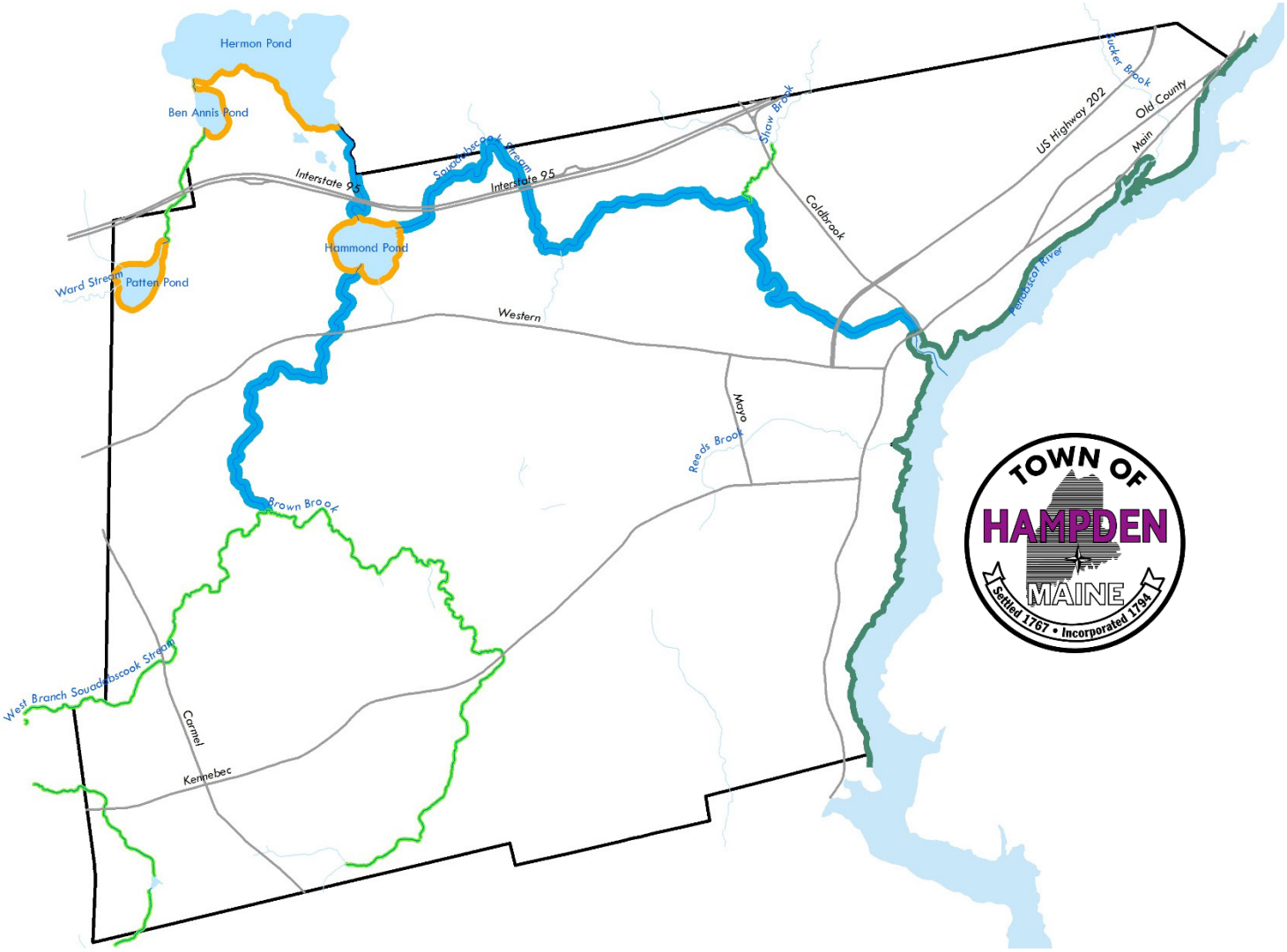
Shoreland Zoning Ordinance

Hampden Maine



Effective December 4, 2019

Town of Hampden Maine

Shoreland Zoning Ordinance

Adoption History

ADOPTED[1]:	Hampden Town Council, March 1, 2010 Effective Date:	
AMENDED:	Hampden Town Council, August 5, 2011 Effective Date: September 14, 2011	Approved by ME DEP September 9, 2011
AMENDED[2]:	Hampden Town Council, July 14, 2014 Effective Date: August 13, 2014	Approved by ME DEP August 26, 2014
AMENDED[3]:	Hampden Town Council, Nov. 4, 2019 Effective Date: December 4, 2019	Approved by ME DEP January 14, 2020

Footnotes:
1. Prior to this the Shoreland Protection regulations were found in Section 4.14 of the Zoning Ordinance.
2. Sections amended: 4B, 13A(1) (Establishment of districts, resource protection), 14 (Table of land uses), 15O (Timber harvesting, deleted), 17 (definitions).
3. Entire ordinance was repealed and replaced to be consistent with ME DEP 2015 Chapter 1000 Guidelines.

Certified by:

Paula A Scott

Paula Scott, Town Clerk

Affix Seal

Town of Hampden, Maine
Shoreland Zoning Ordinance
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NOTE: This document is based on Chapter 1000 Guidelines for Municipal Shoreland Zoning Ordinances.

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Town of Hampden, Maine
Shoreland Zoning Ordinance

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland zones.

2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

3. **Applicability.** This Ordinance applies to (see Exhibit 1):
   A. All land areas within 250 feet, horizontal distance, of
   - the normal high-water line of any great pond or river, which in Hampden includes Ben Annis Pond, Hammond Pond, Hermon Pond, Patten Pond, Souadabscook Stream, and the West Branch of Souadabscook Stream from the confluence with Brown Brook downstream;
   - the upland edge of a coastal wetland, including all areas affected by tidal action, which in Hampden is the Penosbscot River; or
   - the upland edge of a freshwater wetland.

   B. All land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

   C. This ordinance does *not* apply to any structure built on, over or abutting a dock, wharf, pier, or other structure extending or located below the normal high-water line of a water body or within a wetland; such structures are subject to other regulatory bodies.

4. **Effective Date**

   A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the Town Council of the Town of Hampden on November 4, 2019, will not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, must be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within 45 days of his/her receipt of the Ordinance, or Ordinance Amendment, it will be automatically approved.

   Any application for a permit submitted to the Town within the 45 day period will be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

   B. Repeal of Prior Shoreland Zoning Provisions. Upon the effective date of this Ordinance pursuant to Section 4(A) above, the "Town of Hampden, Maine Shoreland Zoning Ordinance" adopted March 1, 2010 as amended August 15, 2011, and July 12, 2014 is hereby repealed.

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

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

7. **Conflicts with Other Ordinances or Between Provisions of This Ordinance.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the Town, the more restrictive provision controls.

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

9. **Districts and Shoreland Zoning Map**

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

      (1) Resource Protection (RP)
      (2) Limited Residential (LR)
      (3) General Development 1 (GD1)
      (4) General Development 2 (GD2)
      (5) Stream Protection (SP)

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

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

   D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes must be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals is the final authority as to location. Property owners who disagree with the boundaries as depicted on the map may file an application for a determination of the boundaries in question with the Board of Appeals.

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

12. Nonconformance

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that existed before the effective date of this Ordinance (March 1, 2010) or amendments thereto will be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a nonconforming condition will not be permitted to become more nonconforming.

B. General

(1) **Transfer of Ownership**. Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.

(2) **Repair and Maintenance**. This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

C. Nonconforming Structures

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

(a) No structure that is located within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland can be expanded such that any portion of the expansion is within 25 feet of the resource.

(b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.

(ii) The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total

footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

(d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer (CEO), basing his decision on the criteria specified in Section 12(C)(3) Relocation, below.

(3) **Relocation**. A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case may a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer will consider the size of the lot, the slope of the land,

the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Code Enforcement Officer will require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(Q). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting will be required as follows:

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

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

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure must be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(4) **Reconstruction or Replacement**. Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 12 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Code Enforcement Officer in accordance with the purposes of this Ordinance. No structure can be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it cannot be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure can be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation must be replanted in accordance with Section 12(C)(3) above.

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Code Enforcement Officer will consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

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

In determining that no greater adverse impact will occur, written documentation from the applicant must be submitted to the Planning Board regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Nonconforming Uses

(1) **Expansions**. Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.

(2) **Resumption Prohibited**. A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision does not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five year period.

(3) **Change of Use**. An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact will be made according to criteria listed in Section 12(C)(5) above.

E. Nonconforming Lots

(1) **Nonconforming Lots**: A nonconforming lot of record as of March 1, 2010 may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage are obtained by action of the Board of Appeals.

(2) **Contiguous Built Lots**: If two or more contiguous lots or parcels are in a single or joint ownership of record as of March 1, 2010, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the

nonconforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on March 1, 2010, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

(3) **Contiguous Lots - Vacant or Partially Built**: If two or more contiguous lots or parcels are in single or joint ownership of record as of March 1, 2010, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots must be combined to the extent necessary to meet the dimensional requirements.

This provision does not apply to two or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on December 16, 1991 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

(a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

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

13. Establishment of Districts

A. Resource Protection District (RP). The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district includes the following areas that fall within 250 feet, horizontal distance, of the normal high-water line of any great pond or river (see the definitions of "great pond" and "river" for a listing of these in Hampden), or of the upland edge of the Penobscot River (classified as coastal wetland), or the upland edge of a freshwater wetland, except where other shoreland districts apply:

(1) Floodplains along rivers including artificially formed great ponds along rivers, and adjacent to tidal waters (the Penobscot River) defined by the 100 year (a.k.a. 1% chance in any given year) floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

(3) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

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

B. Limited Residential District (LR). The Limited Residential District includes those areas within 250 feet, horizontal distance, of the shoreline that are suitable for residential and recreational development. It includes areas other than those in the Resource Protection or Stream Protection Districts and areas which are used less intensively than those in the General Development Districts.

C. General Development 1 District (GD1). The General Development 1 District includes the following types of existing, intensively developed areas:

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

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

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

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

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

(3) Portions of the General Development 1 District may also include residential development, but such residential uses may not be a majority of the uses in the district.

D. General Development 2 District (GD2). The General Development 2 District includes the same types of areas as the General Development 1 District but is to be used whenever any new areas are to be designated General Development (i.e. any area to be designated GD is automatically GD2, for the purpose of differentiating between those areas already developed as of the original date of adoption of shoreland zoning and newly developing areas).

There will be no newly established GD2 districts, including as expansions of existing GD1 districts, in areas adjacent to great ponds classified GPA or adjacent to rivers flowing to great ponds classified GPA.

E. Stream Protection District (SP). The Stream Protection District includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas zoned Resource Protection. See the definition of “stream” for a list of streams in Hampden.

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

Key to Table 1:

Yes - Allowed (no shoreland permit required; must comply with other ordinances and codes.)
No - Prohibited
PB - Allowed with permit issued by the Planning Board.
CEO - Allowed with permit issued by the Code Enforcement Officer
LPI - Allowed with permit issued by the Local Plumbing Inspector

District Abbreviations:

SP - Stream Protection
RP - Resource Protection
LR - Limited Residential
GD - General Development (includes GD1 & GD2)

Note: A permit from the Department of Environmental Protection is required for any of the following activities, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into the resource area: A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials; B. Draining or otherwise dewatering; C. Filling, including adding sand or other material to a sand dune; or D. Any construction or alteration of any permanent structure.

Continued on the next page.

TABLE 1. LAND USES IN THE SHORELAND ZONE

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

Footnotes:

1 In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
2 Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3 In RP not allowed in areas so designated because of wildlife value.
4 Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5 Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
6 See further restrictions in Section 15(K)(2).
7 Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
8 Except as provided in Section 15(G)(4).
9 Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.
10 Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11 Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
12 Permit not required, but must file a written "notice of intent to construct" with *CEO.*
13 All clearing activities must be supervised by a licensed forester or arborist.

15. Land Use Standards. All land use activities within the shoreland zone must conform to the following provisions.

A. Minimum Lot Standards

(1) Area and Shore Frontage	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(a) Residential per dwelling unit:		
(i) When NOT connected to both municipal water and municipal sewer service:		
(1) Adjacent to Tidal Areas	30,000	150
(2) Adjacent to Non-Tidal Areas	40,000	200
(i) When connected to both municipal water and municipal sewer service:		
(1) Adjacent to Tidal Areas	18,000	125
(2) Adjacent to Non-Tidal Areas	18,000	125
(b) Governmental, Institutional, Commercial or Industrial per principal structure:		
(i) Adjacent to Tidal Areas	40,000	200
(ii) Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities:		
(i) Adjacent to Tidal and Non-Tidal Areas	40,000	200

(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots cannot be included toward calculating minimum lot area.

(3) Lots located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

(4) The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland must be equal to or greater than the shore frontage requirement for a lot with the proposed use.

(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements must be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

(1) Minimum Shoreline Setback Requirements[1,2]:

RP District	250 feet[3]
GD District (includes GD1 & GD2)	25 feet
Great Ponds (GPA) *(Ben Annis, Hammond, Hermon, and Patten Ponds)*	100 feet
Rivers that flow to Great Ponds (GPA) *(Souadabscook upstream of Hammond Pond and West Branch Souadabscook downstream of Brown Brook)*	100 feet
Rivers *(Souadabscook downstream of Hammond Pond)*	75 feet
Streams, including tributary streams[4]	75 feet
Wetland *(the Penobscot River[5] or a freshwater wetland as defined)*	75 feet

Footnotes:

1. *Does not apply to structures which require direct access to the waterbody or wetland as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water dependent uses.*
2. *On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure must not exceed 80 square feet in area nor eight feet in height, and must be located as far from the shoreline or tributary stream as practical and must meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case can the structure be located closer to the shoreline or tributary stream than the principal structure.*
3. *Except for structures, roads, parking spaces, or other regulated objects specifically allowed in that district in which case the setback requirements specified below apply.*
4. *These setback requirements only apply where the waterbody is within the Shoreland Zone as defined and mapped.*
5. *For principal structures, water and wetland setback measurements are to be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.*

(2) Height. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Stream Protection Districts, must not exceed 35 feet in height. This provision does not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(3) Floodplain. All development located in the special Flood Hazard Area as depicted on Flood Insurance Rate Maps must comply with the Town of Hampden Floodplain Management Ordinance.

(4) Non-vegetated Surface Coverage. With the exception of any General Development District located adjacent to tidal waters (the Penobscot River), non-vegetated surfaces must not exceed a total of 20% of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In any General Development District located adjacent to tidal waters, non-vegetated surfaces must not exceed a total of 70% of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

(5) Retaining Walls. Retaining walls that are not necessary for erosion control must meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met. If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream, or coastal wetland, a permit

pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, are no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

(6) Structures for Shoreline Access. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property. All applications for structures for shoreline access must be accompanied by an engineering report that contains an analysis of soil conditions, addresses stormwater analysis for the installation area, contains installation details and necessary best management practices to assure stable soil conditions both during construction and thereafter.

C. Campgrounds. Campgrounds must conform to the minimum requirements imposed under State licensing procedures and the following:

(1) Minimum Size. Campgrounds must contain a minimum of 5,000 square feet of land per campsite, plus land area for common areas, roads, and driveways. Land supporting wetland vegetation, and land below the normal high-water line of a water body is not to be included in calculating land area per site.

(2) Shoreline Setback. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings must be located outside of the shoreline buffer.

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

(1) When an individual private campsite is proposed on an undeveloped lot, the lot must contain a minimum of 30,000 square feet per campsite within the shoreland zone, unless the lot existed prior to March 1, 2010, in which case one campsite is permitted even if the lot has less than 30,000 square feet within the shoreland zone.

(2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the minimum lot size must be a minimum of that required for the principal structure (from Section 15(A)) plus that required for the campsite (30,000 sq ft).

(3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, must be outside of the shoreline buffer.

(4) Only one recreational vehicle is allowed on a campsite. The recreational vehicle must not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy is to be attached to the recreational vehicle.

(5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District is limited to 1,000 square feet.

(6) A written sewage disposal plan describing the proposed method and location of sewage disposal is required for each campsite and must be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

(7) When a recreational vehicle, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures must be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

E. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

(1) Auto washing facilities

(2) Auto or other vehicle service and/or repair operations, including body shops

(3) Chemical or bacteriological laboratories

(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

(5) Commercial painting, wood preserving, and furniture stripping

(6) Dry cleaning establishments

(7) Electronic circuit assembly

(8) Laundromats, unless connected to a sanitary sewer

(9) Metal plating, finishing, or polishing

(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

(11) Photographic processing

(12) Commercial printing

F. Parking Areas for all uses

(1) Parking areas must meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than any General Development District must be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

(2) Parking areas are to be adequately sized for the proposed use and must be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream, local stream or wetland and where feasible, to retain all runoff on-site.

(3) Compliance With Zoning Ordinance. In determining the appropriate size and minimum number of proposed parking spaces, the parking layouts and handicap parking configurations must comply with the Town of Hampden Zoning Ordinance standards, except that parking spaces for a vehicle with a boat trailer must be 40 feet long.

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

(1) Except as provided in item (3) below, roads and driveways must be located outside of the shoreline buffer unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement must be no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, local stream, or wetland.

On slopes of greater than 20% the road or driveway setback is increased by 10 feet, horizontal distance, for each 5% increase in slope above 20%.

Section 15 (G)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area

must comply fully with the requirements of Section 15(G)(1) except for that portion of the road or driveway necessary for direct access to the structure.

(2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

(3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway must be set back as far as practicable from the normal high-water line of a water body, tributary stream, local stream, or upland edge of a wetland.

(4) Road and driveway banks must be no steeper than a slope of two horizontal to one vertical, and must be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(R).

(5) Road and driveway grades must be no greater than 10% except for segments of less than 200 feet.

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

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

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

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

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

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

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

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

H. Signs. Sign locations, size, configuration and lighting must comply with the Town of Hampden Zoning Ordinance, with the following exceptions:

(1) Real estate signs within the RP, LR, and SP districts for residential properties are limited to a maximum of three square feet.

(2) Posting signs within the shoreland zone related to trespassing or hunting are limited to two square feet in area.

(3) Signs related to public safety are allowed without restriction within the shoreland zone.

(4) Signs within the shoreland zone related to goods or services sold on the premises are limited to six square feet in area.

(5) Unless otherwise restricted in the Zoning Ordinance, signs within the shoreland zone are limited to 20 feet from the ground to the top of the sign.

I. Storm Water Runoff

(1) All new construction and development must be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, are to be retained in order to reduce runoff and encourage infiltration of stormwaters.

(2) Storm water runoff control systems must be maintained as necessary to ensure proper functioning.

J. Septic Waste Disposal

(1) All subsurface sewage disposal systems must be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

(a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, must not extend closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland; and

(b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

K. Essential Services

(1) Where feasible, the installation of essential services is to be within existing public ways and existing service corridors.

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable

alternative exists. Where allowed, such structures and facilities must be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan must be filed with and approved by the Planning Board before a permit is granted. Such plan must describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (L)(3) below.

(2) No part of any extraction operation, including drainage and runoff control features, is to be permitted within the shoreline buffer. Minimum distances from property lines for extraction operations are established in the *Zoning Ordinance of the Town of Hampden Maine*.

(3) Within 12 months following the completion of extraction operations at any extraction site, which operations are to be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12 month period, ground levels and grades must be established in accordance with the following:

(a) All debris, stumps, and similar material must be removed for disposal in an approved location, or may be buried on-site. Only materials generated on-site may be buried or covered on-site.

(b) The final graded slope must be two and one-half to one (2.5:1) slope or flatter within the shoreland zone.

(c) Top soil or loam must be retained to cover all disturbed land areas, which must be seeded and stabilized with vegetation native to the area. Additional topsoil or loam must be obtained from off-site sources if necessary to complete the stabilization project.

(4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

M. Agriculture

(1) All spreading of manure must be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S. sections 4201-4209).

(2) Manure must not be stored or stockpiled within the shoreline buffer. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, within the shoreland zone requires a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan will be considered to be a violation of this Ordinance.

(4) There is to be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies and coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams, and freshwater wetlands. Operations within these distance limits that were in existence prior to March 1, 2010 may be maintained.

(5) Newly established livestock grazing areas are not permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies and coastal wetlands, nor within 25 feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

N. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

(1) All Shoreland Districts are subject to this section N. Clearing or removal of vegetation for activities other than timber harvesting must be supervised by a licensed forester. Supervision must include marking of trees for cutting and written verification by the licensed forester post-cut stating that the cutting was in keeping with the original markings.

(2) In a Resource Protection District abutting a great pond, there must be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section O.

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

(3) Except in areas as described in Section N(2), above, in order to maintain the vegetation in the shoreline buffer (see definitions), clearing or removal of vegetation within the shoreline buffer for allowed activities (including associated construction and related equipment operation within the shoreland zone) must comply with the following:

(a) There must be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

(b) Selective cutting of trees is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(N)(3)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, is defined as maintaining a rating score of 24 or

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

Diameter of Retained Tree at 4.5 feet Above Ground Level (DBH)	**Points**
2 to < 4 inches	1
4 to < 8 inches	2
8 to < 12 inches	4
12 inches or greater	8

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

The following governs in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

(ii) Each successive plot must be adjacent to, but not overlap a previous plot;

(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;

(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(N)(3)(b) “other natural vegetation” is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches DBH for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more DBH may be removed in any 10 year period.

(c) In order to protect water quality and wildlife habitat, existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, must not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(N) paragraphs (3) and (3)(a) above.

(d) Pruning of tree branches, on the bottom one-third of the tree is allowed.

(e) When the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings must be replanted with native tree species in accordance with Section O, below, unless existing new tree growth is present.

(4) In the area within the shoreland zone but outside of the shoreline buffer, selective cutting of up to 40% of the volume of trees four inches or more DBH is allowed in any 10 year period. Tree removal in conjunction with the development of permitted uses must be included in the 40% calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

Cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, must not exceed in the aggregate, 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the shoreline buffer area, but does not apply to any General Development District.

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

(5) Legally existing nonconforming cleared openings may be maintained, but must not be enlarged, except as allowed by this Ordinance.

(6) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation are regulated under the provisions of Section 15(N).

O. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches DBH. If new growth is not present, then replacement trees must consist of native species and be at least four feet in height, and be no less than two inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds 40% of the volume of trees four inches or more DBH in any 10 year period, and/or results in cleared openings exceeding 25% of the lot area within the shoreland zone, or 10,000 square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches DBH. If new growth is not present, then replacement trees must consist of native species and be at least two inches DBH.

(c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

(d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(e) The Code Enforcement Officer may require more than a one–for-one replacement for hazard trees removed that exceed eight inches DBH.

(2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area is required to naturally revegetate, and the following requirements must be met:

(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

(ii) Stumps from the storm-damaged trees may not be removed;

(iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third of the tree; and

(iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every 80 square feet of lost canopy.

(b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four inches or more DBH in any 10 year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings must be replanted on a one-for-one basis.

(c) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

P. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(N), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

(1) The removal of vegetation that occurs at least once every two years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas must not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two years, reverts back to primarily woody vegetation, the requirements of Section 15(N) apply;

(2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;

(3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

(4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;

(5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in any General Development district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S. section 343-E, and that is located along:

(a) A coastal wetland; or

(b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S. section 465-A.

(6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

(a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least 25 feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

(b) Removal of vegetation within 25 feet, horizontal distance, from the shoreline occurs via hand tools; and

(c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area must be revegetated with native species to achieve compliance.

(7) The removal of vegetation associated with emergency response activities conducted by the Maine Department of Environmental Protection, the U.S. Environmental Protection Agency, the U.S. Coast Guard, the U.S. Army Corps of Engineers, the Maine or Federal Emergency Management Agencies, or their agents.

Q. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(N), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegation must comply with the following requirements.

(1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

(2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

(3) If part of a permitted activity, revegetation must occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan must be submitted with any renewal or new permit application.

(4) Revegetation activities must meet the following requirements for trees and saplings:

(a) All trees and saplings removed must be replaced with native noninvasive species;

(b) Replacement vegetation must at a minimum consist of saplings;

(c) If more than three trees or saplings are planted, then at least three different species must be used;

(d) No one species is to make up 50% or more of the number of trees and saplings planted;

(e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

(f) A survival rate of at least 80% of planted trees or saplings is required for a minimum five year period.

(5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:

(a) All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;

(b) Woody vegetation and vegetation under three feet in height must be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(c) If more than three woody vegetation plants are to be planted, then at least three different species must be planted;

(d) No one species is to make up 50% or more of the number of planted woody vegetation plants; and

(e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum five year period.

(6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:

(a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

(b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

(c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum five year period.

R. Erosion and Sedimentation Control

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

(a) Mulching and revegetation of disturbed soil.

(b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c) Permanent stabilization structures such as retaining walls or rip-rap.

(2) In order to minimize the potential for erosion, development is to be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required must be avoided wherever possible, and natural contours are to be followed as closely as possible.

(3) Erosion and sedimentation control measures apply to all aspects of the proposed project involving land disturbance, and must be in operation during all stages of the activity. The amount of exposed soil at every phase of construction must be minimized to reduce the potential for erosion.

(4) Any exposed ground area must be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization must occur within nine months of the initial date of exposure. In addition:

(a) Where mulch is used, it must be applied at a rate of at least one bale per 500 square feet and must be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) Additional measures must be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets must be protected from erosion from water flowing through them. Drainageways must be designed and constructed in order to carry water from a 25 year storm or greater, and must be stabilized with vegetation or lined with riprap.

S. Soils. All land uses are to be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface sewage disposal, and commercial or industrial development and other similar intensive land uses, require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report is to be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report must include recommendations for a proposed use to counteract soil limitations where they exist.

T. Water Quality. No activity is allowed to deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream, local stream, or wetland.

U. Archaeological Site. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, must be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the permitting authority. The permitting authority must consider comments received from the Commission prior to rendering a decision on the application.

16. Administration

A. Administering Bodies and Agents

(1) **Code Enforcement Officer**. A Code Enforcement Officer must be appointed or reappointed annually by July 1st.

(2) **Board of Appeals**. A Board of Appeals must be created in accordance with the provisions of 30-A M.R.S. section 2691.

(3) **Planning Board**. A Planning Board must be created in accordance with the provisions of State law.

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

(1) A permit is not required for the replacement of an existing road culvert as long as:

(a) The replacement culvert is not more than 25% longer than the culvert being replaced;

(b) The replacement culvert is not longer than 75 feet; and

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

(2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's Level 1 or Level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

(3) Any permit required by this Ordinance is in addition to any other permit required by other law or ordinance.

C. Permit Application

(1) Every applicant for a permit must submit a written application, including a scaled site plan, on a form provided by the Town of Hampden to either the Code Enforcement Officer or the Planning Board as stipulated in Section 14.

(2) All applications must be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

(3) All applications must be dated, and the town staff is to note upon each application the date and time of its receipt.

(4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Local Plumbing Inspector, must be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

(5) Other Information as Required. The Code Enforcement Officer and the Planning Board have the authority to require additional information which may reasonably be necessary for them to make their decision and inform the facts of the application.

D. Procedure for Administering Permits. For permits granted by the Code Enforcement Officer, the application must be acted upon (approved, approved with conditions, or denied) within 35 days of the date of receiving a written application, unless the applicant agrees to an extension to correct any deficiencies identified by the Code Enforcement Officer. For permits granted by the Planning Board, the application must be acted upon within 90 days of the date of receiving a written application, which time frame includes the holding of a public hearing in the event the Planning Board determines the proposed activity would cause disturbances significant enough that a public hearing is necessary.

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

For permits granted by the Planning Board, the Board may approve an application or approve it with conditions only if it makes a positive finding based on the information presented that the proposed use:

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

(3) Will adequately provide for the disposal of all wastewater;

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will avoid problems associated with floodplain development and use; and

(8) Is in conformance with the provisions of Section 15, Land Use Standards.

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

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

(1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

(3) All proposed buildings, sewage disposal systems and other improvements are:

(a) Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with the Town of Hampden, Maine Floodplain Management Ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half the width of the 100-year floodplain.

(4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation must not be altered by variance.

(5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream, or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board is to consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

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

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

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals is governed by the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The Board of Appeals has the following powers with regard to this Ordinance:

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

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

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

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

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

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

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the nonconformity and from which relief is sought; and

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

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

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

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

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

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Code Enforcement Officer may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling, pursuant to Section 6.2.2.3.2 of the Hampden Zoning Ordinance. Any variance granted under this subsection is restricted solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The CEO may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling" includes railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.

(e) The Board of Appeals must limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance must comply with any conditions imposed.

(f) A copy of each variance request, including the application and all supporting information supplied by the applicant, must be forwarded by Town officials to the Commissioner of the Department of Environmental Protection at least 20 days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals must be made part of the record and are to be taken into consideration by the Board of Appeals.

(3) **Administrative Appeals**

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

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

(4) **Appeal Procedure**

(a) **Making an Appeal**

(i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal must be taken within 30 days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the 30 day requirement.

(ii) Applications for appeals must be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

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

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

(b) **Decision by Board of Appeals**

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

(ii) The person filing the appeal has the burden of proof.

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

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

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

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

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

I. Enforcement

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

(2) **Code Enforcement Officer**

(a) It is the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he or she must notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices must be submitted to the municipal officers and be maintained as a permanent record.

(b) The Code Enforcement Officer must conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer must also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer must keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

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

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

17. Definitions

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

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental green-house products. Agriculture does not include forest management, timber harvesting activities, or cultivation of marijuana (medical or otherwise).

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

Basal Area - the area of cross-section of a tree stem at 4.5 feet above ground level and inclusive of bark.

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

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

Bureau of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

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

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

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. In Hampden, this includes the Penobscot River.

Commercial use - the use of land, buildings, or structures, other than a "home occupation" as defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services except for any business related to marijuana (including medical marijuana) or the rental of dwelling units or other residential buildings.

Conservation Plan – a plan which sets forth conservation practices to meet both natural resource needs and the landowner's land management goals, including methods and best practices for the agricultural activity proposed within the shoreland zone, specifically dealing with the tillage of the soil (refer to §15.M(3)).

DBH – Diameter at Breast Height, the diameter of a standing tree measured 4.5 feet from ground level at the base of the tree.

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

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

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

Driveway - a vehicular access-way less than 500 feet in length serving a maximum of two single-family dwellings.

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

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

Expansion of a structure - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

Family - means an individual occupying a single dwelling unit, or a group of two or more persons occupying a single dwelling unit and living together as a single housekeeping unit, including the sharing of common living, sleeping, cooking and eating facilities. When occupancy of a dwelling unit is by a group of two or more persons, the group of persons occupying the dwelling must either be:

a. Related by blood, adoption, domestic partnership, or marriage; or
b. Comprised of two persons who are not related by blood, domestic partnership, adoption or marriage, and any children related to either or both of them by blood, adoption or marriage;
c. Comprised of persons, whether or not related to each other by blood, domestic partnership, adoption or marriage, but not to exceed four unrelated persons. Family does not include a group of unrelated persons occupying a boarding home, rooming house, hotel/motel, tourist home or inn.
d. A Community Living Arrangement as defined by Title 30-A, Section 4357-A.

NOTE: For the purposes hereof, the number of unrelated persons occupying a dwelling unit is calculated as follows: Any persons related by blood, adoption or marriage plus one unrelated person is considered to constitute a total of two unrelated persons, and each additional unrelated person is to be added to determine the total number of unrelated persons occupying the dwelling unit. By way of example, two or more related persons occupying a dwelling unit combined with two unrelated persons occupying the dwelling unit yields a total of three unrelated persons occupying the dwelling unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than the height designated in the Hampden Floodplain Management Ordinance.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six meters tall (approximately 20 feet) or taller.

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

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which:

(1) are 10 or more contiguous acres; or less than 10 contiguous acres and are adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

(2) are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances does support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Great pond - any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. In Hampden, these are Ben Annis Pond, Hammond Pond, Hermon Pond, and Patten Pond.

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S. Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds. In Hampden, these are Ben Annis Pond, Hammond Pond, Hermon Pond, and Patten Pond.

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

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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

Home occupation - The subordinate use of a dwelling unit or structure accessory to a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services. See the Town of Hampden Zoning Ordinance definition of "Use of Residence for Business Purposes" and §4.10.

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

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

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals, excluding any business related to marijuana or medical marijuana.

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

Licensed Forester - a forester licensed under 32 M.R.S. Section 5515.

Local stream - "Local stream" means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock. This definition does not include the term "stream" or tributary stream as defined elsewhere in this Ordinance, and in Hampden, Maine only applies to Baker Brook, Baker Brook Tributary 1, Baker Brook Tributary 2, Cold Brook, Reeds Brook, Sucker Brook and Weber Brook. The only portion of these Local streams that are regulated by this Ordinance are those portions within the shoreland zone of a regulated waterbody or stream.

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

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

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

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

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

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines are considered to be side lot lines.

Multi-unit residential - a residential structure containing three or more residential dwelling units.

Native – indigenous to the local forests.

Nonconforming condition – nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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

Nonconforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Nonconforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

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

Principal structure - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

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

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

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

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

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

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

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

Riprap - rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth. In Hampden this includes the Souadabscook Stream and the West Branch Souadabscook Stream downstream of its confluence with Brown Brook. Note, the Penobscot River is classified as a coastal wetland under Shoreland Zoning.

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

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas.

Sapling - a tree species that is less than two inches DBH.

Seedling - a young tree species that is less than 4.5 feet in height.

Service corridor - the strip of land in which a linear utility or essential service is located.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that in the case of electric service, the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way and the total length of the extension is less than 1,000 feet; and in the case of telephone service, the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or the extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length. Utility extensions that don't meet this definition are considered to be "Essential Services" in Sections 14 and 15K.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

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

Shoreland zone - the land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line or upland edge of a freshwater or coastal wetland.

Shoreline Buffer – the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending 75 feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland.

Significant River Segments - See 38 M.R.S. section 437. (Note, there are none in Hampden.)

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent , highest resolution version of the national

hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream. In Hampden, this includes the West Branch of the Souadabscook upstream of the confluence with Brown Brook, Brown Brook downstream of the confluence with the unnamed brook located in the eastern portion of parcel 01-0-043, Patten Stream, Shaw Brook downstream of the confluence with the unnamed brook located behind Dysarts gas station on Coldbrook Road (parcel 09-0-041), and the unnamed stream in the southwestern corner of Hampden from the Winterport boundary downstream to the Newburgh boundary.

Structure – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface wastewater (sewage) disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Substantial start - completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

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

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

Tidal waters – all waters affected by tidal action during the highest annual tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two acres within the shoreland zone is not be considered timber harvesting. Such cutting or removal of trees is to be regulated pursuant to Section 15 (N), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Tree - a woody perennial plant with a well-defined trunk(s) at least two inches DBH, with a more or less definite crown, and reaching a height of at least 10 feet at maturity.

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

in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under four inches DBH.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. There are no velocity zones in Hampden.

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater or coastal wetland.

Woody Vegetation - live trees or woody, non-herbaceous shrubs, including saplings and seedlings as defined in this ordinance.

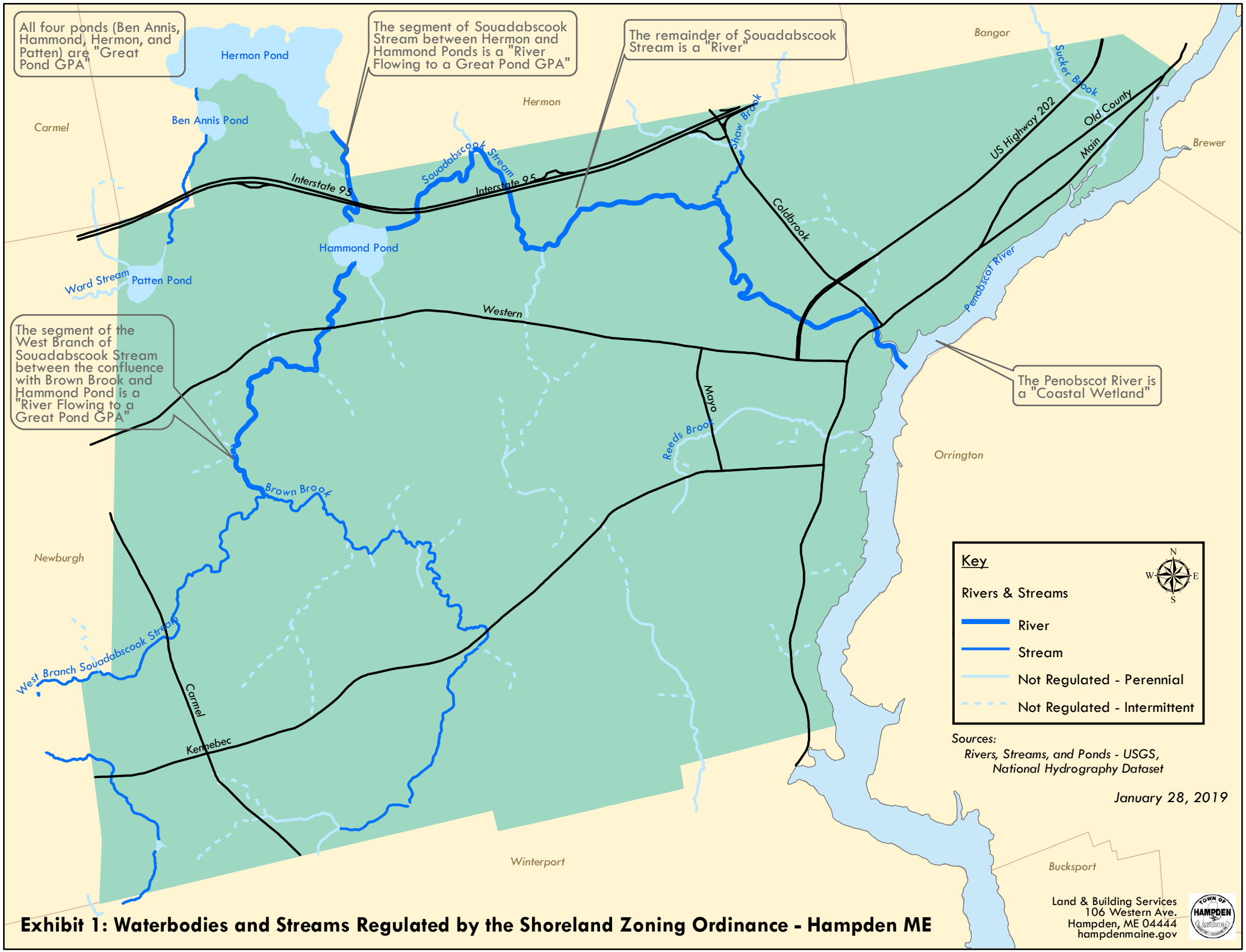


Exhibit 1: Waterbodies and Streams Regulated by the Shoreland Zoning Ordinance - Hampden ME

All four ponds (Ben Annis, Hammond, Hermon, and Patten) are "Great Ponds GPA"

The segment of Souadabscook Stream between Hermon and Hammond Ponds is a "River Flowing to a Great Pond GPA"

The remainder of Souadabscook Stream is a "River"

The segment of the West Branch of Souadabscook Stream between the confluence with Brown Brook and Hammond Pond is a "River Flowing to a Great Pond GPA"

The Penobscot River is a "Coastal Wetland"

Hermon Pond
Ben Annis Pond
Hammond Pond
Patten Pond
Ward Stream
Souadabscook Stream
Shaw Brook
Sucker Brook
Brown Brook
Reeds Brook
West Branch Souadabscook Stream
Penobscot River
Interstate 95
US Highway 202
Old County
Main
Coldbrook
Western
Mayo
Carmel
Kennebec
Carmel
Hermon
Bangor
Brewer
Orrington
Winterport
Bucksport
Newburgh

N
W
E
S

Key

- Shoreland Zone - Penobscot River; 250'
- Shoreland Zone - Rivers; 250'
- Shoreland Zone - Ponds; 250'
- Shoreland Zone - Streams; 75'

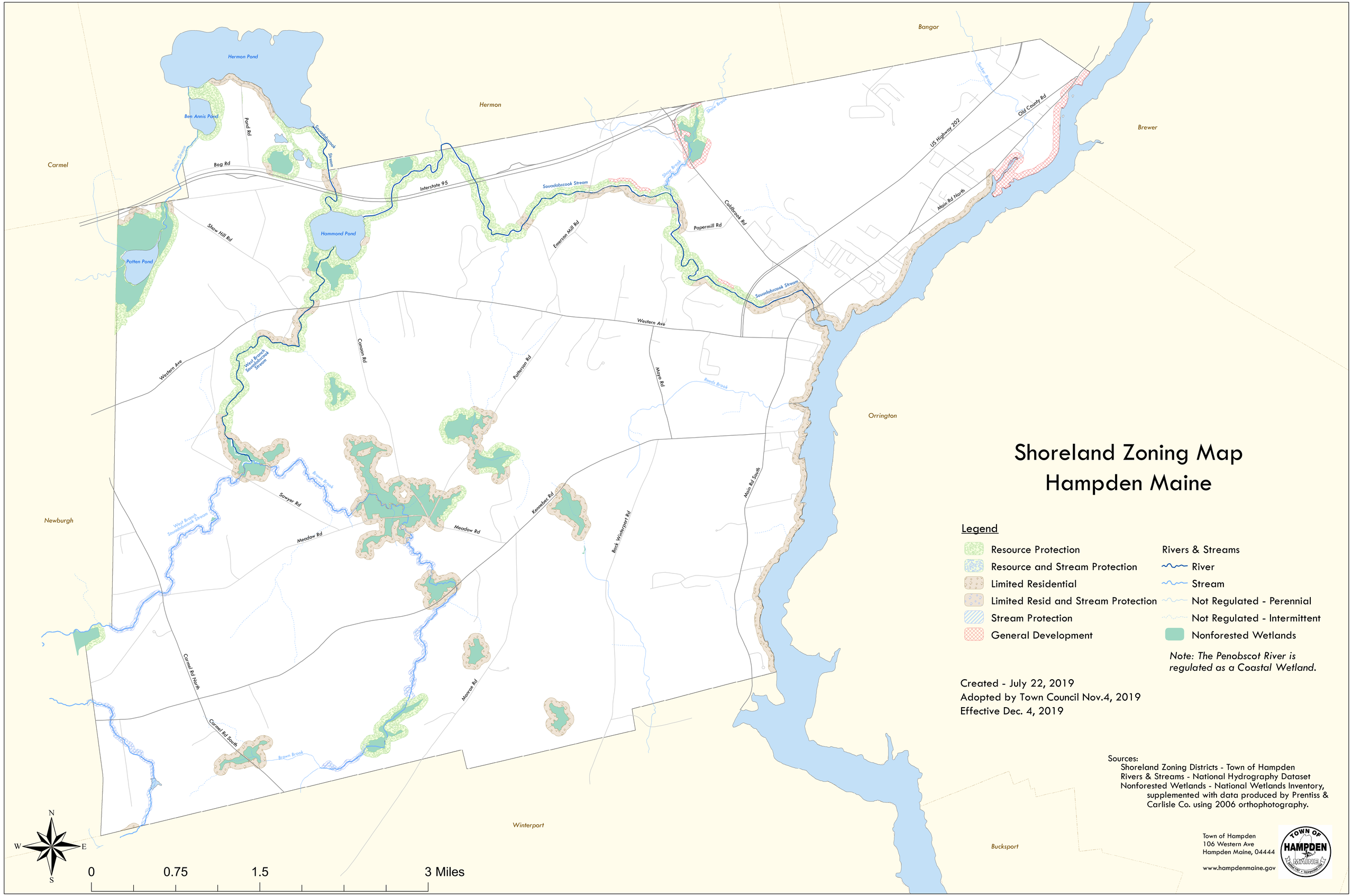
Sources:
Rivers, Streams, and Ponds - USGS, National Hydrography Dataset

January 28, 2019

Exhibit 2: Shoreland Zones - Hampden ME

This map shows the shoreland zones. Refer to the "Shoreland Zoning Map" for a depiction of the Shoreland Zoning Districts.

Land & Building Services
106 Western Ave.
Hampden, ME 04444
hampdenmaine.gov



Shoreland Zoning Map
Hampden Maine

Legend

- Resource Protection
- Resource and Stream Protection
- Limited Residential
- Limited Resid and Stream Protection
- Stream Protection
- General Development

Rivers & Streams

- River
- Stream
- Not Regulated - Perennial
- Not Regulated - Intermittent
- Nonforested Wetlands

Note: The Penobscot River is regulated as a Coastal Wetland.

Created - July 22, 2019
Adopted by Town Council Nov.4, 2019
Effective Dec. 4, 2019

Sources:
Shoreland Zoning Districts - Town of Hampden
Rivers & Streams - National Hydrography Dataset
Nonforested Wetlands - National Wetlands Inventory, supplemented with data produced by Prentiss & Carlisle Co. using 2006 orthophotography.

Town of Hampden
106 Western Ave
Hampden Maine, 04444

www.hampdenmaine.gov