. The applicable state and local health and water resource rules and regulations
6. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
7. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

8. The homeowner association covenants, if the subdivision utilizes a homeowner association, will include a requirement to follow the guidelines in the most current edition of "Best management Management Practices for the Application of Turf Pesticides and Herbicides" as published by the State of Maine Pesticide Control Board.

**350.2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision:**

1. The statutory criterion is that the proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. This means an adequate supply of good quality water. Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan or a separate document to be recorded in the Registry of Deeds.
2. Any subdivision that includes one or more Public Streets within 1,000 (one thousand) feet of an existing public water supply will be connected to and source its water supply from that public system unless the relevant water authority indicates in writing that it does not have the capacity to serve the subdivision or it can be demonstrated that the water extension costs are greater than the full cost of establishing private wells for all of the lots in the subdivision.
3. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Hampden Water District and the Hampden Public Safety.
4. When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan and subsequent amendments or revisions, or within 1000 feet of the existing water service, water supply shall be from individual wells or a private community water system with a map provided showing where the water supply is located.
  - A. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - B. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
  - C. When a central water supply system is provided by the applicant the location and protection of the source, the design, construction and operation of the system will conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
  - D. Hampden Public Safety Department must approve in writing the adequacy and accessibility of water supply for the proposed subdivision, whether the water is from public or private sources.

**350.3. Public water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;**

In meeting the standards, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

**350.4. Soil Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results:**

1. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
2. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
3. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
4. Cutting or removal of vegetation along or adjacent to waterbodies shall not result in shoreline erosion or sedimentation.

**350.5. Traffic Conditions. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section:**

1. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
  - A. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
  - B. Avoid traffic congestion on any street; and
  - C. Provide safe and convenient circulation on public streets and within the subdivision; and
  - D. Provide adequate, unimpeded access to emergency vehicles and personnel to all lots and structures within the subdivision at all times under normal and adverse conditions. The Public Safety Department must approve in writing their satisfaction with the emergency vehicle access to and within the subdivision.
2. More specifically, access and circulation shall also conform to the following standards.

- A. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing or proposed streets that the Comprehensive Plan and subsequent amendments or revisions has classified as residential access streets. Gates or other form of permanent access restriction across access roads, streets or pedestrian ways are not permitted.
- B. The street giving access to the subdivision and neighboring streets and intersections that can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the Comprehensive Plan and subsequent amendments or revisions has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection.
- C. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.
- D. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
- E. Unless not feasible for topographic and other site conditions, provisions in the form of rights of way or street stubs shall be made for street connections to adjoining lots of similar existing or potential use within areas of Hampden designated as growth areas in the Comprehensive Plan and subsequent amendments or revisions. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Superintendent of Highway-Director of Public Works, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic. In non-residential subdivisions such access will be provided to adjoining lots or similar existing or potential use, if it will: (1) facilitate fire protection services as approved by the fire chief ; or (2) enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
- E. Street Names, Signs and Lighting. Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be named in accordance with Town of Hampden ordinances and shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to approval of the Board. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Private Streets shall be identified as private with a sign at each intersection. Signs shall be distinguishable from Public Street signs. Stop signs shall be provided at entrance and interior intersections. Installation of speed limit signs (of 5 mph less than the design speed) may be required to be installed following each intersection, located 100' to 200' from the intersection. Street lighting shall be installed as required or approved by the Board and the cost of the installation and the operating costs will be borne by the applicant.

- F. Clean-up. Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

**350.6. Sewage Disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;**

1. Public System.

- A. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point.

Exceptions: This requirement is intended to facilitate the expansion of the public sewer system but is not absolute. The requirement is not intended to require sewer pump stations to satisfy the standard. The requirement is not intended to establish sewer extension costs that would exceed the full cost of establishing septic systems for all of the lots in the subdivision.

- B. When it is proposed that a subdivision be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations (if permitted under the Sewer Ordinance), shall be installed at the expense of the applicant.
- C. The ~~sewer department~~ department of public works shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
- D. The ~~sewer department~~ department of public works shall review and approve the construction drawings for the sewerage treatment. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer department or department of public works.
- E. If the proposed system is to be public sewer with private wells the plan must include metering of well water with the full cost of the devices and the reading of the meters borne by the owner/resident. Such plan shall be presented to the Town Council for approval before final subdivision plan is granted by the Planning Board.

2. Private Systems.

- A. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan and subsequent amendments or revisions and as per the Comprehensive Plan and subsequent amendments or revisions Map, connection to the public system shall not be permitted unless the public sewer extension is approved by the Town Council and paid for by the developer. Permissible private sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.
- B. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

- C. The site evaluator shall certify in writing that all test pits that meet the requirements for a new system represent an area large enough to provide a disposal area on soils that meet the Disposal Rules.
- D. Unless the subdivision is a cluster development served by a clustered subsurface waste water disposal system, the following standards will apply:
  - 1). Each proposed lot must be served by a septic system located within its boundaries (see 3) below).
  - 2). If the depth to a limiting factor, as defined by the above rules is less than 24 inches, both the septic system and a replacement system site must be located within each proposed lot. Both the Primary and ~~The~~ reserve area shall be shown on the plan and restricted so it will not be built on.
  - 3). Septic systems serving a structure on one lot are not allowed to be located on abutting or neighboring lots except under the following conditions:  
Conditions to be determined.
  - 4). Septic systems shall be designed to ensure that there is no net increase in the flow of nitrates across the perimeter of the subdivision as a result of the subdivision's septic systems.
- E. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

**350.7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;**

Major subdivisions shall be required to obtain a letter from the Hampden Public Works director stating that the municipal solid waste disposal system has adequate capacity for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

If in the opinion of the Hampden Public Works director there is not adequate capacity to dispose of solid waste the applicant shall be required to make alternate arrangements with an alternative disposal facility and provide a letter from that private solid waste disposal facility stating that they have adequate capacity for the disposal for the anticipated waste stream from the proposed subdivision lots for a period of at least five years.

**350.8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;**

**1. Preservation of Natural Beauty and Aesthetics**

- A. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

## 2. Retention of Open Spaces and Natural or Historic Features

- A. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
- B. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.

## 3. Protection of Significant Wildlife Habitat

- A. A report shall be required if any portion of a proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:
- 1) Habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - 2) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - 3) Shorebird nesting, feeding and staging areas and seabird nesting islands;
  - 4) Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
- B. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
- C. Or other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report shall be prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.
- D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

**350.9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;**

All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. If all of the land within a subdivision will be owned as a

condominium, i.e., owned in common by all dwelling unit owners, minimum dimensional requirements will be applied to nominal lots shown on the preliminary and final plans. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

**350.10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section:**

1. Financial Capacity. The applicant shall have financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.
2. Technical Ability. The applicant shall retain contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

**350.11. Surface waters; outstanding river segments (where applicable). Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.**

Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation of water bodies.

Note: A, A(1) and A(2) regarding Outstanding River Segments are not applicable in Hampden, Maine.

**350.12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water:**

**I. Ground Water Quality.**

- A. When a hydrologic assessment is conducted, the assessment shall contain at least the following information:
  - 1). A map showing the basic soils types.
  - 2). The depth to the water table at representative points throughout the subdivision.
  - 3). Drainage conditions throughout the subdivision.
  - 4). A plan that indicates proposed subsurface waste disposal fields location and a 100 foot radius circle line surrounding each field indicating the minimum setback for private wells. The plan should also indicate any existing private wells or subsurface wastewater disposal fields on adjoining properties that might affect the placement of wells or septic

systems within the proposed subdivision.

- B. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- C. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- D. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- E. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- F. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

2. Ground Water Quantity. Based on the assessment of a licensed hydrogeologist, the ground water withdrawals by a proposed subdivision will not have a material adverse impact on the level of the water table in the immediate vicinity of the subdivision.

350.13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation; When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- 1. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate exposure to flood damages.
- 2. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- 3. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

**350.14. Freshwater wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 1987 (or most recent) edition of the Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

**350.14-A. Farmland.** All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

**350.15. River, stream or brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

**350.16. Stormwater.** The proposed subdivision will provide for adequate storm water management;

Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, storm drains and best management practices equivalent to those described in The Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), in conformance with the policies of the Comprehensive Plan and subsequent amendments or revisions. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains and to meet the following standards;

1. Quantity. Peak discharge rates shall be generally limited to the predevelopment levels for the 2- year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean,

2. Quality.

- A. Storm water run-off in subdivisions must be treated by the use of Best Management Practices equivalent to those described in the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), to achieve, by design, 40% reduction in total suspended solids.
- B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system,
- C. Proposed projects which need a storm water permit from the Maine Department of Environmental Protection, pursuant to Chapter 500 and Chapter 502 regulations, shall meet

both the State regulations and the requirements of this ordinance. In the case of any conflicting requirements, the stricter shall be applied.

350.17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

350.18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

350.19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

350.20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

360. Design Guidelines. This section is intended to provide an example of design guidelines, that if followed will result in meeting the appropriate performance standards of Section 350. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this section may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

361. Sufficient Water.

1. Well Construction.

- A. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
- B. Wells shall be prohibited within 30 feet of the traveled way of any street and any drainage easement area. Well head location preference shall be given to locations that do not directly drain from the road to the well head such as uphill locations and areas where drainage is diverted by ditch rows unless this is not feasible. This restriction shall be included as a note on the plan and deed restriction to the affected lots.

362. Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

- 1. Access to Open Spaces. Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, vehicular access where applicable, lookouts, etc. where necessary and appropriate.
- 2. Preservation of Historic Features. Applicant shall seek in writing a letter from Maine Historic Preservation requesting information on the proposed subdivision parcel if it is on the database for historic or archeological known locations. Proposed subdivisions that include or are adjacent to buildings or sites on the National Register of Historic Places, a Local Historic District or Landmark as identified in the Town of Hampden Historic Preservation Ordinance or that the Comprehensive Plan and subsequent amendments or revisions has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. Applicant shall seek the written advice of the Maine Historic Preservation Commission and the Hampden Historic Preservation Commission in reviewing such plans.
- 3. Protection of Significant Wildlife Habitat and Important Habitat Areas. The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions that include significant wildlife habitat or resources identified in Section 350.8 Protection of Significant Wildlife Habitat.

A. Protection of Habitat of Endangered or Threatened Species.

- 1). Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
- 2). Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

B. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic Salmon Spawning and Nursery Areas,

1). There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:

- a. Shorebird nesting, feeding and staging areas and seabird nesting islands;
- b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- c. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
- d. Other important habitat areas identified in the Comprehensive Plan and subsequent amendments or revisions.

2). This restriction shall appear as a note on the plan and as a deed restriction to the affected lots,

C. Protection of Deer Wintering Areas. The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas,

D. Protection of Important Shoreland Areas,

1). Except as in areas described in Section 12.3.C.2, within all areas subject to the state mandated 250 foot Shoreland zone:

- a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten-year period.
- b. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whatever is greater, including land previously developed.

2). These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

E. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

363. Impact on Water Quality or Shoreline. Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots that include any such land shall contain the following restrictions:

1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the footpath shall be limited to six feet.
2. Selective cutting of trees within the buffer strip is permitted provided that a well- distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten-year period.
3. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
4. Pruning of tree branches on the bottom third of the tree is permitted.

ARTICLE 400  
IMPROVEMENT GUARANTEES

**410. Improvement Guarantees Required**

Before the submission of a Final Plan, the subdivider in all major subdivisions as defined in Section 1024 shall provide the town with improvement guarantees, in the form of one or more of the guarantee options listed below in an amount that will cover at least one hundred (100) percent of the cost of completing the improvements, including sewer, water, storm drainage, or street work, should the subdivider fail to complete the required improvements or fail to complete them satisfactorily in accordance with the approved final subdivision plan. Furthermore, the subdivider shall guarantee the improvements against all defects from materials and/or workmanship for a period of one year from the date of acceptance thereof by the Town. *(Amended 02-12-02)*

**420. Procedure**

The subdivider shall file with the Town Manager a proposed improvement guarantee (including a written guarantee agreement) and the Town Manager shall determine whether the form, amount, and the duration of the improvement guarantee are sufficient. In the event the Town Manager refuses to approve the proposed improvement guarantee as filed by the subdivider, he/she shall so inform the subdivider and shall inform the subdivider of his/her reasons for rejecting the guarantee. This shall be done in writing. In the event the Town Manager approves the proposed improvement guarantee as filed by the subdivider, he/she shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Town Manager. The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider. *(Amended 02-12-02)*

**430. Time Limit**

431. *Completion Deadline.* All required improvements within a major subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the town during said two-year period plus at least eighteen (18) months following the expiration of the two-year period. The additional eighteen-month period is required as protection to the town in the event the subdivider fails to complete the required improvements and for the one year guarantee period. *(Amended 02-12-02)*

432. *Extension.* The Town Manager may extend the completion deadline for two (2) additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six (6) months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Town Manager shall require that the improvement guarantee be extended in duration to cover the extended period of time, plus an additional eighteen month period. Before extending the initial deadlines, or the initial extension, the Town Manager shall review the form and amount of the improvement guarantee to make certain it remains adequate. *(Amended 02-12-02)*

**440. Inspection and Certification**

441. Prior to the initiation of construction, a pre-construction conference will be held with the subdivider, Public Works Director, Hampden Water District (if applicable), Community and Economic Development Director and Code Enforcement Officer. Evidence of issuance of required state and local permits shall be provided by the subdivider at the time of the meeting.

442. The Town Manager or his/her duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Town Manager or his/her representative who is carrying out these inspections. Upon completion of the improvements the Town Manager shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved final subdivision plan. If the improvements have not been satisfactorily completed, the Town Manager shall provide a written list of the defects.

442443. Upon completion of the improvements, the subdivider shall file the following with the Town Manager:

1. A statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;
2. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.

443444. No final inspection will be conducted by the Town Mmanager between November 15<sup>th</sup> and April 15<sup>th</sup>. This does not prohibit council acceptance of improvements inspected between April 15<sup>th</sup> and November 15<sup>th</sup>. *(Amended: 06-19-89)*

445. The costs of inspections, including the costs of review by a third party engineer if needed, shall be paid by the subdivider prior to the issuance of the certification of completion. The Public Works Director shall establish and determine the costs of inspection. If the subdivider does not directly pay the costs of inspection, the same shall be paid from the deposit established by the Public Works Director and held by the Town, and the balance, if any, shall be returned to the subdivider.

446. Private Streets need to be inspected by the Town's staff or designee during the construction process. If the owner did not include the Town's staff in the construction process and wished to have the Private Street serve as frontage for one or more newly created lots at a later date, the owner would need to hire at the owner's expense a professional engineer licensed in Maine to inspect the roadway and to certify that the road has been constructed according to the Private Street standards in this Ordinance.

#### **450. Release of Guarantee**

As soon as the Town Manager or his/her authorized representative has inspected the improvements and certified that they are satisfactorily completed, the subdivider has filed the letter required in Section 442 of this Ordinance with the Town Manager, and the one year guarantee period has expired, the Town Manager shall release the previously required improvement guarantee to the subdivider. *(Amended 02-12-02)*

#### **460. Reduction of Guarantee**

1. When all required improvements have been substantially and satisfactorily completed, the Town Manager may release up to fifty (50) percent of the improvement guarantee. The improvement guarantee shall be reduced in value by no more than fifty (50) percent until all required improvements are satisfactorily completed.

2. Conditional acceptance may be authorized providing:
  - A. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.
  - B. The binder pavement layer is placed on all areas proposed to be paved.
  - C. The developer supplies the ~~Town manager~~ Manager with an improvement guarantee (section 410), documented by a written estimate from a reputable paving contractor, for the placement of the final finished pavement layer. Said guarantee shall be released in accordance with Section 450. *(Amended: 06-19-89)*
3. Upon acceptance of the improvements by the Town, the Town Manager shall release up to eighty-five (85) percent of the improvement guarantee, and shall release the remaining portion fourteen (14) months after acceptance of the improvements by the Town, unless the Town Manager has provided notice of a guarantee claim pursuant to Section 475, in which case the guarantee shall remain in place until any such claims have been resolved to the satisfaction of the Town Manager. *(Amended 02-12-02)*

#### **470. Incomplete or Unsatisfactory Work**

If the Town Manager determines, according to the procedures laid out in section 440 of this Ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan, within the agreed upon time, he/she shall inform the subdivider in writing of the town's intent to exercise its rights against the improvement guarantee, he/she shall exercise any and all such rights; and may cause the incomplete or unsatisfactory work to be completed. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the town. (Amended 02-12-02)

475. *Defective Improvements.* If the Town Manager, or designee, determines that the improvements suffer from defective workmanship or materials, the Town Manager, or designee, shall notify the subdivider in writing of the defects by not later than 30 days after the expiration of the one year guarantee period. If the defects are not corrected to the satisfaction of the Town Manager within 60 days after the issuance of the notice to the subdivider, the Town Manager, or designee, shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee, shall exercise any and all such rights, and may cause the defective workmanship or materials to be corrected. Any guarantee assets unused in the correction of any defects may be returned to the subdivider at the discretion of the Town. (Amended 02-12-02)

#### **480. Improvement Guarantee Option**

481. *Performance Bond* - Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Hampden and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. (Amended 02-12-02)

482. *Property Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee personal property, including stocks and bonds. The value of such property shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager.

482.1. *Personal Property Escrow* - If personal property is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The subdivider shall provide the town with evidence of the value of the personal property satisfactory to the Town Manager.
2. The subdivider shall, at his/her expense, provide the town with a title opinion from an attorney, satisfactory to the town, that there exists no outstanding recorded security interest in said property; the subdivider shall provide the town with evidence, satisfactory to the Town Manager, of ownership of the proposed property.
3. The subdivider shall enter into an agreement with the town and execute a security interest in favor of the town, which shall be filed as required by law; said agreement shall provide that the ownership of the property shall be transferred to the town, unless the subdivider satisfactorily completes the required improvements in accordance with this Ordinance and with the approved final subdivision plan. Said agreement and security interest shall contain such additional provisions as may be required by the Town Manager.

4. In the case of stocks, bonds, or other securities, the subdivider shall deliver to the town or its designated trustee the original certificate for said security, together with a stock or bond power endorsed in blank by the subdivider authorizing the transfer of ownership on the books of the corporation. In the case of other personal property, the subdivider shall deliver to the town, or its designated trustee, the personal property together with a satisfactory security interest in such property.
5. In the case of stocks, bonds, or other securities, the Town Manager may require that the value of said securities exceed the estimated cost of the required improvements in order to protect the town from market fluctuations, or may at his/her option reject stocks, bonds or other securities that in his opinion do not provide the town with satisfactory security.

483. *Letter of Credit* - Under this improvement guarantee option, the subdivider shall provide, as a guarantee, an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Town Manager, such letter of credit to be in form satisfactory to the Town Manager. The amount of such letter of credit shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and as approved by the Town Manager. The letter of credit shall be deposited with the Town Manager and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs as estimated for the subdivider by a registered professional engineer and approved by the Town Manager, of completing all required improvements;
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Hampden immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the limit of credit stated in the letter. *(Amended 02-12-02)*

484. *Cash Escrow* - Under this improvement guarantee option, the subdivider shall provide as a guarantee, cash held in an account at a bank or other reputable institution subject to the approval of the Town Manager. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional engineer and approved by the Town Manager. The subdivider shall enter into an agreement with the town that shall stipulate the terms under which a cash escrow may be accepted by the town.

ARTICLE 500  
**GENERAL REQUIREMENTS AND DESIGN STANDARDS**

In considering applications for subdivisions of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 600 of this Ordinance.

**510. General Requirements**

511. *Conformity with other laws and regulations.* All proposed subdivisions shall be in conformity with the comprehensive plan of the Town of Hampden, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws, and regulations.

512. *Character of the land.* Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the one-hundred-year frequency floodplain, on wetland which must be filled or drained, on land created by diverting a watercourse, or on land subject to slumping, mass wasting, or land slides. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal land.

513. *Soils* - Subdivisions which contain poor soils due to organic materials, clays, or seasonal high water table (less than 24 inches below grade) shall provide appropriate construction techniques, including but not limited to, underdrains and geotextiles in public road construction. The same construction techniques may be required of Private Streets if the Director of Public Works or his/her designee determines, based on inspection, that these techniques are needed based on soil quality. (Amended: 10-04-93)

**520. Lots**

521. *Lots to be Buildable* - The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance there will be no foreseeable difficulties as a result of other natural conditions. Lots should not be of such dimension as to later encourage the creation of a second building lot out of the first. Land area delineated as freshwater wetlands, located between the upper edges of perennial or intermittent streams, or designated for stormwater detention facilities shall not be included as lot area for the purpose of the minimum lot area requirement applicable to the subdivision lots. (Amended 10-03-05)

Notwithstanding the provisions of this subsection, non-cluster Rural District lots comprised of less than two acres of upland may be approved if the Planning Board finds that the lot contains a minimum of one acre of generally contiguous upland area, not delineated as freshwater wetlands, and determines that the lot is suitable for development. (Amended 10-03-05)

Notwithstanding the provisions of this subsection, commercial and industrial subdivisions are exempted from this provision. (Amended 02-12-02)

522. *Side Lines* - All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a waiver from or modification of this rule will give a better street or lot plan.

Notwithstanding this subsection, variations to the right angle/radial of the street line are encouraged where the Planning Board determines that variations of no more than 20 degrees will improve the layout of the lots by meeting one or more of the following objectives: Simplification of lot layouts by elimination of unnecessary property corners, foster creation of parallel side lot lines, foster improved solar access, accommodation of pre-existing features such as perimeter property lines or natural physical features such as wetlands and drainage ways. It is not the intent of the side lines rule to promote the placement of additional pins and monuments located in close proximity to the front property line. (Amended 10-03-05)

523. *Corner Lots* - In general, corner lots should be larger than interior lots to provide for proper building setback from each street and to provide a desirable building site.

524. *Lot Frontage* - Lot frontage shall be deemed acceptable only if it is on a road or street as defined in the Hampden Zoning Ordinance, or on a Private Street approved and constructed pursuant to the standards in this Ordinance. Tie lines must be shown at the front setback line to demonstrate that the lot meets the frontage requirement of the zoning district at the setback unless the lot frontage exceeds the minimum frontage requirement by at least five feet. (Amended 10-03-05)

### 530. *Drainage Requirements*

531. *General* - The subdivider will be required to provide surface water and storm drainage management facilities appropriate to the finished subdivision. The following requirements must be met for both minor and major subdivisions. Minor subdivisions of single family dwellings in the Rural District and Private Street Subdivisions are exempt from the following requirements.

1. A storm water management system will be designed to infiltrate, detain or retain water falling on the site during a design storm, such that the post-development peak discharge and runoff shall not exceed the peak discharge and runoff from the site prior to the development.
2. Pipe systems shall be designed to pass the peak discharge of a ten-year frequency, twenty-four-hour duration storm. Open channel systems shall be designed to contain a design storm. In addition, areas expected to be flooded by the design storm will be indicated on the plans, and be considered part of the drainage and storm water management system.
3. The storm water management system will take into consideration the upstream discharge and runoff which must pass over or through the development site. The system will be designed to pass upstream discharge and runoff, generated by the design storm, through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.
  - A. The surface water and stormwater management system shall be designed so that no water shall be stored in any ditches or drainage ways located along streets or roads during a 10 year, 24 hour storm event. (Amended 02-12-02)
4. Urban development which provides public sewer and water service shall be designed to handle storm water drainage by means of an enclosed system with catch basins. Where necessary to control storm water, asphalt curbing may be required.
5. *Materials and Installation*

Pipe Culverts and Storm Drains - Shall conform to Section 603 of the Maine Department of Transportation (MDOT) Standard Specifications for Bridges and Highways, 1990 or current version.

A. Manholes and Catch Basins - Shall conform to Section 604 of the MDOT Standard Specifications for Bridges and Highways, 1990 or current version.

6. Drain inlet alignment shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear drain is obtained in writing from the Public Works Director ~~after consultation with the Municipality's Engineer.~~
7. Manholes/catch basins shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
8. Upon completion, each catch basin or manhole shall be cleaned of all accumulated silt, debris, or foreign matter until public acceptance. *(Amended: 10-04-93)*

532. *Approvals* - Applications for approval of all proposed subdivisions shall include documentation that demonstrates that there will be no unreasonable effects on runoff/infiltration relationships. This documentation shall include the following, as appropriate:

1. The proposed storm water management system shall be designed by a professional engineer experienced in the design of storm water systems. The designer of the system will evaluate the effectiveness of various storm water methods and develop and make available for review the hydraulic calculations. These calculations will be based on accepted engineering practices and must demonstrate that the requirements of section 531 will be met.
2. Where permanent embankment-type storage or retention basins are planned, the basins shall be designed in accordance with good engineering practices, such as outlined in the current Soil Conservation Service Engineering Field Manual or other appropriate references.
3. Rights-of-way or easements will be designated for all components of the drainage and storm water management system lying outside the established street lines. Stormwater detention facilities shall not be located on lots but on separate parcels to be conveyed to the town or provided for by easement to include provisions for suitable annual maintenance by the town, if for a Public Street, or by a private party, if for a Private Street. All rights-of-way and easements for drainage and storm water management facilities for Public Streets will be turned over to the town upon town acceptance of the road(s). Notwithstanding the provisions of this subsection, commercial and industrial subdivisions, and Private Street Subdivisions, are exempted from the provision requiring that stormwater detention facilities be separated from lots and conveyed to the Town. *(Amended 02-12-02)*
4. The developer shall certify in writing that all components of the storm water management system will be maintained until the system is formally accepted by the municipality or a quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system.
5. The storm water management system will be fully coordinated with the project site plans, including consideration of street patterns, pedestrian ways, open space, building siting, parking areas, recreational facilities, and other utilities. Stormwater drainage channels shall be directed to run along property lines to avoid driveway and other utility crossings. *(Amended 02-12-02)*

6. When the construction of a development is to occur in phases, the planning of the storm water management system shall encompass the entire site which may ultimately be developed, and shall not be limited to an initial or limited phase of the development. *(Amended: 11-18-85)*

**540. *Open Space and Recreation Land*** –All major subdivisions shall be required to set aside land for open space and recreation or to provide cash in lieu of land. The primary intent of this section is to provide open space and recreation land in all areas of the community. It is understood that not all developments will have land suitable for open space or recreation within their boundaries, therefore this section is designed to be as flexible as possible. To that end, this section shall allow the provision of off-site open space and recreation areas, and cash in lieu of land. In cluster development, the cash in lieu of land provision shall not apply.

**541. *Approval Authority*** - The Planning Board shall approve the means of meeting this requirement.

The Hampden Conservation Committee and Recreation Committee shall be given opportunity to make written recommendations to the Planning Board on all open space proposals within forty-five (45) days of receiving notice. Where land is to be dedicated to the town, or otherwise requires action of the Town Council, the Planning Board shall require the subdivider provide documentation as to the Town Council's decision as provided in 545.2. *(Amended: 05-20-96)*

**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 Private Street Subdivisions or 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. *Amended 7-14-2014, Effective Date 8-13-2014*

**543. *Standards for Land*** - The purpose of this section is to provide for permanent open space. The subdivider may offer dedicated land, conservation easements, or other means to meet the requirements of this section. These areas shall be in locations designated as open space or green belts in the Comprehensive Plan. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. *(Amended: 05-20-96)*

1. Where the open space requirement is in excess of ten (10%) percent of the land to be subdivided, the subdivider may elect to provide land identified in the Open Space and Recreation Plan, if one exists. Where off-site open space is proposed, the following standards apply:
  - A. Ten (10%) percent shall be provided within the subdivision.
  - B. The off-site open space shall be within one (1) mile of the subdivision.

C. The off-site open space shall have been previously designated in the Open Space and Recreation Plan.

D. The subdivider shall provide proper right, title or interest to the off-site land.

544. *Standards for Cash-in-Lieu of Land* - Where cash in lieu is proposed, the following standards shall apply.

1. At the time of Final Plan submission, the subdivider shall contribute to the Town of Hampden \$400/lot, \$200/unit or \$200/acre, whichever is greatest.
2. All monies placed in this fund shall be used for the purchase or development of open space or recreation land.
3. Land purchased or developed with these funds shall be located to serve the needs of the residents of the subdivision. *(Amended: 06-03-91)*

545. *Provisions for Ownership and Maintenance of Open Space or Recreation Areas* - If land is to be set aside under the provisions of this section, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such land. The means for insuring the open space will be available in perpetuity shall be:

1. Retain ownership and responsibility for maintenance of such land; or
2. Dedicate such land to public use if the town or another public agency has indicated it will accept such dedication. If the subdivider proposed that the town accept the land, the subdivider must provide the planning board, as part of the final plan, with a copy of the minutes of the meeting of the Town Council, attested by the town clerk, in which the Town Council agreed to accept such land; or
3. Provide for and establish one or more organizations for ownership and maintenance of such land. Such organization shall be either a nonprofit homeowners' corporation or a community open space trust. If such organization is formed, it shall be formed and operated in accordance with the following rules:
  - A. The organization shall be formed by the developer and be operating, with financial subsidization by the developer if necessary, before the sales or lease of any lots or units within the development.
  - B. Membership in the organization is mandatory for all purchasers of units therein and their successors.
  - C. The organization shall be responsible for maintenance of common open spaces and property. It shall also be responsible for insurance and taxes on common open space and property.
  - D. The members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with written procedures established by them. *(Amended: 09-21-87, 06-03-91)*

546. Provisions for Ownership and Maintenance of Private Streets – In a Private Street Subdivision, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such Private Street(s). The means for insuring the Private Street(s) will be maintained in perpetuity shall be:

1. Subdivider may retain ownership and responsibility for maintenance of such Private Street(s);  
or
2. Subdivider shall provide for and establish one or more organizations for ownership and maintenance of such Private Street(s). Such organization may be a nonprofit homeowners' corporation or other organization as approved by the Planning Board. If such organization is formed, it shall be formed and operated in accordance with the following rules:
  - A. The organization shall be formed by the subdivider and be operating, with financial subsidization by the subdivider if necessary, before the sales or lease of any lots or units within the development.
  - B. Membership in the organization is mandatory for all purchasers of units therein and their successors.
  - C. The organization shall be responsible for maintenance of Private Street(s) in the subdivision. It shall also be responsible for insurance, as needed, for Private Street(s) in the subdivision.
  - D. The members of the organization shall share equitably the cost of maintaining Private Street(s) in the subdivision in accordance with written procedures established by them.

## **550. Public Street Standards**

551. *Layout of Streets* - All streets in a subdivision shall be planned so as to meet the following standards:

1. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Hampden.
2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets and Private Streets, shall be designed so as to discourage movement of through traffic.
3. The arrangement of streets in ~~the~~ a major subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice.
4. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town under conditions approved by the Town Council.

5. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
6. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.
7. Whenever possible, subdivisions containing fifteen (15) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the official road map, if such exists, or streets on an approved Subdivision Plan.
8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked "Reserved for road realignment (or widening) purposes". Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.

**552. Private Street Standards.**

All streets in a private subdivision shall be planned so as to meet the following standards:

1. The design and construction of all Private Streets shall comply with this Ordinance relative to Private Streets, subject to the approval of the Planning Board.
2. Notwithstanding any other provisions of the Ordinance to the contrary, Private Streets in subdivisions platted prior to the enactment of this Ordinance and Private Streets that are contained in land divisions approved by the Town of Hampden prior to the enactment of this Ordinance, shall continue to meet the specifications approved at the time of application. Upon expansion, reconstruction, or major alteration of an existing Private Street, new construction shall comply with then-current requirements of Private Streets.
3. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.
4. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.
5. The applicant will provide a stop sign and street name sign meeting Town specification at the intersection with the public street.

~~552~~553. Design and Construction Standards for Streets Eligible for Public Acceptance - All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the Planning Board.

Design and Construction Standards for Streets Eligible for Public Acceptance

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
1. Minimum right-of-way width	66 ft.	66 ft. _____
2. Minimum pavement width	24 ft.	20 ft. _____
3. Minimum grade	0.5%	1.0%
4. Maximum grade	8%	8%
5. Maximum grade at intersection 3% Within feet from intersection	75 ft.	50 ft.
6. Minimum centerline radii on curves	200 ft.	100 ft.
7. Minimum tangent length between reverse curves	200 ft.	100 ft.
8. Depth of subgrade grading	22 in.	22 in.
9. Sub base gravel depth	18 in.	18 in.
10. Upper base gravel	4 in.	4 in.
11. Pavement (see 552 item 2)		
A. Grade B	2-1/2 in.	2-1/2 in. _____
B. Grade C	1-1/2 in.	1-1/2 in.
C. Total thickness	4 in.	4 in. _____
12. Minimum road crown-centerline to edge of pavement.	3 in.	3 in. _____
13. Minimum shoulder width on each side of road.	2 ft.	2 ft.
14. Sidewalks		
A. Minimum width	5 ft.	4 ft. _____
B. Gravel base course	6 in.	6 in. _____
C. Surface pavement	2 in.	2 in. _____

<u>Item</u>	<u>Collector</u>	<u>Minor</u>
15. Dead-end or cul-de-sac streets		
A. Completely paved Raddii of turn around at enclosed end		
i. Right-of-way boundary minimum	60 ft.	50 ft. _____
ii. Outside pavement radius - min.	40 ft.	35 ft. _____
B. With island (see #26)		
i. Right-of-way boundary – min.	65 ft.	55 ft. _____
ii. Inside pavement radius	26 ft.	25 ft. _____
iii. Outside pavement radius	50 ft.	49 ft. _____
iv. Minimum pavement width	24 ft.	24 ft. _____
<i>(Amended: 10-03-05)</i>		
C. Temporary (See #27)		
i. Raddii at Right-of-way - min.	50 ft.	50 ft. _____
ii. Gravel turn around minimum	40 ft.	40 ft. _____
<i>(Amended: 12-04-95)</i>		
16. Minimum pavement curb radii at intersections and where street meets cul-de-sac 20 ft. <i>(Amended: 10-03-05)</i>		
17. Grade of streets should conform as closely as possible to the original relief of the land.		
18. All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of two hundred (200') feet.		
19. Side slopes shall not be steeper than three (3') feet horizontal and one foot vertical, graded, loamed (six [6] inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.		
20. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches.		
21. In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Town Manager.		
22. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The subbase gravel shall meet the specifications for aggregate subbase courses as contained in the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation". The upper base gravel shall meet the specifications for aggregate base courses in the same standards.		
23. <del>For Public Streets, a</del> After the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of "The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation".		
24. The Planning Board may require curbing of roads <u>in a subdivision including one or more Public Streets.</u>		

25. Where a green space is planned in the interior of a cul-de-sac, existing vegetation should be preserved where possible. Any proposed landscaping shall be of a type which requires limited maintenance. *(Amended: 12-04-95)*
26. Where a proposed street may be extended, the Planning Board may authorize a temporary cul-de-sac. Temporary cul-de-sacs shall provide an escrow account for a period of five (5) years to cover the cost of paving, which is renewable in five (5) year increments. Access shall be prohibited from a temporary cul-de-sac. *(Amended: 12-04-95)*

**554. Design and Construction Standards for Private Streets - All private streets within a Subdivision streets in a Private Street Subdivision shall be designed and constructed to meet the following standards.**

Design and Construction Standards for Private Streets

<u>Item</u>	<u>Private</u>
<u>1. Minimum right-of-way width</u>	<u>66 ft.</u>
<u>2. Minimum roadway travel width</u>	<u>20 ft.</u>
<u>3. Minimum pavement width</u>	<u>Not Required</u>
<u>4. Maximum grade</u>	<u>8%</u>
<u>5. Maximum grade at intersection</u> <u>Within 75 feet from intersection</u>	<u>3%</u>
<u>7. Minimum centerline radii on curves</u>	<u>150 feet</u>
<u>8. Minimum tangent length between reverse curves</u>	<u>100 ft.</u>
<u>9. Subbase course (heavy gravel) MDOT Type D</u> <i>(May be waived if pre-existing street)</i>	<u>18 inches</u>
<u>10. Base course (crushed gravel MDOT Type A)</u> <i>(May be waived if pre-existing street)</i>	<u>4 inches</u>
<u>11. Pavement</u>	<u>Not Required</u>
<u>12. Minimum road crown-centerline</u> <u>to edge of pavement.</u>	<u>N/A</u>
<u>13. Minimum shoulder width on each side of road (if paved)</u>	<u>2 feet</u>
<u>14. Sidewalks</u> <u>Required</u>	<u>Not</u>
<u>15. Turnaround at dead-end</u>	<u>Hammerhead or T</u>

~~553~~555. *Utilities in Streets* - ~~The~~In a major subdivision, the Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved. In Subdivisions with private streets, a Private Street Subdivision, the owner or owners shall convey, where applicable, an easement to the Town, described by metes and bounds, for sewer purposes over the entire right-of-way, and shall convey, where applicable, an easement to the Hampden Water District, described by metes and bounds, for water purposes over the entire right-of-way, and shall record both easements, as applicable, in the Penobscot County Registry of Deeds.

~~554~~556. *Street Names*

1. Proposed street names shall be substantially different from existing street names so as not to be confused in sound or spelling.
2. If proposed streets are extensions of existing streets they shall carry the same name.
3. Generally no street should change direction by more than ninety (90) degrees without a change in street name.
4. In general, streets shall have names, not numbers or letters. *(Amended: 09-21-87, 06-19-89)*

## 560. *Utilities*

561. If public water and/or sewer is proposed, the system shall be designed so as to accommodate any development which can reasonably be expected to tie into the system. In determining the amount of reasonably expected development, the Planning Board shall consider existing land use, existing zoning, the character of the land, topography, and existing constraints to development (such as boggy areas), the carrying capacity of the land and of existing municipal services, and the town's Comprehensive Plan or sewer and water plan. If the system has to be built so that it is larger than would normally be required under conditions of the maximum utilization of the subdivider's contiguous land (including land on opposite sides of streets), the town will pay the difference in cost for the larger pipes. The subdivider must cover all other expenses.

562. The subdivider shall install any new public utility system according to the approved Subdivision Plan. If either the public sewer or water system follows a course which is not collinear with the road network, the Planning Board shall require that the subdivider provide the Town of Hampden or the Hampden Water District with a utility easement.

563. If individual wells are proposed for the subdivision, the Planning Board may require that the subdivider's engineer certify that sufficient water is available for the reasonable foreseeable needs of the subdivision.

564. If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system which is in conformance with the Maine State Plumbing Code can be installed on every lot.

565. Pump stations shall not be used in the construction of sewer systems in any proposed development with the Town of Hampden, Maine, except as permitted under the Town's Sewer Ordinance. *(Amended: 03-07-88) (Amended 08-06-07)*

570. *Buffer Strip* - The Planning Board may require a buffer strip when ~~the a~~ proposed major subdivision will be located adjacent to a use where separation is desirable.

ARTICLE 600  
**WAIVER AND MODIFICATIONS OF THESE REGULATIONS**

610. Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Zoning Ordinance, or any other ordinance. Upon recommendation of the Planning Board, fees may be adjusted or waived only with the approval of the Hampden Town Council.

620. In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. *(Amended: 12-01-86)*

ARTICLE 700  
**VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING**

710. Should any section or provision of ~~these regulations~~ this ordinance be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations, and to this end, the provisions of this ordinance ~~these regulations~~ are hereby declared to be severable.

720. The effective date of this ordinance ~~these regulations~~ is June 17, 1982

730. This ordinance ~~These regulations~~ shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, ~~by law~~ ordinance, permit, or provision of law. Where these regulations impose a higher standard for the protection and promotion of health and safety, the provisions of this ordinance ~~these regulations~~ shall prevail.

740. A copy of this ordinance ~~these regulations~~ shall be filed with the Town Clerk and shall be accessible to any member of the public.

750. The Subdivision Ordinance of the Town of Hampden as adopted at the annual meeting March 3, 1970 and as amended, is hereby repealed.

ARTICLE 800  
AMENDMENTS

**810. Initiation of Amendment** - An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted;
2. Request of the Town Council to the Planning Board; or
3. Written petition of ten (10%) percent of the registered voters of the town.

**820. Proposed Amendments** - All proposed amendments shall be referred to the Planning Board for their recommendation. Such recommendation shall be returned to the Council within thirty (30) days.

**830. Adoption of Amendment** - For an ordinance change to be adopted, it must be approved by a majority vote of the Town Council if the change has been recommended by the Planning Board. If the change has not been recommended by the Planning Board, a two-thirds vote of the Town Council will be necessary to adopt it.

ARTICLE 900  
APPEALS

An appeal may be taken, within thirty (30) days from the Planning Board's decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

ARTICLE 1000  
DEFINITIONS

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

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

**1021. Subdivision.** For purposes of these regulations, the term "Subdivision" is as defined in the MRSA, Section 30-A, §4401 as amended.

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

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

~~A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence or for open space land as defined in~~

~~Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2<sup>nd</sup> dividing occurs; or~~

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

- ~~2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.~~
- ~~3. A lot of 40 or more acres shall not be counted as a lot, except:
  - ~~A. When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in the Hampden Zoning Ordinance, or any superseding state statute.~~~~
- ~~4. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.~~
- ~~5. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.~~
- ~~6. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.~~
- ~~7. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transfer is to avoid the objectives of this Ordinance.~~

~~— Exceptions~~

~~— This Ordinance does not apply to:~~

- ~~1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;~~
- ~~2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or~~

3. ~~Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971. (Amended: 02-07-94)~~

NOTE: For convenience the Statutory definition of subdivision as of July 24, 2014 is attached here but the reader of this ordinance is well advised to check the current statute in Title 30-A MSRA §4401.

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

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

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

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.]

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

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

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

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

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

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.]

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

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

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

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

~~1022. Private Street Subdivision — A subdivision which includes construction of one or more Private Streets, and does not involve the construction or reconstruction of a Public Street.~~

~~1022~~1023. *Tract or parcel of land* - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

~~1023~~1024. *Minor Subdivision* - A subdivision with less than five (5) lots which does not involve the construction or reconstruction of a new street, or the extension of public sewer lines, or the extension of public water lines, or the construction of a storm drainage system.

~~1024~~1025. *Major Subdivision* - A subdivision which is not a minor subdivision ~~or a Private Street Subdivision.~~

~~1025~~1026. *Street, or Road* - Shall mean a right-of-way, intended for motorized traffic, in the Town of Hampden, which is either:

1. Owned, established, and maintained by the Town of Hampden, the County of Penobscot, or the State of Maine; or
2. Is shown on a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds.

~~1026~~1027. *Minor Street* - A street which serves primarily as an access to abutting properties.

~~1027~~1028. *Collector Street* - A street which connects one or more minor streets with an arterial street.

~~1028~~1029. *Arterial Street* - A street which serves heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

1030. *Private Street (or Road)* - A Street ~~An area of land within a deeded right-of-way that provides access to more than one principal structure and is privately owned. provides vehicular access to approved lots and has not been dedicated to public use other than access by emergency and public safety vehicles, and is maintained by its private owners. A Private Street (or Road) shall be protected by a permanent easement which shall conform to the Road Classification Standards Table and which shall be shown on the plan. The limits of a private way shall begin from the edge of the traveled way of a Public Street and all associated sub roads that spur off from this road. Maintenance of this right-of-way area shall be the responsibility of the homeowner's association.~~

1031. *Public Street (or Road)* - A public or dedicated right-of-way, which affords the principal means of vehicular access to abutting property and which is under public ownership or control.

~~1029~~1032. *Design Storm* - A storm with a frequency or recurrence interval of twenty-five (25) years and a duration of twenty-four (24) hours.

~~1030~~1033. *Pump Stations* - For the purpose of this Ordinance, pump stations shall be defined as any device intended and designed for the purpose of transporting, pumping or lifting of sanitary sewage from residences, commercial institutions or central collection points to the municipal sanitary sewer system. This shall not include lift pumps used in self-contained, on-site subsurface disposal systems. *(Amended: 11-18-85, 9-19-88)*

~~1031~~1034. *Freshwater Wetland* - Freshwater Swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
2. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection. For the purposes of this Ordinance, "wetland" shall mean the same as freshwater wetland. Freshwater wetlands shall be delineated in accordance with the current authorized federal manual, unless the Planning Board approves a different delineation method. (Amended: 12-20-93)

~~4032~~1035. *Dwelling Unit* - "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units. (Amended: 02-07-94)

~~4033~~1036. *New Structure or Structures* - "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance. (Amended: 02-07-94)

## **Development Agreement**

### **Sargent Corporation/Town of Hampden**

- Town of Hampden owns roads, common areas and the following unsold lots:  
2,4,6,8,9,10,17,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36, and 37
- Sargent to complete interior portions of the subdivision including roads, bridges, water, sewer and other utility services, in accordance to an approved revised plan, in exchange for conveyance of the remaining unsold lots. Construction value estimated at \$ 3.475 million dollars.
- Infrastructure to be complete in two phases. Phase I shall be completed no later than 38 months from the agreement date of April 24, 2014. Phase II shall be completed no later than 86 months from the agreement date of April 24, 2014. Sargent has option to decide which Phase is built first.
- Sargent to provide as-built plans upon completion
- Town of Hampden shall retain title to the undeveloped lots until such time as Sargent has identified a use, purchaser or developer of the lot(s) concerned within 10 years after the earlier of (A) the date of completion of the first Phase of the development or (B) 86 months from the effective date of the agreement (June 24, 2021).
- The Town shall have the right to continue to market lots 2,4,6,8, 9 and 10 during the term of Sargent's option, and to sell any of the said lots for not less than 80% of the prices listing in the listing agreement with Epstein Real Estate. (Net proceeds=sales price – commission - legal fees - customary seller costs), shall be paid to Sargent's upon completion of Phase I.
- The term of the TIF will be 30 years.
- A Credit Enhancement Agreement (CEA) with Sargent's is for 50% of the applicable taxed value (minimum \$ 500,000), for a period not to exceed 10 years on any one lot and for a period of no more than 20 years of total for CEA.
- Lots 2,4,6,8,9,10 are not part of the Credit Enhancement Agreement.

## DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into as of the 24<sup>TH</sup> day of April, 2014, by and between the TOWN OF HAMPDEN, a municipal corporation organized and existing under and by virtue of the laws of the State of Maine, located in Penobscot County Maine ((hereinafter "Hampden") and SARGENT CORPORATION; SSR II, LLC; and SSR, LLC a business corporation organized and existing under the laws of the State of Maine with an office in Stillwater, Maine and related real estate holding companies (hereinafter collectively referred to as "Sargent").

### Recitals

1. Hampden is the original owner and developer of certain real property located in the Town of Hampden, Penobscot County Maine as depicted on a Final Subdivision Plan entitled *Hampden Business and Commerce Park* and recorded in the Penobscot County Registry of Deeds in Map File Nos. 2001-70 and 2001-71, as amended by the Final Subdivision Plan – Amendment No. 1 recorded at said Registry in Map File Nos. 2002-89 and 2002-90 and Final Subdivision Plan – Amendment No. 2 recorded at said Registry in Map File no. 2007-112 (collectively hereinafter referred to as the "Subdivision Plan").

2. As of the date of this Agreement, Hampden is the owner of all roads and common areas depicted on the Subdivision Plan, together with the following unsold lots:

Lot 2	Lot 21	Lot 30
Lot 4	Lot 22	Lot 31
Lot 6	Lot 23	Lot 32
Lot 8	Lot 24	Lot 33
Lot 9	Lot 25	Lot 34
Lot 10	Lot 26	Lot 35
Lot 17	Lot 27	Lot 36
Lot 19	Lot 28	Lot 37
Lot 20	Lot 29	

3. As of the date of this Agreement, infrastructure development for interior portions of the subdivision remains incomplete. The estimated cost to complete roads, bridges, water, sewer and other utility services to the subdivision, after certain changes to the Subdivision Plan as contemplated by this Agreement, is \$3.475 million. Pending completion of the remaining infrastructure improvements, many of the unsold lots may not be legally sold or developed.

4. On May 22, 2013, Sargent submitted its proposal to Hampden, titled "Hampden Business Park – Proposal for Final Development" to complete infrastructure development in the subdivision, in exchange for conveyance of the remaining unsold lots by Hampden to Sargent. Hampden and Sargent, in consideration of the mutual promises hereinafter expressed, enter into this Agreement for the purpose of implementing Sargent's proposal, as modified herein.

## **Agreement**

### **I. Sargent's Obligations**

(1) Sargent, at its own cost and expense, shall apply for and obtain all amendments to the existing Subdivision Plan and Site Location of Development Act permits for the Hampden Business and Commercial Park that may be necessary to eliminate one planned bridge and reduce fill as depicted in Sketch SK-1, attached hereto as Exhibit A and incorporated herein by reference. In addition, Sargent shall be solely responsible for obtaining all local building permits and any additional approvals necessary to complete the infrastructure improvements. Sargent shall identify, and provide notice thereof to Hampden, all desired amendments to existing approvals and permits within 60 days of the effective date of this Agreement. Sargent shall apply for all such amendments within 120 days of the effective date of this Agreement.

In the event that any such amendments, permits or other approvals are not finally approved within six months after Sargent's application, or if Sargent in its sole discretion determines that the application process has become unreasonably delayed or expensive, Sargent may withdraw from this Agreement with no further liability to Hampden hereunder, by giving Hampden seven (7) days prior written notice to that effect, such notice to be given by Sargent prior to the commencement of any construction activity. In the event of such a termination, Hampden shall have no obligations to Sargent under this Agreement.

(2) In the event that Sargent does not fulfill its obligations under Paragraph (1) above, Hampden may terminate this Agreement upon seven (7) days prior written notice to Sargent. In the event of such termination, neither party shall have any obligations to the other party under this Agreement. Hampden agrees to consider any reasonable extensions of the deadlines in Paragraph (1) above in the event any permits or approvals are delayed through no fault of Sargent, or they are subject to local or state appeals.

(3) Sargent agrees to complete all remaining infrastructure development for the Hampden Business and Commerce Park in accordance with the approved Subdivision Plan, as may be amended, at Sargent's sole cost and expense, no later than 38 months from the effective date of this Agreement for Phase 1 and 86 months from the effective date of this Agreement for the completion of Phase 2. A Scope of Work for the remaining infrastructure development is attached as Exhibit B and is incorporated herein by reference. In its sole discretion, Sargent may elect to reverse the order of completion of Phase 1 and Phase 2 of the infrastructure development, such that Phase 2 is completed within 38 months from the effective date of this Agreement, and Phase 1 within 86 months from the effective date of this Agreement. Sargent shall give written notice of its intention to reverse the order of completion to the Town within 24 months after the effective date of this Agreement. By way of illustration and not limitation, Sargent may elect to reverse the order of completion to accommodate the needs of potential lot buyers; to achieve efficiencies in construction of the infrastructure improvements; or to better address issues arising in the permit amendment process.

In completing the remaining infrastructure development, Sargent shall have sole discretion concerning use of its own forces and/or selection of a contractor or subcontractors; pricing of any contracts; employee wage rates; means and methods of construction; and oversight and supervision of the work. The Town shall be entitled to conduct inspections to ensure that all construction, including workmanship and materials, is completed in compliance with Hampden's ordinances and its infrastructure design and construction requirements, or other provisions of law. Prior to the commencement of construction, Sargent shall deposit with Hampden such funds as Hampden's Public Works Director determines is sufficient to conduct the inspections. Any unused funds shall be returned to Sargent upon completion of the work in a manner satisfactory to the Public Works Director.

(4) Upon completion of the infrastructure development, Sargent shall execute any

releases, bills of sale or similar documents that may be necessary to convey title to the completed infrastructure development to Hampden, and shall assign and deliver to Hampden all final "as-built" plans for the infrastructure development together with all manufacturers' warranties and information concerning any equipment or other items of personal property incorporated into the infrastructure development.

(5) Prior to the commencement of any construction on any phase of the infrastructure development, Sargent shall provide Hampden with a list of all subcontractors and suppliers. Sargent shall promptly obtain releases or discharges of any and all mechanics or materialmen's liens, or any other lien claims, arising from the construction of the infrastructure development. Hampden shall not be obligated to convey any lots to Sargent until Hampden is satisfied that its property is not subject to any lien claim arising from the design or construction of the infrastructure development.

## II. Hampden's Obligations

Subject to any required Town Council approvals that may be necessary under Hampden's Town Charter or Maine law with respect to option or conveyance of the Town-owned lots, or with respect to approval or amendment of a tax increment financing district, district development program or credit enhancement agreement under Title 30-A, chapter 206 of the Maine Revised Statutes, the Town of Hampden, by its Town Council, shall:

(1) Upon request, reasonably assist Sargent, at its sole expense, in preparing and presenting applications for any necessary amendments, permits and other approvals, but Hampden shall not be obligated to be an advocate before any permitting authority.

(2) Grant to Sargent a right of entry onto the town-owned portions of the Hampden Business and Commercial Park for the purpose of completing the infrastructure development. This right of entry shall include the right to enter on the individual lots in order to fill, grade or make other lot improvement for prospective purchasers. Sargent shall obtain any necessary local, state, or federal permits or approvals before undertaking the work, and shall complete the work in compliance with such approvals.

(3) Grant to Sargent, prior to commencement of any construction activity, an option to acquire the Town-owned lots in the Hampden Business and Commercial Park, for consideration of One Dollar (\$1.00) for each such lot acquired by Sargent pursuant to the option, said option

being the primary consideration upon which Sargent has agreed to complete the infrastructure development. Further terms of the option shall include the right to exercise the option with respect to any or all of the Town-owned lots at any time or times within a period ending ten (10) years after the earlier of (a) the date of completion of the phase of the infrastructure development in which the lot is located, or (b) 86 months from the effective date of this Agreement. No option may be exercised unless the phase of the infrastructure development in which the subject lot is located has been completed. It is the intention of this provision that the Town shall retain title to the undeveloped lots now owned by the Town until such time as Sargent has identified a user, purchaser or developer of the lot(s) concerned within the applicable ten (10) year period set forth above. The provisions hereof do not prevent Sargent from exercising its phasing rights under I (3).

(4) Town shall have the right to continue to market Lots 2, 4, 6, 8, 9 and 10 during the term of Sargent's option, and to sell any of said lots for not less than 80% of the prices listed in the listing agreement with Epstein Real Estate attached hereto as Exhibit C. Any proposed price less than 80% of the listing price must be approved by Sargent. The net proceeds (meaning the sales price minus commission, legal fees, and other customary seller costs) from any such sales shall be held in escrow by Hampden, and shall be paid to Sargent upon completion of Phase 1 or Phase 2, whichever occurs first.

(5) Within 120 days following execution of this Agreement, designate a development district and adopt a development program, including a tax increment financing (TIF) district, which shall include the following elements:

- a. The term shall be for a period of 30 tax years beginning with the July 1, 2015 to June 30, 2016 tax year.
- b. A credit enhancement agreement with Sargent for the Town-owned lots (except Lots 2, 4, 6, 8, 9, & 10), providing that Sargent shall receive, for a term of twenty (20) tax years commencing with the tax year subsequent to the completion of the Phase 1 or Phase 2 infrastructure development as of April 1 of the prior tax year or commencing on July 1, 2018, whichever is earlier, an annual reimbursement equal to fifty percent (50%) of the property taxes paid on account of new taxable development occurring on the Town-owned lots (except Lots 2, 4, 6, 8, 9, & 10), subject to the following:

- i. The CEA payments shall only apply to the required new taxable development on a lot that occurs within ten (10) years from the conveyance of the lot to Sargent, or by April 1, 2028, whichever is earlier.
- ii. The sale price of the lot shall not be included in the calculation of captured assessed value, as only the value of the improvements constructed on a lot shall be included in the calculation of captured assessed value.
- iii. There shall be a maximum of ten (10) annual CEA payments per lot. No CEA payments shall extend beyond the July 1, 2037 to June 30, 2038 tax year.
- iv. In order to qualify for CEA payments, a lot must have a minimum new taxable development of \$500,000.
- v. The CEA payments for any particular lot shall commence in the first fiscal year of Hampden in which the required improvements have been completed and the new captured value therefore has been assessed.
- vi. All other taxes collected on the captured assessed value for the lots shall be retained by the Town, and the Town Council shall have the annual option to determine the portion thereof to be utilized in the general budget and the portion thereof to be dedicated to the purposes allowed under 30-A M.R.S., Chapter 206, Subchapter 1.

c. Sargent shall be responsible, at its sole cost and expense, for preparing all documentation necessary for the establishment of the tax increment financing district and development plan, and the credit enhancement agreement, for consideration by the Town Council.

(6) Hampden will maintain all roadways after the infrastructure development has been satisfactorily completed and the Town Council votes to accept the same as town ways. To avoid damage to the final paved surface of roadways caused by construction vehicles employed in developing individual lots, Sargent shall have the right to defer final paving of roadways until lot development along the section of road concerned is complete. Such roadways shall be completed to a base coat of asphalt pavement only. The Town Council shall at all times have the option to accept such base coat only roads as town ways, and in that event may require Sargent to provide reasonable security, by letter of credit or performance bond, to assure

completion of final paving within a stated period, not to exceed 24 months from the date of acceptance. The Town shall also have the right to condition its issuance of any final certificate of occupancy for individual lots upon completion of final paving of the road sections serving that lot. Sargent shall notify any purchaser in writing prior to closing of the foregoing condition on the issuance of a certificate of occupancy.

### III. Additional Withdrawal Rights

It is understood and agreed that the provisions of this Agreement concerning grant of an option to purchase Town-owned lots and approval of a TIF credit enhancement agreement do not contractually bind the Town to approve those local legislative acts. Accordingly, in the event the Town Council fails to approve an option to purchase or a TIF credit enhancement agreement substantially in accordance with the terms of this Agreement within 120 days after the date of execution of this Agreement, then this Agreement shall be void and of no further force or effect. In that event, Sargent shall have no obligation to Hampden to complete the infrastructure development or to take any other action for Hampden's benefit hereunder.

### IV. General Provisions

(1) *Rights Reserved by Hampden.* Hampden reserves the right to grant a temporary construction easement to Maine Ground Developers, Inc., its successors and assigns, to construct a water line, sewer line and road improvements (including drainage facilities) within the "100' Access & utility easement retained by Hampden" on Lot 30 as shown on Map File No. 2002-90 and within the portion of Carey Circle running southeasterly therefrom, as shown on Map File Nos. 2002-90 and 2002-89, to the temporary cul-de-sac on the portion of Carey Circle that has been accepted as a town way. Said easement to include the right to connect said water line and sewer line to the existing water line and sewer line located in Carey Circle. Hampden agrees to consult with Sargent on the design and construction details of said improvements, as well as the provisions of the temporary construction easement.

(2) *Indemnification.* Sargent shall defend, indemnify and hold Hampden, and its officials, employees, or agents, harmless from any and all claims arising from the work contemplated by this Agreement, including but not limited to any and all claims arising from the

work of any subcontractors, or their officials, employees or agent.

(3) *Insurance.* Sargent shall procure and maintain, throughout the term of this Agreement, the following insurance:

- a. Workers Compensation
- b. Commercial General Liability
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$2,000,000
  - iii. Products-Comp/OP Aggregate: \$2,000,000
  - iv. Personal and Adv. Injury: \$1,000,000
- c. Automobile Liability
  - i. Combined Single Limit: \$1,000,000  
(each accident)
- d. Umbrella
  - i. Each Occurrence: \$5,000,000
  - ii. Aggregate: \$5,000,000

The insurance shall be from companies authorized to do business in Maine, and shall cover operations of Sargent or of a subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Hampden shall be named as an additional insured. Certificates of insurance shall be filed with Hampden prior to commencement of the work contemplated by this Agreement, and thereafter upon the renewal or replacement of each required policy of insurance.

(4) *Choice of Law.* This Agreement is made under and shall be construed in accordance with the laws of the State of Maine.

(5) *Venue for Suits.* Any suit to construe or enforce the terms of this Agreement must be brought in the district or superior courts of Penobscot County, Maine, and otherwise shall be barred.

(6) *No Joint Venture.* Nothing in this Agreement shall be deemed to create a joint venture, partnership or other similar legal relationship between the parties hereto.

(7) *No Third-Party Benefit.* Nothing in this Agreement shall be deemed to create any right, benefit, claim, or cause of action in favor of any third party, it being the intention of the parties that this Agreement shall be for the sole benefit, and solely enforceable by, Sargent and

Hampden as parties hereto.

(8) *Assignments.* No assignment of this Agreement may be made by Sargent to any third party for any purpose, except with the prior express written consent of Hampden's Town Council, which shall not be unreasonably withheld. Assignment of this Agreement to a wholly-owned affiliate, parent or corporate successor to Sargent shall not be deemed be a breach of this paragraph. Use of other contractors or subcontractors to perform the infrastructure development in whole or part shall not be deemed a breach of this provision.

(9) *Immunities Retained.* Nothing in this Agreement shall be deemed to waive, impair, expand, reduce or modify any immunity from suit or judgment, including limitations on damages, now enjoyed by Hampden or Hampden's residents, employees or elected officials under the Maine Tort Claims Act, Title 14 MRSA sec. 8101 *et seq.*, or other provisions of law.

(10) *Amendments.* No amendment to this Agreement shall be valid unless executed in writing by representatives of Sargent and Hampden, duly authorized; and in the case of Hampden unless approved by vote of Hampden's town council at a duly called meeting thereof.

(11) *Entire Agreement.* This Agreement and the Exhibits referred to herein, when executed, shall constitute the entire agreement of the parties upon the subject matter hereof. No prior discussions, proposals, understandings, agreements or memoranda concerning the subject matter of this Agreement shall be deemed to have any force or effect.

In Witness Whereof, Hampden and Sargent have caused this Agreement to be signed by their respective representatives named below, duly authorized, on the date first written above, which date shall constitute the effective date of this Agreement.

Denise Hodson  
Witness

TOWN OF HAMPDEN

By: Susan M. Lessard  
Susan M. Lessard  
Its Town Manager

Denise Hodson  
Witness

SARGENT CORPORATION

By: Herbert R. Sargent  
Name: HERBERT R. SARGENT  
Title: PRESIDENT

Denise Godsdon  
Witness

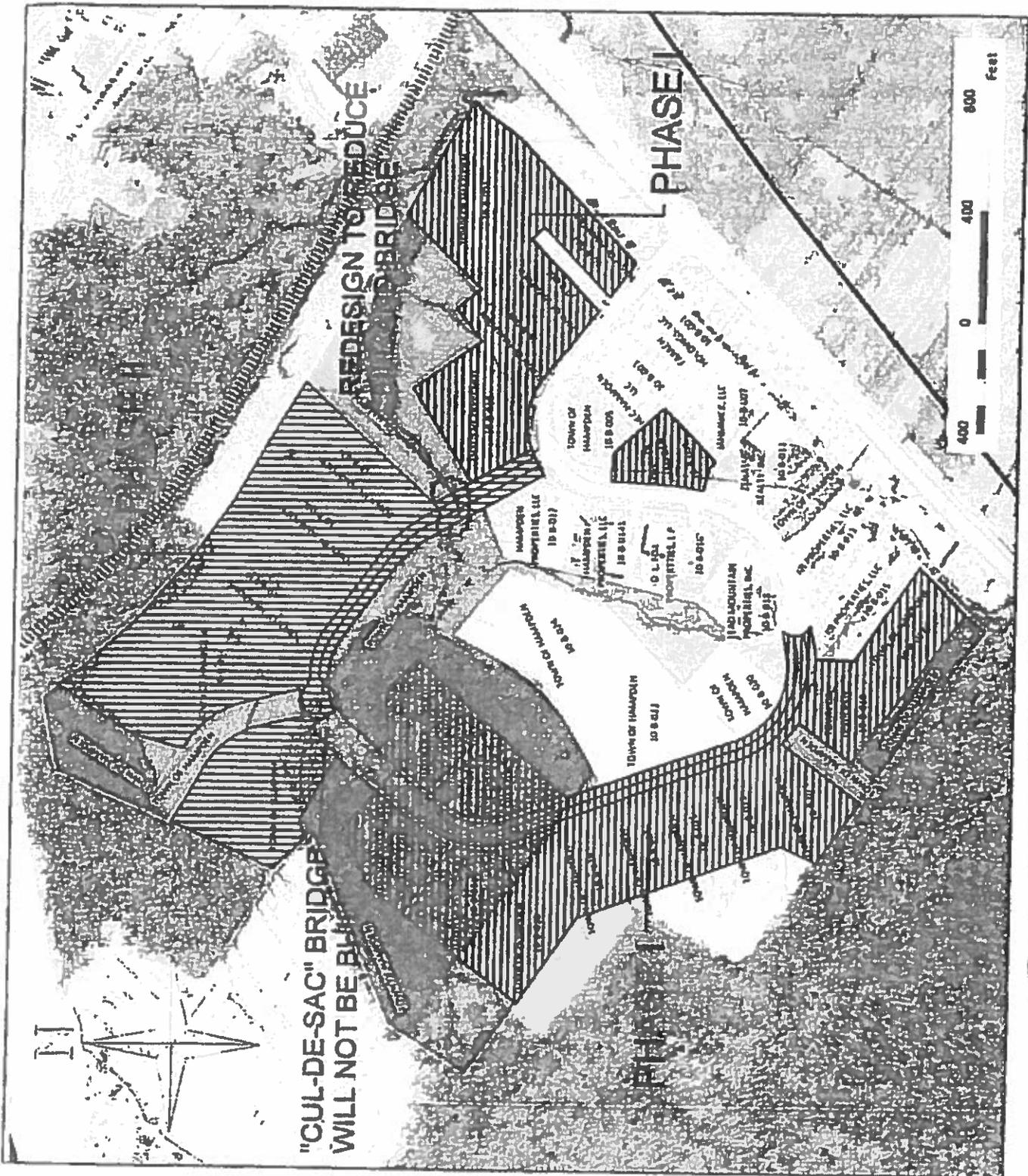
SSR II, LLC

By: Herbert R. Sargent  
Name: HERBERT R. SARGENT  
Title: PRESIDENT

Denise Godsdon  
Witness

SSR, LLC

By: Herbert R. Sargent  
Name: HERBERT R. SARGENT  
Title: PRESIDENT



# SKETCH SK-1

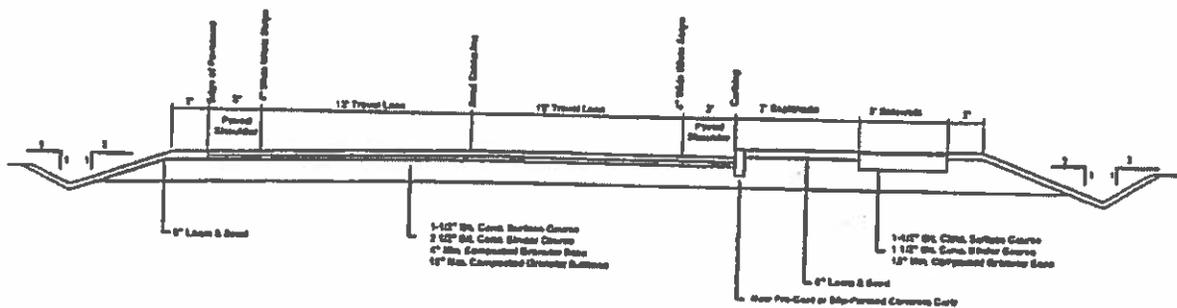
Exhibit A

## Exhibit B

### Scope of Work for Remaining Infrastructure Development

#### Hampden Business & Commerce Park

1. Prepare Documents & Plans for a Town of Hampden Site Plan Review Modification.
2. Prepare Documents & Plans for a Maine Department of Environmental Protection Modification of the Site Location of Development Natural Resource Protection Act Permit L-20555-39-A-N / L-20555-31-B-N.
3. Site Preparation Install Erosion & Sedimentation Control as per plans.
4. Construct Roadways as per Town of Hampden's Subdivision Ordinance, Design & Construction Standards for Streets.



### Typical Road Section

5. Install Storm Drainage as per Town of Hampden's Post-Construction Stormwater Management Ordinance.
6. Install Sanitary Sewer infrastructure as per Town of Hampden Sewer Ordinance.
7. Install Water Main Infrastructure as per Hampden Water District specifications.
8. Landscaping – Loam & Seed



6 State St, P.O. Box 2444  
Bangor, ME 04401  
Phone: (207) 945-6222  
Fax: (207) 945-5824  
[results@epsteincommercial.com](mailto:results@epsteincommercial.com)  
[www.epsteincommercial.com](http://www.epsteincommercial.com)

### EXCLUSIVE AUTHORIZATION TO SELL

This Agreement is entered into this 25th day of September 2013, by and between Epstein Commercial Real Estate of 6 State Street, P.O. Box 2444, Bangor, Maine 04402-2444, hereinafter called Broker; and Town of Hampden, 106 Western Ave, Hampden, Maine hereinafter called Owner.

In consideration of Broker's efforts to procure a sale for Owner's real estate as follows:

Lot #2, further described as a 1.46 acre lot as shown on Map 10B, Lot 2 in the Town of Hampden's tax assessor's office and recorded in the Penobscot County Registry of Deeds, Book 7832, Page 274-285;

Lot # 4, further described as a 4.75 acre lot as shown on Map 10B, Lot 4 in the Town of Hampden's tax assessor's office and recorded in the Penobscot County Registry of Deeds, Book 7832, Page 274-285;

Lot #6, further described as a 1.74 acre lot as shown on Map 10B, Lot 6 in the Town of Hampden's tax assessor's office and recorded in the Penobscot County Registry of Deeds, Book 7832, Page 274-285;

Lot #8, further described as a 1.88 acre lot as shown on Map 10B Lot 8 in the Town of Hampden's tax assessor's office and recorded in the Penobscot County Registry of Deeds, Book 7832, Page 274-285;

Lot # 9, further described as a 1.55 acre lot as shown on Map 10B, Lot 9 in the Town of Hampden's tax assessor's office and recorded in the Penobscot County Registry of Deeds, Book 7832, Page 274-285;

Lot #10, further described as a 2.80 acre lot as shown on Map 10B, Lot 10 in the Town of Hampden's tax assessor's office and recorded in the Penobscot County Registry of Deeds, Book 7832, Page 274-285.

Owner hereby grants to Epstein Commercial Real Estate the exclusive authorization to sell the above-mentioned real estate at the following price:

- Lot #2 \$ 80,000
- Lot #4 \$200,000

Exhibit C

- Lot #6           \$ 95,000
- Lot #8           \$110,000
- Lot #9           \$100,000
- Lot #10          \$155,000

or at any sale price which is acceptable to Owner. This exclusive authorization shall begin on September 26, 2013 and expire on September 25, 2014.

Broker shall have the exclusive right to sell said property within the time period above and shall be entitled to a commission fee of eight percent (8%) of the sale price. This commission fee shall be paid at the time of each closing. This commission fee shall be due Broker in the event of a sale produced by Broker, Owner, or any other person or entity; all inquiries shall be referred to Broker. The parties acknowledge that the Owner may enter into an agreement with Sargent Corporation in which it is to receive an option to purchase the Property (lots 2, 4, 6, 8, 9, 10) for a nominal amount as partial consideration for Sargent Corporation's construction of the infrastructure improvements for phase two of the Park. In the event that said lots are ultimately sold to Sargent Corporation, or a related entity, in accordance with such an agreement, no commission shall be due to Broker.

Should the Owner sell, transfer, convey, lease, exchange or dispose of any portion of said property within six months after the termination of this Agreement to any person, corporation, or entity which the Broker has introduced to the property, and whose name has been furnished to Owner in writing by the Broker during the time period of this Agreement, then in such a case the above commission shall become due and payable to the Broker.

By this Agreement it is understood that Broker is employed and is representing only Owner unless otherwise agreed to in writing. It is further understood that Broker's entitlement to the above commission fee occurs when Broker, Owner, or any other entity finds a purchaser who is ready, willing and able to purchase, and actually purchases, the said above described real estate on the terms herein setout, or on any other terms acceptable to the Owner.

Any dispute or claim arising out of or relating to this Agreement shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules of the American Arbitration Association. This clause shall survive the expiration of this Agreement.

Agency and Owner each agree that this property is to be offered to any person without regard to race, color, religion, national origin, sex, age or handicap.

**SPECIAL CONDITIONS:**

1. A "For Sale" sign may be placed on the property.    Yes X    No \_\_\_
2. Broker may advertise the property.                    Yes X    No \_\_\_

**BUYER'S AGENCY:**

This Agency's policy is to cooperate with other agencies acting as Buyer's agents, unless such other brokerage agencies have a general policy which effectively inhibits or precludes the cooperation and sharing of compensation with other brokerage agencies. This Agency's policy is to share compensation with Buyer's agents.

The undersigned jointly and severally agree to accept telefacsimile copies of the documents which have been sent by either party to the other, or to any other party or agent to this transaction, as original documents.

11/19/2013  
DATE:

Oliver A. Berger  
OWNER:

9.25.13  
DATE:

[Signature]  
BROKER:  
EPSTEIN COMMERCIAL REAL ESTATE

