

**TOWN OF HAMPDEN, MAINE
TOWN WAYS ORDINANCE**

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CERTIFIED BY:



Paula Scott, Town Clerk

Affix Seal

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ARTICLE I
GENERAL

1.1 Plan Required - Petitioner for acceptance of a town way shall submit a plan to the Road Commissioner of such a way prepared by or approved by a registered professional engineer. *(Amended 02-01-10)*

1.2 Acceptance by Town Council – The acceptance of any street or road as a town way shall be subject to the approval of the Town Council. *(Amended 02-01-10, 04-19-16)*

1.2.1 The Town Council shall not consider the acceptance of a street or road as a town way unless and until the following conditions have been satisfied:

1. All outstanding application fees, inspection fees and other costs and expenses must be paid in full.
2. Submission of a sworn written statement from the owner/developer and/or owner's/ developer's engineer that all required improvements have been completed in strict compliance with all applicable construction standards and the approved subdivision plan, and that the owner/developer and/or engineer knows of no defects, from any cause, in the improvements.
3. Submission of a written statement from Town's Public Works Director that all site improvements, including paving and any drainage facilities, have been satisfactorily completed. The written statement shall also indicate if public water and power have been installed and accepted.
4. Deposit of sum of money or other suitable improvement guarantee equal to fifteen percent (15%) of the amount of the full improvement guarantee required by the Subdivision Ordinance with the Town Treasurer. Said money to be used by Town to correct any defects in design, materials, or workmanship that arise within one year from the date of acceptance of the improvements by the Town Council. Any money not used for such purpose by Town within two (2) years of acceptance shall be returned to the payor.
5. Submission of a written statement from owner's/developer's surveyor that all required property pins have been installed for the lots in the approved subdivision.
6. Submission to the Town Attorney of the document(s) conveying any land, improvements, and any easements to the Town. Owner/Developer shall cause the following documentation to be delivered to the Town Attorney at least three (3) weeks prior to the Town Council meeting at which acceptance is desired:
 - a. Copy of recorded subdivision plan;

- b. Copy of proposed Warranty Deed conveying the street(s) and improvement(s), as well as any easement(s) appurtenant thereto, to the Town;
 - c. Copy of proposed Warranty Deed conveying any dedicated open space and access easement(s) to the Town;
 - d. Title Opinion or Title Agent's Certificate of Title evidencing that the land, street(s), improvements, open space, and easement(s) are free and clear of any encumbrances, liens, mortgages, etc. If title is not free and clear, owner/developer shall furnish documentation demonstrating that the title matters will be resolved prior to acceptance by the Town; and
 - e. Owner's Affidavit to the effect that all contractors, subcontractors, and material providers have been paid in full, and that the property is not subject to a mechanic's/materialman's lien under Maine law.
7. Approval by the Town Attorney of the document(s) conveying any land, improvements, or easements to the Town.
 8. Delivery of the duly executed Warranty Deed(s), Easements, Real Estate Tax Transfer Tax Declaration form(s), any documents necessary to provide free and clear title, and check payable to the Registry of Deeds in the amount of the recording fee(s) to the Town Manager.
 9. Payment of Town's legal fees and expenses incurred in reviewing the documentation called for by this ordinance.
 10. Letter from the applicable electric company indicating that all power utilities have been accepted.
 11. In cases where Public Water has been installed, a letter from the Hampden Water District Superintendent indicating that the water has been installed and tested to their satisfaction.
- 1.2.2. At the sole discretion of the Town Council, it may accept a street or road as a town way if all improvements have been satisfactorily completed, excepted for the final layer of paving, and the developer/owner has provided a performance bond, letter of credit, or some other form of guarantee acceptable to the Town Council and in an amount the Town Council determines to be adequate to ensure completion of the final paving.

1.3 Definitions – Except as otherwise provided herein, the definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in his Ordinance. Any words not defined therein shall be given their common and ordinary meaning. *(Added 10-15-2018)*

1.4 Town Engineer Defined – Town engineer means any person licensed as a professional civil engineer by the State of Maine and employed or designated by the Town Manager. *(Amended 10-15-2018)*

1.5 Repeal of Conflicting Ordinances or Resolves – All ordinances and resolves or parts thereof in conflict with this ordinance or inconsistent with the provisions of this ordinance are hereby repealed. *(Amended 10-15-2018)*

ARTICLE II STANDARDS AND REQUIREMENTS

2.1 Connection with Existing Town Way – All streets or roads shall provide connection with existing Town approved town ways. *(Amended 02-01-10)*

2.2 Intersections – Shall not be less than sixty (60) degrees.

2.3 Widths of Town Ways – Except for industrial streets or roads, town ways shall have a right-of-way width of sixty-six (66) feet. Industrial roads shall have a right-of-way width of one hundred (100) feet. *(Amended 02-01-10)*

2.4 Grades – Grade shall not have less than 0.5% nor more than 8%. The roadway area of said way shall be graded to its full width of twenty-six (26) feet for the distance for which acceptance is requested and shall conform accurately to the grades and cross-sections shown on the plan and profile of said town way and as accepted by the Hampden Planning Board. All roads and streets shall be properly drained with suitable ditches and street culverts so that all storm water will be drained from the area. The Road Commissioner or the Hampden Planning Board may require loaming and seeding of slopes to help prevent erosion. *(Amended 02-01-10)*

2.5 Clearing of Stumps and Roots – Said way shall be cleared of all stumps, roots, brush, perishable material and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from said way to at least subgrade depth, or as directed by the Road Commissioner or Public Works Dept.

2.6 Side Slopes — Petitioner shall provide the land necessary for cut or fill slopes beyond the limits of the street right-of-way.

2.7 Subgrade — With the exception of industrial ways, said way shall be graded to the subgrade of eighteen (18) to twenty-four (24) inches as specified by the Hampden Planning Board or Road Commissioner. Industrial ways shall be graded to a subgrade depth of not less than twenty-four (24) inches.

2.8 Gravel Base – The roadway area of said way shall be brought to the grade shown on the plan, profile, and cross-section of said way by suitable gravel or material approved by the Road Commissioner or Public Works Dept. The base gravel shall be brought to within four (4) inches of the finish grade, and the top four (4) inches shall be selected materials suitable for finish grade on gravel roads. All gravel shall be thoroughly compacted and rolled and the final surface left true to the established lines and grades.

2.9 Surface Treatment – After the fine gravel has been thoroughly rolled, the surface of the roadway shall be treated with a bituminous pavement. Pavement shall conform to the specifications currently specified by the Maine Department of Transportation for use on State Aid Roads and shall be placed in one-and-a-half-inch thickness. Pavement width shall be not less than twenty (20) feet, except in industrial zones where it shall be not less than twenty-four (24) feet, and the roadway shall be provided with a three (3) inch crown from the center line to edge of pavement to insure runoff of water.

2.10 Cul-de-sac (Dead-end Street) - All permanent dead-end streets shall be provided with a turn-around with a minimum diameter of sixty (60) feet. In all other respects said turn-arounds

shall be constructed in accordance with the same specifications as herein above specified for town ways. *(Amended 02-01-10)*

2.11 Culverts - All driveway culverts shall be not less than twelve (12) inches in diameter of corrugated HDPE pipe and not less than twenty (20) feet in length. Said culverts shall be furnished and installed by the owner under the supervision of the Road Commissioner. The Road Commissioner reserves the right to specify culvert diameter in excess of 12” where necessary to achieve drainage of projected volumes. *(Amended 04-19-16)*

2.12 Opening Town Ways or Streets - No town way or street shall be opened for the purpose of installing or repairing sewers, water, gas, or for any other purpose, unless the individual or corporation wishing to make such an opening shall first obtain from the Road Commissioner a Street Opening/Utility Connection permit to do so and agree to pay the full cost of repairing the damage to the street caused by such opening. Refer to the Town of Hampden Street Opening/Utility Connection Ordinance for permit requirements. *(Amended 04-19-16)*

2.13 Modified or Additional Standards - The Road Commissioner may modify or require additional standards due to local soil, physical, or topographical conditions, provided that modifications and variances secure substantially the objectives of the standard or requirement so varied or modified.

ARTICLE III LIMITATION OF TRUCK TRAFFIC

3.1 Limitation/Prohibition of Truck Traffic - Upon designation by the Town Manager and approval of the Town Council truck traffic may be limited or prohibited on specified roads or streets passing through residential areas within the Town of Hampden. There shall be a sign posted at each end of the streets or portions of street so designated showing that the same is a residential street and that through heavy traffic is not allowed. A schedule of those streets or portions of streets so designated shall be maintained in the town office and be available for public inspection during regular business hours. *(Amended: 12/7/87, 3/4/91)*

3.2 Enforcement - When any violation of any limitation or prohibition on truck traffic imposed under Section 1.1 shall be found to exist, any police officer of the Town of Hampden, or any law enforcement officer authorized to enforce traffic violations in the Town of Hampden, is hereby authorized to institute any and all actions and proceedings in the name of the Town of Hampden, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance. *(Amended: 3/4/91)*

3.3 Civil Penalties - Whoever violates any limitation or prohibition on truck traffic imposed under Section 3.1 shall, upon conviction thereof, be liable for a civil penalty in the amount of \$50.00 for the first offense and \$100.00 for each subsequent offense. Each and every violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Hampden. *(Amended: 3/4/91)*

ARTICLE IV VEHICLE WEIGHT RESTRICTIONS *(Added 10-15-2018)*

4.1. Vehicle Weight Restrictions - Upon designation by the Town Manager and approval of the Town Council, vehicle weight limits and restrictions may be applied to bridges and

culverts as may be located on town public ways, to prevent damage to town ways and bridges in the Town of Hampden. Such restrictions may be applied to vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. The Town Ways Ordinance is amended and adopted pursuant to 30-A M.R.S.A. § 3009; 29-A M.R.S.A. §§ 2395, 2387-2388; and 23 M.R.S.A. § 563.

4. 2. Restrictions and Notices - The Town Manager may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in the Town's judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

Pursuant to 29-A M.R.S.A. § 2395, the notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way, unless on a dead-end way where only the entering side shall be posted.

The Town may post specific vehicle weight restrictions on bridges or town ways as may be deemed necessary for temporary conditions of bridges, culverts and town ways. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

4. 3. Exemptions - The Town acknowledges the following exemptions, as defined by and from time to time may be changed, Maine Statute. Additionally, the Town may deem it appropriate upon petition by a citizen to review requests for a waiver for a specific vehicle or circumstance at a given location that otherwise is not directly addressed in the exemptions listed below.

- The following vehicles are exempt under State law: Any vehicle delivering home heating fuel or organic animal bedding and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in

accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4-A).

- Frozen road exemption: This ordinance shall not apply to any restricted road which is frozen. The highway is considered “frozen” only when the air temperature is 32° F or below and no water is showing in the cracks of the road. Both conditions must be met.
- The following vehicles are also exempt under the specific provisions of this ordinance:
 1. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
 2. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-4. if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.
 3. MaineDOT vehicles or other vehicles authorized by MaineDOT; or maintenance vehicles operated by the Town of Hampden or other municipality or county to maintain the roads under their authority.
 4. Any vehicle authorized by the Town of Hampden deemed necessary for the service or maintenance of properties not otherwise accessible except via passage over a particular bridge or culvert located on a town way.
 5. Authorized emergency vehicles as defined in 29-A M.R.S.A. § 2054, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or fewer under the direction of a public utility and engaged in utility infrastructure maintenance or repair.
 6. Any two axle vehicles registered for a gross weight in excess of 23,000 pounds and less than or equal to 34,000 pounds that are carrying any of the Special Commodities may operate without a permit. Special Commodities includes any of the following:
 - a. Home delivered heating fuel (oil, gas, coal, stove size wood that is fewer than 36” in length, propane and wood pellets);
 - b. Petroleum products;
 - c. Groceries;
 - d. Bulk milk;
 - e. Bulk feed;
 - f. Solid waste;
 - g. Organic animal bedding;
 - h. Returnable beverage containers;
 - i. Sewage from private septic tanks or porta-potties; or
 - j. Medical gases.

4. 4. Enforcement - This Ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee [such as town manager, road commissioner, code enforcement officer or law enforcement officer].

4. 5. Civil Penalties - Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the Town of Hampden and shall be brought in the Maine District Court.