TOWN OF HAMPDEN, MAINE
ANIMAL CONTROL ORDINANCE

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ADOPTED: Hampden Town Council April 3, 2000
Effective: May 3, 2000

AMENDED: Hampden Town Council January 7, 2002
Effective: February 6, 2002 (Deleting Article VII – Number of Dogs Limited)

AMENDED: Hampden Town Council November 17, 2003
Effective: December 17, 2003
TOWN OF HAMPDEN, MAINE
ANIMAL CONTROL ORDINANCE

ARTICLE I
GENERAL ADMINISTRATION

1.1. Purpose - The purpose of this Ordinance is to require that all animals in the Town of Hampden be kept under the control of their owners or keepers so that they will not injure persons, damage property, or create a nuisance.

1.2. Definitions - As used in this Ordinance, unless the context indicates otherwise, the following terms have the following meanings:

A. Animal Control - means control of dogs, cats and domesticated or undomesticated animals in accordance with Title 7 M.R.S.A. § 3948.

B. At Large - means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

C. Dog - means a member of the genus and species known as Canis familiaris or any canine regardless of generation, resulting from interbreeding of a member of Canis familiaris with a wolf hybrid as defined in Title 7 M.R.S.A. § 3907.

D. Dangerous Dog - means a dog that bites an individual who is not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and non-aggressive manner to fear bodily harm by attacking or threatening to attack that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use. For the purpose of this definition, "dog owner's or keeper's premises" means the residence or residences, including building and land and motor vehicles, belonging to the owner or keeper of the dog.

E. Enforcement Officer - The following shall have the authority to enforce this Ordinance:

a. Law Enforcement Officer/Constable - any person who, by virtue of that person's public employment, is vested by law with a duty to maintain public order, enforce any law of this State or Municipality establishing a civil violation, prosecute offenders or make arrest for crimes, whether that duty extends to all crimes or is limited to specific crimes.

b. Animal Control Officer - any person acting in the capacity of Animal Control Officer as defined by state statute and this Ordinance, pursuant to Title 7, M.R.S.A. Chapter 725.

F. Keeper - means a person in possession of control of a dog or other animal.

G. Owner - means a person owning, keeping or harboring a dog or other animal.

H. Person - means an individual, corporation, partnership, association or any other legal entity.

I. Undefined terms - any term not defined in this Ordinance shall be defined in accordance with its customary dictionary meaning.
ARTICLE II
LICENSE AND IDENTIFICATION

2.1 License Required - All dogs kept, harbored and maintained in the Town of Hampden shall be licensed and tagged in accordance with the laws of the State of Maine.

2.2 Tag and Collar Required - A suitable tag showing the year such license is issued and bearing such other data as the Commissioner of Agriculture may prescribe shall be given with each license and must be securely attached to a collar of leather, metal, or material of comparable strength, which must be worn at all times by the dog for which the license was issued except as expressly provided in 7 M.R.S.A. Section 3923-B(3). It shall be unlawful for any person to remove such tag or to place either collar or tag on any dog not described or for which the license was not issued.

ARTICLE III
ANIMALS CREATING A NUISANCE BY NOISE

3.1 Animals Creating a Nuisance by Noise - Anyone owning, possessing or harboring any animal, excluding livestock, which barks, howls or makes other sounds common to its species continuously for twenty minutes or intermittently for one hour or more shall be deemed to have caused a nuisance, and shall be liable for a civil penalty under this Ordinance.

For the purposes hereof, a separate offense shall be deemed committed for each hour during which a violation occurs or continues.

ARTICLE IV
ANIMALS CREATING OTHER NUISANCES

4.1 Nuisances Prohibited - It is unlawful for anyone owning, keeping, possession, or harboring any animal to cause or permit such animal to perform, create, or engage in any of the following nuisances:

A. Molesting or disturbing persons or vehicles by chasing, barking, or biting.

B. Habitually attacking other animals,

C. Damaging property of others,

D. Creating noxious or offensive odors,

E. Defecating upon any public place or upon premises not owned or controlled by the person owning, keeping, possessing or harboring the animal, unless the feces is promptly removed from said place or premises,

F. Being on school grounds without permission during times that school is in session.

ARTICLE V
RUNNING AT LARGE

5.1 Running at Large - It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner or keeper of any dog found at large shall be liable for a civil penalty under this Ordinance.
ARTICLE VI
RESTRAINT OR CONFINEMENT OF DANGEROUS DOGS

6.1 Nuisance – Any dangerous dog is hereby declared to be a nuisance.

6.2 Restraint or Confinement - The owner or keeper of a dangerous dog shall keep the same muzzled, restrained, or confined to the owner's or keeper's premises. The owner or keeper shall ensure that the dog, when out of doors on the owner's or keeper's premises, is either muzzled, contained within a secure enclosure, or fastened with a secure latch to a chain or leash of sufficient strength to restrain the dog, the length of which chain or leash is such that the dog may in no event be any closer than three feet to any: (1) mail receptacle, (2) entrance or exit to a residence, (3) end or edge of a driveway, (4) walkway, stoop or stairs leading to an entrance or exit, (5) edge of a property boundary or public sidewalk, or (6) home fill pipe or utility meter. The owner or keeper shall ensure that the restraint is maintained and secure at all times the dog is out of doors on the owner's or keeper's premises and not placed in a secure enclosure. For the purposes hereof, a secure enclosure shall be suitable to prevent entry by children and designed to prevent the dog from escaping. If a fence is used as a secure enclosure, it shall be a minimum height of six feet.

ARTICLE VII
IMPOUNDMENT

7.1 Impoundment – Any dog found in the Town either without a license or at large may be impounded by an enforcement officer at an animal shelter designated by the Director of Public Safety. If the owner or keeper is known and can be located, such animal need not be impounded, but may instead be taken to the owner or keeper.

7.2 Registry and Notification of Impoundment – When impounding a dog, the ACO or other law enforcement officer shall, at the time of such impoundment, list the number and description of violation(s), make a complete registry of the date of impoundment, breed, color, sex and general condition of the animal as can be reasonably ascertained, if licensed or unlicensed, and the name of the owner or keeper if known, on a registry form. A copy of this form shall be furnished to the Shelter together with written instructions setting forth the conditions under which the animal may be released. If the dog has upon it the name and address of the owner or keeper of the dog, or such name and address is otherwise known to the enforcement officer, a written notice of the impoundment shall be sent by U.S. Mail to the owner or keeper within 24 hours of the impoundment of the dog. If a dog has on a license tag, then the last known licensee of the dog shall be sent a written notice of impoundment by U.S. Mail within 24 hours of the impoundment of the dog. In addition, the enforcement officer may make a reasonable attempt to give notice by telephone.

7.3 Impoundment Fee – All owners or keepers may reclaim their animal by first licensing the animal, if applicable, according to this Ordinance and state law, and by paying to the Town of Hampden an Impoundment Fee in accordance with the Town of Hampden Fees Ordinance for each offense. The owner or keeper shall also be responsible for any additional costs incurred on behalf of the animal at the Animal Shelter prior to reclamation. Fees must be paid at the Town Clerk's Office and a receipt of same presented to the Animal Shelter prior to the release of the animal. (Amended: 11-17-03)
ARTICLE VIII
ENFORCEMENT

8.1 Penalty – Whoever owns or keeps a dog contrary to any provision of this Ordinance shall be punished by a fine of not less than $50.00 nor more than $250.00 for each offense. All penalties shall inure to the benefit of the Town of Hampden.

8.2 Separate Offense – A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

ARTICLE IX
MISCELLANEOUS

9.1 Separability – The invalidity of any provision of this Ordinance shall not invalidate any other part of the Ordinance.

9.2 Repeal of Prior Ordinance – The Licensing and Control of Dogs Ordinance adopted by the Town on June 5, 1978, as amended, is hereby repealed as of the effective date of this Ordinance.
TOWN OF HAMPDEN, MAINE
BOARD OF APPEALS ORDINANCE

ADOPTED: Hampden Town Council, June 19, 2006
Effective Date: July 19, 2006

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

BOARD OF APPEALS ORDINANCE
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TOWN OF HAMPDEN, MAINE
BOARD OF APPEALS ORDINANCE

ARTICLE 1
ESTABLISHMENT AND ORGANIZATION

1.1 Composition of the Board of Appeals. A Board of Appeals is hereby established which shall consist of seven (7) members and two (2) alternates. The term of office of all members is three (3) years, serving staggered terms. Neither a municipal officer nor his/her spouse may be a member of the Board of Appeals. Members of the Board of Appeals shall be appointed by the Town Council. When there is a permanent vacancy, the Municipal Officers shall appoint a new member for the remainder of the unexpired term. Members of the Board of Appeals may be removed from office by the Town Council for cause upon written charges and after hearing. The Board of Appeals shall elect a chairperson and secretary from its own membership.

1.2 Present Board Re-Established. The present Zoning Board of Appeals for the Town of Hampden as now constituted, shall constitute the Board of Appeals under this ordinance, and each member thereof shall serve the remainder of his or her present term.

ARTICLE 2
JURISDICTION

2.1 Jurisdiction of the Board of Appeals. The Board of Appeals is authorized to hear appeals from decisions made under the following Codes and Ordinances of the Town of Hampden, as the same may be amended from time to time. All appeals and variance requests shall be in accordance with the applicable provisions of the subject code or ordinance, including any provisions thereof specifying the jurisdiction of the Board.

3. Floodplain Management Ordinance.
6. Mobile Home Park Ordinance.
8. Special Amusement Ordinance.

2.2 Enforcement Decisions. The Board of Appeals' authority does not include appeals from enforcement decisions made by the Code Enforcement Officer, Building Inspector, or other enforcement official. The term enforcement decisions refers to violation determinations and enforcement actions taken by the enforcement official.

ARTICLE 3
POWERS AND DUTIES OF THE BOARD OF APPEALS

3.1 Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers as provided for in the subject code or ordinance:
3.1.1. *De novo Review.* To hear and decide, on a de novo basis, an administrative appeal alleging that there is an error in any order, requirement, decision, or determination made in writing by, or failure to act by, the Code Enforcement Officer, Building Inspector, or other official in regard to an application for a permit under the subject code or ordinance.

3.1.2. *Appellate Review.* If authorized by the subject code or ordinance, to hear and decide on an appellate basis, an administrative appeal alleging that there is an error in any order, requirement, decision, or determination made by, or a failure to act by, the reviewing authority body in regard to an application for a permit, license, or approval under the subject code or ordinance.

3.1.3 *Standard of Review.* When acting in a de novo capacity, the Board of Appeals shall hear and decide the administrative appeal afresh, undertake its own independent analysis of the evidence presented and the law, research its own decision, and make findings and conclusions in support of its decision. When acting in an appellate capacity, the Board of Appeals shall limit its review to the record of the proceedings before the reviewing authority body, and may reverse the decision of that body only upon a finding that the decision was contrary to specific provisions of the subject code or ordinance or was not supported by substantial evidence in the record. The Board of Appeals shall not substitute its judgment for that of the reviewing authority body. If the Board reverses the decision of the reviewing authority body, it shall remand the matter to that body for further consideration.

3.1.4. *Variances.* To authorize variances in specific cases but only within the limitations set forth in the subject code or ordinance of the Town of Hampden.

3.1.5. *Interpretation of Ordinances.* As provided in the subject code or ordinance, the Board of Appeals shall have the authority to hear appeals to interpret the provisions of a code or ordinance called into question. The Board of Appeals shall interpret the provision called into question based on any of the following considerations: the context in which the word is used in the subject code or ordinance; the legislative intent implicit in the use of the word; definitions given by experts qualified in the field under consideration; other evidence which is germane to the issue but does not involve the specific proposal at hand; and ordinary usage of the word.

3.1.6. *Adoption of Rules.* The Board of Appeals shall have the authority to adopt rules of procedure to govern the conduct of its business as long as the rules are consistent with this ordinance and any other applicable codes or ordinances, and with state laws.

**ARTICLE 4**

**APPEAL PROCEDURE**

4.1. *Making an Appeal*

4.1.1. Appeals to the Board of Appeals shall be taken within thirty (30) days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

4.1.2. Such an appeal shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal. For an appellate appeal, the application, record of the reviewing authority body, decision of the body, and any written arguments on the appeal shall be filed by applicant at least 7 days before the hearing. In addition, for a de novo appeal, all written materials and exhibits in support of the appeal must be filed by the applicant at least 7 days before the hearing. Any opposing parties may file a response to such materials at least 3 days before the hearing. No
exhibits or other written materials that were not filed within these time limits shall be admitted at the hearing except by leave of the Chair for good cause shown.

4.1.3. The Board of Appeals shall notify the town official, or reviewing authority body, and applicant of the appeal.

4.1.4. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal application. Notice of the date, time, and place of the hearing shall be placed in newspapers of general circulation in the area at least seven (7) days prior to the hearing. In addition, at least seven (7) days prior to the hearing, notice of the appeal shall be sent by mail to the owners of properties that abut the property for which the application or appeal is made. Failure of an abutter to receive notice shall not invalidate the proceedings. A fee shall be paid for application of all appeals, variances and sewer reviews consistent with the provisions of the Town of Hampden Fees Ordinance. The cost of the appeal shall be borne by the person(s) filing the appeal.

4.2. Hearings

4.2.1. For an appellate appeal, the Board may not accept new evidence on the subject matter of the appeal, but may receive oral or written argument concerning the merits of the appeal.

4.2.2. For de novo appeals, the Board may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his/her case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross examination as may be required for a full and true disclosure of the facts. Unsubstantiated hearsay and third party hearsay shall not be given the same weight as documented evidence.

4.2.3. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

4.2.4. At any hearing a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

4.2.5. The town official, or representative of the reviewing authority body, whose action or nonaction is under appeal, shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material deemed appropriate for an understanding of the appeal.

4.2.6. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.

4.3. Decisions of the Board of Appeals

4.3.1. A majority of the members of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

4.3.2. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the town official or reviewing authority body, or to decide in favor of the applicant on any matter on which it is required to act under this Ordinance, or to effect any variation in the application of this Ordinance.
4.3.3. The person filing the appeal shall have the burden of proof.

4.3.4. The Board shall decide all appeals within thirty-five (35) days after hearing, and shall issue a written decision on all appeals.

4.3.5. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the appellant, or appellant's representative or agent, and the town official or reviewing authority body whose action or nonaction was the subject matter of the appeal within seven (7) days of the decision date.

4.3.6. Upon notification of the granting of an appeal or variance or the interpretation of an ordinance by the Board of Appeals, the town official or reviewing authority body shall promptly act in a manner consistent with the Board's decision, unless an appeal is taken therefrom to Superior Court.

(Note that if the enforcement officer, board or council has denied an application based on multiple non-compliance issues reversal of a solitary decision might not have the effect of reversing the overall basis of the denial. For example if a building permit application failed to meet building code and zoning standards relief from one standard would not result in an approval of the project).

4.3.7. A copy of all variances effecting shoreland zoning granted by the Board of Appeals shall be submitted to the Dept. of Environmental Protection within fourteen (14) days of the decision.

4.4. Appeal to Superior Court - Any aggrieved party who participated as a party during the proceedings before the Board of Appeals, and has standing to do so, may take an appeal to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure within forty-five (45) days from the date of any decision of the Board of Appeals.

ARTICLE 5
CONFLICT OF INTEREST

5.1. Voting Procedure for Determination of Conflict of Interest. Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

5.2. Conflict of Interest. The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (e.g., grandfather, father, wife, son, grandson) or to the member's employer or the employer of any member of the person's immediate family or any other prejudice that would prevent a Board member from rendering an unfair and/or impartial decision.

ARTICLE 6
RECONSIDERATION

6.1. Reconsideration of Decisions. The Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to reconsider must be filed within ten (10) days of the decision to be reconsidered. A vote to reconsider and the action taken on the reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony. Notwithstanding Section 4.4,
appeal of a reconsidered decision must be made within fifteen (15) days after the decision on reconsideration.

ARTICLE 7
STAY OF PROCEEDINGS

7.1. Stay of Proceedings. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

ARTICLE 8
NEW APPEALS

8.1 New Appeals. After a decision has been made by the Board of Appeals, a new appeal of similar import shall not be submitted to, or entertained by, the Board until one (1) year has elapsed from the date of the decision.

ARTICLE 9
EFFECTIVE DATE

9.1. Effective Date. The effective date of this Ordinance shall be 30 days from the date of adoption by the Town Council.
Be it ordained by the Town Council of the Town of Hampden, as follows:

Chapter II

Board of Registration

Section I In accordance with Article III, Section 302 of the town charter, there is hereby established a Board of Registration.

Section 2 Board membership

The board of registration shall consist of three (3) members to be appointed as follows: One member nominated by the town committees of each of the two (2) major political parties, who shall be enrolled in the party of the town committee by which he is nominated, and appointed by the municipal officers, and the third member nominated by the clerk of the municipality and appointed by the municipal officers.

Section 3 Term of office

Each member nominated by the town committees of the two major political parties and appointed by the municipal officers shall serve for three years and until his successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed by the municipal officers shall serve for four years and until his successor is appointed and sworn.

Section 4 Chairman of the board

The member nominated by the clerk of the municipality and appointed by the municipal officers is chairman of the board.

Section 5 Vacancy

When there is a vacancy on the board, the municipal officers shall appoint a qualified person nominated by the town committee of the party of the former incumbent to fill the vacancy for the remainder of that term.

A. Exception

When there is a vacancy in the office of chairman of the board, the municipal officers shall appoint a qualified person nominated by
the clerk of the municipality to fill the vacancy for the remainder of the term.

**Section 6 Duties**

Except as otherwise provided in this section, the provisions of state law (Title 21, Maine Revised Statutes Annotated) pertaining to the registrar apply equally to a board of registration. A board of registration may only act by unanimous or majority action. The chairman of the board may designate himself or another member of the board to accept the application of a disabled person for registration under section 72, Title 21, Maine Revised Statutes.

**Section 7 Schedule**

In addition to sections 631 and 632, Maine Revised Statutes Annotated, each board shall be open to act upon applications for registration and enrollment on at least one business day in each of the months of January, February and March in each even-numbered year.

Adopted: 1/22/99
Effective: 2/22/99

[Signature]
Arlene C. Newey - Town Clerk
ARTICLE I--GENERAL

1.1 Board of Registration Established- In accordance with Article III, Sec. 302 of the Town Charter, there is hereby established a Board of Registration.

1.2 Board Membership- The Board of Registration shall consist of three (3) members to be appointed as follows: One member nominated by the town committees of each of the two (2) major political parties, who shall be enrolled in the party of the town committee by which he is nominated, and appointed by the municipal officers, and the third member nominated by the clerk of the municipality and appointed by the municipal officers.

1.3 Term of Office- Each member nominated by the town committees of the tow major political parties and appointed by the municipal officers shall serve for three years and until his successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed by the municipal officers shall serve for four years and until his successor is appointed and sworn.

1.4 Chairman of the Board- The member nominated by the clerk of the municipality and appointed by the municipal officers is chairman of the Board.

1.5 Vacancy- When there is a vacancy on the Board, the municipal officers shall appoint a qualified person nominated by the town committee of the party of the former incumbent to fill the vacancy for the remainder of that term.

When there is a vacancy in the office of chairman of the Board, the municipal officers shall appoint a qualified person nominated by the clerk of the municipality to fill the vacancy for the remainder of the term.

ARTICLE II--PROCEDURE OF THE BOARD OF REGISTRATION

2.1 Duties- Except as otherwise provided in this section, the provisions of state law (Title 21, Maine Revised Statutes Annotated) pertaining to the registrar apply equally to a board of Registration. A Board of Registration may act only by unanimous or majority action. The chairman of the Board may designate himself or another member of the Board to accept the application of a disabled person or registration under section 72, Title 21, Maine Revised Statutes.

2.2 Schedule- In addition to sections 631 and 632, Maine Revised Statutes Annotated, each Board shall be open to act upon application for registration and enrollment on at least one business day in each of the months of January, February and March in each even-numbered year.

ADOPTED: Hampden Town Council, January 22, 1979
Effective date: February 22, 1979
TOWN OF HAMPTON

CABLE TV

ORDINANCE

Adopted: August 18, 1997
All Division Heads will report directly to the Public Works Director. The Division Heads shall perform other duties as may be prescribed by the Director.

Adopted by the Hampden Town Council at the regular scheduled meeting on ______________3-16______, 1987.

Effective: __4-15-87__________

Paula M. Newcomb
Town Clerk
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AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAMPDEN, MAINE, ADOPTING THE TOWN OF HAMPDEN CABLE TELEVISION ORDINANCE, WHICH REVISIONS THE PROCEDURES AND REQUIREMENTS RELATING TO CABLE TELEVISION FRANCHISES TO REFLECT CHANGES IN APPLICABLE LAW AND TO BETTER ENSURE THAT USE OF PUBLIC RIGHTS-OF-WAY BY CABLE SYSTEMS SERVES THE PUBLIC INTEREST.

Be it ordained by the TOWN Council of the TOWN OF HAMPDEN as follows:

1.0 GENERAL PROVISIONS

1.1 Title. This Ordinance shall be known and may be cited as the "TOWN OF HAMPDEN Cable Television Ordinance."

1.2 Purpose. The TOWN OF HAMPDEN finds that the development of cable television systems has the potential of greatly benefitting and having a positive impact on the people of HAMPDEN. Cable technology is rapidly changing, and cable is expected to play an essential role as part of the TOWN 's basis infrastructure. Cable television systems extensively make use of scarce and valuable Public Rights-of-Way, in a manner different from the way in which the general public uses them, and in a manner reserved primarily for those that provide services to the public, such as utility companies. The TOWN finds that public convenience, safety, and general welfare can best be served by establishing regulatory powers vested in the TOWN or such Persons as the TOWN so designates to protect the public and to ensure that any Franchise granted is operated in the public interest. In light of the foregoing, the following goals and the State policies set forth at 30-A M.R.S.A. § 3008(1), among others, underlie the provisions set forth in this Ordinance:

a. Cable should be available to as many TOWN residents as possible.

b. A Cable System should be capable of accommodating both the present and reasonably foreseeable future cable-related needs of the community, to the extent economically feasible.

c. A Cable System should be constructed and maintained during a Franchise term so that changes in technology may be integrated to the maximum extent that is economically feasible into existing system facilities.

d. A Cable System should be responsive to the needs and interests of the local community.

The TOWN intends that all provisions set forth in this Ordinance be construed to serve the public interest and the foregoing public purposes, and that any Franchise issued pursuant to this Ordinance be construed to include the foregoing findings and public purposes as integral parts thereof.

2.0 DEFINITIONS AND WORD USAGE

For the purposes of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words "shall" and "will" are mandatory, and "may" is permissive. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Title 47 of the United States Code, Chapter 5, Subchapter V-A U.S.C. §§ 521 et seq., as amended, and, if not defined therein, their common and ordinary meaning.

2.1 Affiliate. Any Person who owns or controls, is owned or controlled by, or is under common ownership or control with a Grantee.
2.2 Basic Cable Service. Any Service Tier that includes the retransmission of local television broadcast signals.

2.3 Cable Act. The Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., as amended by the Cable Competition and Consumer Protection Act of 1992, the Telecommunications Act of 1996, and as it may be further amended from time to time.

2.4 Cable Programming Service. Any video programming provided over a Cable System, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than (A) video programming carried on the Basic Cable Service tier; and (B) video programming offered on a per-channel, or per-program basis.

2.5 Cable Service. This term shall have the meaning given it by the Cable Act, as amended.

2.6 Cable System or System. A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple Subscribers within the TOWN, but such term does not include (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves Subscribers without using any Public Right-of-Way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (iv) an open video system that complies with federal law; or (v) any facilities of any electric utility used solely for operating its electric utility system. A reference to a Cable System refers to any part thereof, including, without limitation, facilities located in the interior of a Subscriber's residence or other premises.

2.7 TOWN. The TOWN OF HAMPDEN, Maine, and any agency, department, or agent thereof.

2.8 FCC. The Federal Communications Commission, its designee, or any successor governmental entity thereto.

2.9 Franchise. The non-exclusive authorization granted in accordance with this Ordinance to construct, operate, and maintain a Cable System along the Public Rights-of-Way within the TOWN. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the TOWN as required by the ordinances and laws of the TOWN, or for attaching devices to poles or other structures, whether owned by the TOWN or a private entity, or for excavating or performing other work in or along Public Rights-of-Way.

2.10 Franchise Agreement. A contract entered into in accordance with the provisions of this Ordinance between the TOWN and a Grantee that sets forth, subject to applicable state and federal law, the terms and conditions under which a Franchise will be exercised.

2.11 Franchise Area. The term "franchise area" for any Franchise granted under this Ordinance shall mean the whole of the TOWN OF HAMPDEN. All new or renewal Franchise Agreements granted under this Ordinance shall require the Grantee, within a reasonable period after the effective date of the Franchise Agreement, to extend service to all areas of the TOWN that meet density requirements to be set out in the Franchise Agreement. No Franchise or renewal Franchise approved under this Ordinance shall contain density requirements that are less restrictive than the density requirements of Franchise Agreements with other Grantees that are then in force.

2.12 Grantee. The natural Person(s), partnership(s), domestic or foreign corporation(s), association(s), joint venture(s), or
organization(s) of any kind which has or have been granted a cable television Franchise by the TOWN.

2.13 Gross Revenues. Those items within the scope of the term "gross revenues" as used in the Cable Act, as amended, including any and all cash, credits, or other consideration of any kind or nature received directly or indirectly by a Grantee, an Affiliate of a Grantee, or any Person in which a Grantee has a five percent (5%) or greater financial interest, or by any other entity that is a cable operator of a Cable System arising from, attributable to, or in any way derived from the operation of a Grantee's Cable System to provide Cable Service, including the facilities associated therewith. Gross Revenues include, but are not limited to, monthly fees charged Subscribers for any basic, optional, premium, per-channel, or per-program service; installation, disconnection, reconnection, and change-in-service fees; leased channel fees; late fees; payments, or other consideration received from programmers for carriage of programming on the System; revenues from converter rentals or Sales; advertising revenues; barter; revenues from program guides; and revenues from home shopping channels. "Gross Revenues" do not include reimbursed expenses unless the expense is separately claimed. Gross Revenues earned on a System-wide basis shall be allocated to the TOWN on the basis of the ratio of the subscribers in the TOWN to the total subscribers in all the franchising authorities served by the TOWN. Gross Revenues shall be the basis for computing the Franchise Fee under this Ordinance. Gross Revenues shall not include (i) to the extent consistent with generally accepted accounting principles, actual bad debt write-offs, provided, however, that all or part of any such actual bad debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected; (ii) the value of free cable services provided to Grantee's employees or to the TOWN; (iii) revenues received by an Affiliate from the Grantee on which the Grantee has already paid the Franchise Fee; (iv) any taxes on services furnished by a Grantee which are imposed directly on any Subscriber or user by the state, TOWN, or other governmental unit and which are collected by a Grantee on behalf of said governmental unit; and (v) revenues from the provision of telecommunications services.

2.14 Person. An individual, partnership, association, joint stock company, organization, corporation, or any lawful successor thereto or transferee thereof, but such term does not include the TOWN.

2.15 Public Right-of-Way. The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the TOWN now or hereafter holds any property interest, or may lawfully grant the use of, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System. No reference herein, or in any Franchise Agreement, to a "Public Right-of-Way" shall be deemed to be a representation or guarantee by the TOWN that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a Grantee shall be deemed to gain only those rights to use as are properly in the TOWN and as the TOWN may have the undisputed right and power to give.

2.16 Sale. Any sale, exchange, or barter transaction.

2.17 Service Tier. A package of two or more Cable Services for which a separate charge is made by the Grantee, other than a package of premium and pay-per-view services that may also be sold on a true a la carte basis.

2.18 Subscriber. Any Person who legally receives Cable Service, whether or not a fee is paid for such service.

2.19 Transfer. Any transaction in which (i) an ownership or other interest in a Grantee, its Cable System, or any Person that is a
cable operator of the Cable System is transferred from one Person or group of Persons to another Person or group of Persons so that control of a Grantee is transferred; or (ii) the rights or obligations held by a Grantee under a Franchise Agreement are transferred or assigned to another Person or group of Persons. Control for these purposes means working control, in whatever manner exercised. By way of illustration and not limitation, the addition, deletion, or other change of any general partner of a Grantee, any person who owns or controls a Grantee, or a cable operator of a Cable System is such a change of control.

2.20 **User.** A Person or organization utilizing a channel or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a Subscriber.

3.0 **GRANT OF FRANCHISE**

3.1 **Grant of Franchise.** The TOWN may grant one or more cable television Franchises, and each such Franchise shall be awarded in accordance with and subject to the provisions of this Ordinance. In no event shall this Ordinance be considered a contract between the TOWN and a Grantee.

3.2 **Franchise Required.** No Person may construct or operate a Cable System without a Franchise granted by the TOWN unless otherwise authorized by law, and no Person may be granted a Franchise without having entered into a Franchise Agreement with the TOWN pursuant to this Ordinance.

3.3 **Franchise Characteristics.**

3.3.1 **Authority Granted by Franchise.** A Franchise authorizes use of Public Rights-of-Way for installing cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the operation of a Cable System within a Franchise Area, but does not expressly or implicitly authorize a Grantee to provide service to, or install a Cable System on private property without owner consent (except for use of compatible easements pursuant to Section 621 of the Cable Act, 47 U.S.C. § 541(a)(2), or to use publicly or privately owned conduits without a separate agreement with the owners.

3.3.2 **Term of Franchise.** The term of a Franchise may not exceed fifteen (15) years.

3.3.3 **Non-exclusivity.** A Franchise is non-exclusive and will not explicitly or implicitly preclude the issuance of other Franchises to operate Cable Systems within the TOWN, affect the TOWN's right to authorize use of Public Rights-of-Way by other Persons to operate Cable Systems or for other purposes as it determines appropriate; or affect the TOWN's right to itself construct, operate, or maintain a Cable System, with or without a Franchise.

3.3.4 **Franchise Agreement Constitutes Contract.** Once a Franchise Agreement has been accepted and executed by the TOWN and a Grantee, such Franchise Agreement shall constitute a contract between the Grantee and the TOWN, and the terms, conditions, and provisions of such Franchise Agreement, subject to the Ordinance in effect as of the effective date of such Franchise Agreement and all other duly enacted and applicable laws, shall define the rights and obligations of the Grantee and the TOWN relating to the Franchise. Nothing in this Ordinance or a Franchise Agreement shall be deemed a waiver of or restriction on the TOWN's police powers, or a waiver of any of the terms of any TOWN ordinance regarding the use or management of the Public Rights-of-Way or intended to protect the public's safety.

3.3.5 **Use of Public Rights-of-Way.** All privileges prescribed by a Franchise shall be subordinate to any prior lawful occupancy of the Public Rights-of-Way, and the TOWN reserves the right to reasonably designate where a Grantee's facilities are to be placed within the Public Rights-of-Way. The rights and privileges granted pursuant to a Franchise shall not be in preference or hindrance to the right of the TOWN, or other governmental agency, improvement district or other authority having
jurisdiction, to perform or carry on any public works or public improvement, and should a Cable System in any way interfere with the construction, maintenance, or repair of such public works or improvements, the Grantee shall promptly, at its own expense, protect or relocate its System or part thereof, as directed by the TOWN or other authority having jurisdiction.

3.3.6 Franchise Personal to Grantee. A Franchise shall be a privilege that is in the public trust and personal to the original Grantee. No Transfer of a Franchise shall occur without the prior consent of the TOWN and unless application is made by the Grantee and TOWN approval obtained, pursuant to this Ordinance and the Franchise Agreement; which approval shall not be unreasonably withheld, provided, however, that the Grantee may make assignments of collateral to a lender upon reasonable prior notice to the TOWN. No such assignment of collateral shall be deemed to permit any person to avoid any obligations under this Ordinance or a Franchise Agreement.

3.3.7 Exclusive Contracts Unenforceable. A Franchise holder may not enter into or enforce any exclusive contract with a Subscriber as a condition of providing or continuing service.

3.4 Grantee Subject to Other Laws, Police Power.

3.4.1 Compliance with Laws. A Grantee shall at all times be subject to and shall comply with all applicable federal, state, and local laws. A Grantee shall at all times be subject to all lawful exercise of the police power of the TOWN, including all rights the TOWN may have under 47 U.S.C. § 552.

3.4.2 No Waiver of TOWN Rights. No course of dealing between a Grantee and the TOWN, nor any delay on the part of the TOWN in exercising any rights hereunder, shall operate as a waiver of any such rights of the TOWN or acquiescence in the actions of a Grantee in contravention of rights except to the extent expressly waived by the TOWN or expressly provided for in a Franchise Agreement, or other applicable laws, rules or regulations.

3.4.3 TOWN Has Maximum Regulatory Authority. The TOWN shall have the maximum plenary authority to regulate Cable Systems, Grantees, and Franchises as may now or hereafter be lawfully permissible; except where rights are expressly waived by a Franchise Agreement, they are reserved, whether expressly enumerated or not.

3.5 Interpretation of Franchise Terms.

3.5.1 Provision to TOWN’s Benefit Controlling. In the event of a conflict between this Ordinance as effective on the effective date of a Franchise Agreement and that Franchise Agreement, the terms of this Ordinance as effective on the effective date of that Franchise Agreement shall control, except as otherwise provided in a Franchise Agreement.

3.5.2 Liberal Construction. To the extent permitted by law, the provisions of this Ordinance and a Franchise Agreement will be liberally construed in favor of the TOWN in order to effectuate their purposes and objectives and to promote the public interest, except as otherwise provided in a Franchise Agreement.

3.5.3 Governing Law. Except as to matters that are governed solely by federal law or regulation, a Franchise Agreement will be governed by and construed in accordance with the laws of the State of Maine.

3.6 Operation of a Cable System Without a Franchise. Any Person who occupies Public Rights-of-Way for the purpose of operating or constructing a Cable System and who does not hold a valid Franchise from the TOWN shall be subject to all provisions of this Ordinance, including but not limited to its provisions regarding construction and technical standards and Franchise fees. In its discretion, the TOWN at any time may require such Person to enter into a Franchise Agreement within thirty (30) days of receipt of a written notice by the TOWN that a Franchise Agreement is required; require such Person to remove its property and restore the area to a condition satisfactory to the TOWN within such time period; remove the property itself and restore the area to a satisfactory condition and charge the Person the costs thereof; and/or take any other action it is entitled to take under
applicable law, including filing for and seeking damages under trespass. In no event shall a Franchise be created unless it is issued by action of the TOWN and subject to a Franchise Agreement.

3.7 Right of Condemnation Reserved. Nothing in this Ordinance or any Franchise Agreement shall limit any right the TOWN may have to acquire by eminent domain or otherwise any property of Grantee.

3.8 Acts at Grantee’s Expense. Any act that a Grantee is or may be required to perform under this Ordinance, a Franchise Agreement, or applicable law shall be performed at the Grantee’s expense, unless expressly provided to the contrary in this Ordinance, the Franchise Agreement, or applicable law.

4.0 APPLICATIONS FOR GRANT, RENEWAL, OR MODIFICATION OF FRANCHISES

4.1 Written Application.

4.1.1 Application Requirement. A written application shall be filed with the TOWN for (i) grant of an initial Franchise; (ii) renewal of a Franchise under 47 U.S.C. § 546(a)-(g); or (iii) modification of a Franchise Agreement pursuant to this Ordinance or a Franchise Agreement. An applicant shall demonstrate in its application compliance with all requirements of this Ordinance, any existing Franchise Agreement held by the applicant and all applicable laws.

4.1.2 Acceptability for Filing. To be acceptable for filing, a signed original of the application shall be submitted together with twelve (12) copies. The TOWN Manager may, in combination with neighboring communities, establish a joint application procedure, provided that any such procedure conforms with the standards of this Ordinance. The application must be accompanied by the required application filing fee as set forth in Article 4.6, conform to any applicable request for proposals, and contain all required information. All applications shall include the names and addresses of Persons authorized to act on behalf of the applicant with respect to the application.

4.1.3 Applications Available for Public Inspection. All applications accepted for filing shall be made available by the TOWN for public inspection in the office of the TOWN Clerk during normal business hours.

4.1.4 TOWN May Waive. The TOWN may waive any of the provisions of this Section 4.0 by resolution, where application of the rule would cause manifest injustice, except for those provisions required by state or federal law. Any waiver granted shall explain the basis for the waiver and shall not unduly discriminate against any applicant.

4.2 Application for Grant of a Franchise, Other Than a Cable Act Renewal Franchise.

4.2.1 Application. A Person may apply for an initial Franchise by submitting an application containing the information required in Article 4.4 and requesting an evaluation of that application pursuant to Article 4.2.2. Prior to evaluating that application, the TOWN shall conduct such reasonable investigations as are necessary to determine whether the application satisfies the standards set forth in Article 4.2.2 and may seek additional applications.

4.2.2 Factors in Evaluating Application for Franchise or Renewal of Existing Franchise. In evaluating an application for a Franchise, the TOWN shall consider, among other things, the following factors:

a. Whether the applicant has substantially complied with the applicable law and the material terms of any existing Cable Franchise from the TOWN.

b. Whether the quality of the applicant's service under an existing Franchise from the TOWN, including signal quality, response to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served.
c. Whether the applicant has the financial, technical, and legal qualifications to provide Cable Service.

d. Whether the application satisfies any minimum requirements established by the TOWN and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests.

e. Whether, to the extent not considered as part of Article 4.2.2e, the applicant will provide adequate Public, Educational, and Governmental Access Channel capacity, facilities, or financial support, consistent with community needs and interests.

f. Whether issuance of a Franchise is warranted in the public interest considering the immediate and future effect on the Public Rights-of-Way and private property that would be used by the Cable System, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services, or use of the Public Rights-of-Way; the effect of granting a Franchise on the ability of the applicant and its proposed facilities to meet the cable-related needs and interests of the community.

g. Whether the applicant or an Affiliate of the applicant owns or controls any other Cable System in the TOWN, or whether grant of the application may eliminate or reduce competition in the delivery of Cable Service in the TOWN.

4.2.3 TOWN Determination. If the TOWN finds that it is in the public interest to issue a Franchise after considering the factors set forth above, and subject to the applicant's entry into an appropriate Franchise Agreement, it shall issue a Franchise. If the TOWN denies a Franchise, it will issue within 30 days a written decision explaining why the Franchise was denied. Prior to deciding whether or not to issue a Franchise, the TOWN may hold one or more public hearings or implement other procedures under which comments from the public on an applicant may be received. The TOWN also may grant or deny a request for a Franchise based on its review of an application without further proceedings and may reject any application that is incomplete. This Ordinance is not intended and shall not be interpreted to grant any applicant or existing Grantee standing to challenge the issuance of a Franchise to another, except as provided by applicable State or Federal laws or regulations.

4.2.4 Joint Review. The TOWN may elect to delegate review of an application to a consortium of local governments or a formally constituted interlocal body of which the TOWN is a member. Any such entity shall review the application in accordance with the standards of Section 4.2.2 and make a recommendation to the TOWN. In such a case, the TOWN Council shall review the recommendation of the designated body and approve or reject it in accordance with the terms of Section 4.2.3.

4.3 Application for Grant of a Cable Act Renewal Franchise. Applications for renewal under the Cable Act shall be received and reviewed in a manner consistent with Section 626 of the Cable Act, 47 U.S.C. § 546. If neither a Grantee nor the TOWN activates in a timely manner or can activate the renewal process set forth in 47 U.S.C. § 546(a)-(g) (including, for example, if the provisions are repealed), and except as to applications submitted pursuant to 47 U.S.C. § 546(h), the provisions of Article 4.2 shall apply and a renewal request shall be treated the same as any other request for a Franchise. The following requirements shall apply to renewal requests properly submitted pursuant to the Cable Act:

4.3.1 Issuance of RFP. If the provisions of 47 U.S.C. § 546(a)-(g) are properly invoked, the TOWN may issue an RFP after conducting a proceeding to review the applicant's past performance and to identify future cable-related community needs and interests. The TOWN Administrator, or the Administrator's designee, shall establish deadlines and procedures for responding to the RFP, may seek additional information from the
applicant, and shall establish deadlines for the submission of that additional information. Following receipt of the application responding to the RFP (and such additional information as may be provided in response to requests), the TOWN will determine that the Franchise should be renewed, or make a preliminary assessment that the Franchise should not be renewed. That determination shall be in accordance with the time limits established by the Cable Act. The preliminary determination shall be made by Order. If the TOWN determines that the Franchise should not be renewed, and the applicant that submitted the renewal application notifies the TOWN, either in its RFP response or within ten (10) working days of the preliminary assessment, that it wishes to pursue any rights to an administrative proceeding it has under the Cable Act, then the TOWN shall commence an administrative proceeding after providing prompt public notice thereof, in accordance with the Cable Act. If the TOWN decides preliminarily to grant renewal, it shall prepare a final Franchise Agreement that incorporates, as appropriate, the commitments made by the applicant in the renewal application. If the applicant accepts the Franchise Agreement, and the final agreement is ratified by the TOWN, the Franchise shall be renewed. If the Franchise Agreement is not so accepted and ratified within the time limits established by 47 U.S.C. § 546(c)(1), renewal shall be deemed preliminarily denied, and an administrative proceeding commenced if the applicant that submitted the renewal application requests it within ten (10) days of the expiration of the time limit established by 47 U.S.C. § 546(c)(1).

4.3.2 Administrative Hearing. If an administrative hearing is commenced pursuant to 47 U.S.C. § 546(c), the applicant's renewal application shall be evaluated considering such matters as may be considered consistent with federal law. The following procedures shall apply:

a. The TOWN Council shall, by order, appoint an administrative hearing officer or officers (referred to hereafter as "hearing officer"). The TOWN Council may appoint itself as hearing officer.

b. The hearing officer shall establish a schedule for proceeding which allows for documentary discovery and interrogatory responses, production of evidence, and cross-examination of witnesses. Depositions shall not be permitted unless the party requesting the deposition shows that documentary discovery and interrogatory responses will not provide it an adequate opportunity to require the production of evidence necessary to present its case. The hearing officer shall have the authority to require the production of evidence as the interests of justice may require, including to require the production of evidence by the applicant that submitted the renewal application and any entity that owns or controls or is owned or controlled by such applicant directly or indirectly. The hearing officer may issue protective orders to the extent permitted under applicable State law. Any order may be enforced by a court of competent jurisdiction or by imposing appropriate sanctions in the administrative hearing.

c. The hearing officer may conduct a pre-hearing conference and establish appropriate prehearing procedures. Intervention by non-parties is not authorized except to the extent permitted by the Cable Act.

d. The hearing officer may require the TOWN and the applicant to submit prepared testimony prior to the hearing. Unless the parties agree otherwise, the applicant shall present evidence first, and the TOWN shall present evidence second.

e. Any reports or the transcript or summary of any proceedings conducted pursuant to 47 U.S.C. § 546(a) shall for purposes of the administrative hearing be regarded no differently than any other evidence. The TOWN and the applicant must be afforded full procedural protection regarding evidence related to these proceedings, including the right to refute any evidence introduced in those proceedings or sought to be introduced by the other party. Both shall have the opportunity to submit additional evidence related to issues raised in the proceeding conducted pursuant to 47 U.S.C. § 546(a).
f. Following completion of any hearing, the hearing officer shall require the parties to submit proposed findings of fact with respect to the matters that the TOWN is entitled to consider in determining whether renewal should be granted. Based on the record of the hearing, the hearing officer shall then prepare written findings with respect to those matters, and submit those findings to the Town Council and to the parties (unless the hearing officer is the Town Council, in which case the written findings shall constitute the final decision of the TOWN, if permitted by applicable laws or rules.

g. If the hearing officer is not the Town Council, the parties shall have thirty (30) days from the date the findings are submitted to the Town Council to file exceptions to those findings. The Town Council shall thereafter issue a written decision granting or denying the application for renewal, consistent with the requirements of the Cable Act and based on the record of such proceeding. A copy of that decision of the Town Council shall be provided to the applicant.

h. The proceeding shall be conducted with due speed.

i. In conducting the proceeding, and except as inconsistent with the foregoing, the hearing officer will follow the Maine Administrative Procedures Act or the successor statutes thereto unless otherwise governed by Federal law or regulations. The hearing officer may request that the Town Council adopt additional procedures and requirements as necessary in the interest of justice.

4.3.3 Informal Renewal Applications. This Article does not prohibit any Grantee from submitting an informal renewal application pursuant to 47 U.S.C. § 546(h), which application may be granted or denied in accordance with the provisions of 47 U.S.C. § 546(h).

4.3.4 Consistency With Cable Act. The provisions of this Ordinance shall be read and applied so that they are consistent with Section 626 of the Cable Act, 47 U.S.C. § 546.

4.4 Contents of Applications. If issued by the TOWN, an RFP for the grant of a renewal Franchise under 47 U.S.C. § 546(c) shall require, and any application for an initial or renewal franchise (other than an application submitted pursuant to 47 U.S.C. § 546(h)) shall contain, at a minimum, the following information:

4.4.1 Identification of Applicant and Its Ownership and Control. Name and address of the applicant and identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and controlling Affiliates of the applicant, and all Persons with five (5) percent or more ownership interest in the applicant and its Affiliates; the Persons who control the applicant and its Affiliates; all officers and directors of the applicant and its Affiliates; and any other business affiliation and Cable System ownership interest of each named Person.

4.4.2 Statement of Applicant's Technical Ability. A demonstration of the applicant's technical ability to construct and/or operate the proposed Cable System, including identification of key personnel.

4.4.3 Statement of Applicant's Legal Qualifications. A demonstration of the applicant's legal qualifications to construct and/or operate the proposed Cable System, including but not limited to a demonstration that the applicant meets the following criteria:

a. The applicant must not have submitted an application for an initial or renewal Franchise to the TOWN, which was denied on the ground that the applicant failed to propose a System meeting the cable-related needs and interests of the community, or as to which any challenges to such licensing decision were finally resolved adversely to the applicant, within one (1) year preceding the submission of the application.

b. The applicant must not have had any cable television Franchise validly revoked by any licensing authority within three (3) years preceding the submission of the application.
c. The applicant must have the necessary authority under Maine law to operate a Cable System within Maine.

d. The applicant shall not be issued a Franchise if it may not hold the Franchise as a matter of federal law. An applicant must have, or show that it is qualified to obtain, any necessary federal approvals or waivers required to operate the System proposed.

e. The applicant shall not be issued a Franchise if, at any time during the ten (10) years preceding the submission of the application, the applicant was convicted of any act or omission of such character that the applicant cannot be relied upon to deal truthfully with the TOWN and the Subscribers of the Cable System, or to substantially comply with its lawful obligations under applicable law, including obligations under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct.

f. The applicant shall not be issued a Franchise if it files materially misleading information in its application or intentionally withholds information that the applicant lawfully is required to provide.

g. The applicant shall not be issued a Franchise if an elected official of the TOWN holds a controlling interest in the applicant or an Affiliate of the applicant.

Notwithstanding the foregoing, the TOWN shall provide an opportunity to an applicant to show that it would be inappropriate to deny it a Franchise under Article 4.4.3.b or e, by virtue of the particular circumstances surrounding the matter and the steps taken by the applicant to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of cable television Systems.

4.4.4 Statement of Applicant's Financial Qualifications. A statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction and operation of the Cable System proposed.

4.4.5 Description of Prior Experience. A description of the applicant's prior experience in Cable System ownership, construction, and operation, and identification of communities in which the applicant or any of its principals have, or have had, a cable Franchise or license or any interest therein, provided that, an applicant that holds a Franchise for the TOWN and is seeking renewal of that Franchise need only provide this information for other communities where its Franchise was scheduled to expire in the two (2) calendar years prior to and after its application was submitted.

4.4.6 Identification of Area To Be Served. Identification of the area of the TOWN to be served by the proposed Cable System, including a description of the proposed Franchise Area's boundaries. All Grantees shall be bound and required to serve the same areas within the Town.

4.4.7 Description of Physical Facilities. A detailed description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend, and access facilities.

4.4.8 Description of Construction of Proposed System. Where applicable, a description of the construction of the proposed System, including an estimate of plant mileage and its location, the proposed construction schedule, a description, where appropriate, of how services will be converted from existing facilities to new facilities, and information on the availability of space in conduits including, where appropriate, an estimate of the cost of any necessary rearrangement of existing facilities.

4.4.9 Proposed Rate Structure. The proposed rate structure, including projected charges for each Service Tier, installation, converters, and other equipment or services.

4.4.10 Demonstration of How Future Community Needs and Interests Will Be Met. A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, including descriptions of how the applicant will meet the needs described in any recent
community needs assessment conducted by or for the Town, and how the applicant will provide adequate Public, Educational, and Governmental Access Channel capacity, facilities, or financial support to meet the community's needs and interests. The Town Manager may, in coordination with neighboring communities, establish procedures for conducting a joint needs assessment.

4.4.11 Pro Forma Financial Projections. Pro forma financial projections for the proposed Franchise term, including a statement of projected income, and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.

4.4.12 Identification of Area of Overbuild. If the applicant proposes to provide Cable Service to an area already served by an existing cable Grantee, the identification of the area where the overbuild would occur, the potential Subscriber density in the area that would encompass the overbuild, and the ability of the Public Rights-of-Way and other property that would be used by the applicant to accommodate an additional System.

4.4.13 Other Information. Any other information as may be reasonably necessary to demonstrate compliance with the requirements of this Ordinance.

4.4.14 Information Requested by Town. Information that the Town may reasonably request of the applicant that is relevant to the Town's consideration of the application.

4.4.15 Certification of Accuracy. An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal and state law requirements.

4.5 Application for Modification of a Franchise. An application for modification of a Franchise Agreement shall include, at minimum, the following information:

a. The specific modification requested;

b. The justification for the requested modification, including the impact of the requested modification on Subscribers, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, inter alia, submission of financial pro formas;

c. A statement whether the modification is sought pursuant to Section 625 of the Cable Act, 47 U.S.C. § 545, and, if so, a demonstration that the requested modification meets the standards set forth in 47 U.S.C. § 545;

d. Any other information that the applicant believes is necessary for the Town to make an informed determination on the application for modification; and

e. An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with all federal and state law requirements.

4.6 Filing Fees. To be acceptable for filing, an application submitted after the effective date of this Ordinance shall be accompanied by a filing fee in the following amount to cover costs incidental to the awarding or enforcement of the Franchise, as appropriate:

a. For an initial Franchise: $ 500

b. For renewal of a Franchise: $ 500

c. For modification of a Franchise Agreement: $ 500

The Town may also elect to share the costs of reviewing an application with other communities served by the system of which an existing or proposed cable system in the Town is a part. In that case, the filing fees shown above shall not apply, and shall be replaced with combined filing fees for all communities with whom the Town is sharing expenses. The combined
filing fees shall be $7,000 for an initial grant or a modification, and $7,000 for a renewal.

Combined filing fees shall be prorated among the participating communities on the basis of the number of residents in each community as of the most recent U.S. Census, or allocated according to some other mutually agreeable method.

Application fees for franchise renewals may be increased as necessary to recover the Town's additional cost of conducting any hearings required under 47 U.S.C. § 546(a) through (g), if the Grantee has invoked that procedure in its renewal application.

4.7 Public Hearings. An applicant shall be notified in writing at least 10 calendar days in advance of any public hearings held in connection with the evaluation of its application and shall be given an opportunity to be heard. In addition, prior to the issuance of a Franchise, the Town shall provide for the holding of a public hearing within the proposed Franchise Area, following reasonable notice to the public, at which every applicant and its applications shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard. Reasonable notice to the public shall include causing notice of the time and place of such hearing to be published in a newspaper of general circulation in the proposed Franchise Area once a week for two consecutive weeks. The first publication shall be not less than fourteen (14) days before the day of the hearing. Nothing herein shall be deemed to prevent or limit communities in which the applicant has requested grant or renewal of a franchise from holding joint public hearings in a location reasonable accessible to residents of each community which is the subject thereof.

5.0 INSURANCE AND INDEMNITY

5.1 Insurance Required. A Grantee shall maintain, and by its acceptance of a Franchise specifically agrees that it will maintain, throughout the entire length of the Franchise period, such insurance as will protect the Town and elected officials, employees and agents from any claims that may arise directly or indirectly or result from its acceptance of the Franchise or its activities under the Franchise, whether such activities are performed by the Grantee, or by anyone for whose acts the Grantee may be liable, including, but not limited to, the following:

a. Workers' compensation, including disability benefits and any other legally required employee benefits, meeting all statutory amounts;

b. Property insurance, all risk, replacement cost basis, on all of the Grantee's assets;

c. General liability insurance, in the following minimum amounts:

<table>
<thead>
<tr>
<th>Insurance Type</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Bodily injury or death</td>
<td>$1,000,000 per person</td>
</tr>
<tr>
<td>Primary insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Umbrella insurance</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Property damage</td>
<td>$1,000,000</td>
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</tbody>
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The Town may review these amounts no more than once a year and may require reasonable adjustments to them consistent with the public interest. The Franchise Agreement may specify the procedures to be followed in the event that the Grantee objects to an increase in a policy limit and the parties are unable to agree on a mutually acceptable amount.

5.2 Qualifications of Sureties. All insurance policies shall be with sureties qualified to do business in the State of Maine, with an A or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition, and in a form acceptable to the Town.
5.3 Evidence of Insurance. A Grantee shall keep on file with the Town current certificates of insurance. A Grantee shall provide the Town with copies of all insurance policies in effect during the franchise period upon the written request of the Town.

5.4 Additional Insureds; Prior Notice of Policy Cancellation. All general liability insurance policies shall name the Town, elected officials, officers, boards, commissions, commissioners, agents, and employees as additional insureds and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the Town. A Grantee shall not cancel any required insurance policy without submission of proof that the Grantee has obtained alternative insurance satisfactory to the Town which complies with this Ordinance.

5.5 Indemnification.

5.5.1 Indemnification for Damages and Equitable Relief. A Grantee shall, at its sole cost and expense, indemnify, hold harmless, and defend the Town, its inhabitants, elected officials, officers, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its Cable System; copyright infringements or a failure by the Grantee to secure consents from the owners, authorized distributors, or Grantees of programs to be delivered by the Cable System; the conduct of the Grantee's business in the Town; or in any way arising out of the Grantee's enjoyment or exercise of a Franchise granted hereunder, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this Ordinance or a Franchise Agreement.

5.5.2 Indemnification for Cable Act Claims. A Grantee shall, at its sole cost and expense, fully indemnify, defend, and hold harmless the Town, and in its capacity as such, the officers, agents, and employees thereof, from and against any and all claims, suits, actions, liability, and judgments for damages or otherwise subject to Section 638 of the Cable Act, 47 U.S.C. § 558, arising out of or alleged to arise out of the installation, construction, operation, or maintenance of its System, including but not limited to any claim against the Grantee for invasion of the right of privacy, defamation of any Person, firm or corporation, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any Person, firm or corporation. This indemnity does not apply to programming carried on any channel set aside for public, educational, or government use, or channels leased pursuant to 47 U.S.C. § 532, unless the Grantee was in any respect engaged in determining the editorial content of the program, or adopts a policy of prescreening programming for the purported purpose of banning indecent or obscene programming.

5.5.3 Attorneys' Fees. The indemnity provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit, action or proceeding.

5.6 No Limit of Liability. Neither the provisions of this Article nor any damages recovered by the Town shall be construed to limit the liability of a Grantee for damages under any Franchise issued hereunder.

5.7 No Recourse. Without limiting such immunities as it may have under applicable law, the Town shall not be liable to the Grantee for any damages or loss that the Grantee may suffer as the result of the Town's exercise of its lawful authority pursuant to this Ordinance, a Franchise Agreement, or other applicable law.

6.0 PERFORMANCE BOND

6.1 Requirement of Bond. Prior to any construction, rebuild or upgrade of the Cable System requiring work in the Public Rights-of-Way other than installation of aerial facilities and utility poles,
a Grantee shall establish in the Town's favor an irrevocable performance bond in an amount specified in the Franchise Agreement or otherwise determined as reasonable by municipal officers as necessary to ensure the Grantee's faithful performance of the construction, upgrade, or other work. The amount of such performance bond shall not exceed the lesser of ten (10) percent of the total cost of the work being done in the Public Right-of-Way other than installation of aerial facilities and utility poles, or Fifty Thousand Dollars ($50,000.00).

6.2 Recovery Under Performance Bond. In the event that a Grantee subject to such a performance bond fails to complete the Cable System construction, upgrade, or other work in the Public Rights-of-Way in a safe, timely (subject to the force majeure provision of Section 17.2), and competent manner in accordance with the provisions of a Franchise Agreement, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, or the cost of completing or repairing the System construction, upgrade, or other work in the Public Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The Town may also recover against the bond any amount recoverable against the security fund required under Article 7.0 of this Ordinance, where such amount exceeds that available under the security fund.

6.3 Elimination or Reduction of Bond. Any performance bond shall remain in place for one full year after completion to the satisfaction of the Town of the work in the Public Right-of-Way.

6.4 New Bond for New Project. The Town may subsequently require a new bond, for any subsequent construction, or other work in the Public Rights-of-Way other than installation of aerial facilities and utility poles, whose cost exceeds an amount specified in a Franchise Agreement. In the event a Grantee fails to complete the work secured by such a new performance bond in a safe, timely and competent manner, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, or the cost of completing or repairing the System construction, upgrade, or other work in the Public Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The Town may also recover against the bond any amount recoverable against the security fund required under Article 7.0 of this Ordinance, where such amount exceeds that available under the security fund. In any event, the total amount of the bond shall not exceed the lesser ten (10) percent of the cost of the work being done in the Public Right-of-Way, or Fifty Thousand Dollars ($50,000),

6.5 Issuance of Bond; Notice of Cancellation Required. Any performance bond shall be issued by a surety qualified to do business in the State of Maine, and having an A-1 or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the Town; and shall contain the following endorsement:

"This bond may not be canceled, or allowed to lapse, until sixty (60) days after notice to the Town, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

6.6 Forfeiture. The total amount of any outstanding bond shall be forfeited in favor of the Town in the event that:

a. The Grantee abandons the Cable System or any part thereof at any time during the term of the Franchise; or
b. The Grantee fails to purchase and maintain insurance as required by Article 5.0 hereof; or
c. The Franchise is revoked as provided in Article 8.2 hereof.

7.0 SECURITY FUND

7.1 Establishment of Security Fund.
(a) A Franchise Agreement may provide that, prior to the Franchise's becoming effective, the Grantee shall post with the Town a cash security deposit to be used as a security fund to ensure the Grantee's faithful performance of and compliance with all provisions of this Ordinance, the Franchise Agreement, and other applicable laws, and compliance with all orders, permits, and directions of the Town or any agency thereof having jurisdiction over the Grantee's acts or defaults under the Franchise, and the payment by the Grantee of any claims, liens, fees, or taxes due the Town which arise by reason of the construction, operation or maintenance of the System. The amount of any security fund shall be specified in a Franchise Agreement.
(b) In lieu of a cash security fund, a Grantee may agree to file and maintain with the Town an irrevocable letter of credit with a bank having an office in the State of Maine in the amount specified in the preceding paragraph to serve the same purposes as set forth therein. Said letter of credit shall remain in effect for the full term of the Franchise plus an additional six (6) months thereafter. The Grantee and its surety shall be jointly and severally liable under the terms of the letter of credit for the Grantee's failure to enforce its faithful performance of and compliance with all provisions of this Ordinance, the Franchise Agreement, and other applicable law, and compliance with all orders, permits, and directions of the Town, and the payment by the Grantee of any claims, liens, fees, or taxes due the Town which arise by reason of the construction, operation, or maintenance of the System. The letter of credit shall provide for thirty (30) days' prior written notice to the Town of any intention on the part of the Grantee to cancel, fail to renew, or otherwise materially alter its terms. Neither the filing of a letter of credit with the Town, nor the receipt of any damages recovered by the Town thereunder, shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under the terms of its Franchise for damages, either to the full amount of the letter of credit or otherwise.

7.2 Use of Fund. If a Grantee fails to make timely payment to the Town of any amount due as a result of Franchise requirements, fails to make timely payment to the Town of any amounts due under a Franchise Agreement or applicable law, fails to make timely payment to the Town of any taxes lawfully due, or fails to compensate the Town for any damages, costs, or expenses the Town suffers or incurs by reason of any act or omission of the Grantee in connection with its Franchise Agreement, the Town may withdraw the amount thereof from the security fund. To invoke the provisions of this Article, the Town shall give the Grantee written notice of the default in the Grantee's performance. If within thirty (30) calendar days following such written notice from the Town to the Grantee, the Grantee has not remedied the default to the satisfaction of the Town, the Town may proceed to withdraw the amount in question from the security fund, provided that, if by its nature the default cannot be remedied within thirty (30) days and the Grantee has demonstrated to the satisfaction of the Town that it is making a continuing good faith effort to remedy the default, the Town shall not draw on the security fund.

7.3 Notification. Within ten (10) business days of a withdrawal from the security fund, the Town shall mail, by certified mail, return receipt requested, written notification of the amount, date, and purpose of such withdrawal to the Grantee.

7.4 Inadequate Fund Balance. If at the time of a withdrawal from the security fund by the Town, the amount of the fund is
insufficient to provide the total payment towards which the withdrawal is
directed, the balance of such payment shall continue as the obligation of the
Grantee to the Town until it is paid.

7.5 Replenishment. No later than thirty (30) days after
mailing of notification to the Grantee by certified mail, return receipt
requested, of a withdrawal under the security fund, the Grantee shall deliver
to the Town for deposit in the security fund an amount equal to the amount so
withdrawn. Failure to make timely delivery of such amount to the Town shall
constitute a material violation of the Franchise.

7.6 Disposition. Upon termination of the Franchise under
conditions other than those stipulating forfeiture of the security fund, the
balance then remaining in the security fund shall be withdrawn by the Town and
paid to the Grantee within ninety (90) days of such termination, provided that
there is then no outstanding material default on the part of the Grantee.

7.7 Grantor Rights. The rights reserved to the Town with
respect to Articles 5.0, 6.0, and 7.0 hereof are in addition to all other
rights of the Town, whether reserved by this Ordinance or authorized by other
law or a Franchise Agreement, and no action, proceeding, or exercise of a
right with respect to such sections shall affect any other right the Town may
have.

8.0 REMEDIES

8.1 Available Remedies. In addition to any other remedies
available at law or equity, the Town may pursue the following remedies in the
event a Grantee or any other person violates this Ordinance, its Franchise
Agreement, or applicable state or federal law.

a. Seek a determination from a court of competent
jurisdiction that a provision of this Ordinance has been violated. If such a
violation is found to exist by the Court the minimum fine imposed shall be $50
and the maximum fine imposed per violation shall be $250. Each day the
violation is found to exist shall constitute a separate violation for which
the above-indicated fine may be assessed. Any violation found to exist on the
day of trial may be found, at a minimum, to have existed from the filing date
of the complaint until the day of trial and the fine assessed accordingly,
unless Grantee affirmatively proves that said violation did not exist during
any part of or all of the aforementioned time period. If the Grantee is found
by the Court to have been adjudicated in violation of any provision of this
Ordinance on more than one occasion within two years, whether or not a
violation of the same provision of this Ordinance, the minimum fine per
violation shall be $100 and the maximum fine per violation shall be $500.
b. Seek legal or equitable relief from any court of
competent jurisdiction.

c. Apply any remedy provided for in a Franchise
Agreement, including enforcing provisions, if any.

8.2 Revocation or Termination of Franchise.

8.2.1 Town Right to Revoke Franchise. The Town shall have
the right to revoke the Franchise for a Grantee's substantial failure to
construct or operate the Cable System as required by this Ordinance or a
Franchise Agreement, for defrauding or attempting to defraud the Town or
Subscribers, if the Grantee is declared bankrupt, or for any other material
violation of this Ordinance or material breach of a Franchise Agreement. To
invoke the provisions of this Article, the Town shall give the Grantee written
notice of the default in its performance. If within thirty (30) calendar days
following such written notice from the Town to the Grantee, the Grantee has
not taken corrective action or corrective action is not being actively and
expeditiously pursued to the satisfaction of the Town, the Town may give
written notice to the Grantee of its intent to revoke the Franchise, stating
its reasons; provided that no opportunity to cure shall be provided where the
Grantee has defrauded or attempted to defraud the Town or its Subscribers, or
in the event the Grantee is declared bankrupt. In the case of a fraud or
attempted fraud, the Franchise may be revoked after the hearing required under Article 8.2.2; revocation for bankruptcy shall be governed by Article 8.2.3.

8.2.2 Public Hearing. Prior to revoking a Franchise, the Town shall hold a public hearing, on thirty (30) calendar days' written notice, at which time the Grantee and the public shall be given an opportunity to be heard. Following the public hearing, the Town may determine to revoke the Franchise based on the information presented at the hearing, and other information of record. If the Town determines to revoke a Franchise, it shall issue a written decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to the Grantee.

8.2.3 Revocation After Assignment for Benefit of Creditors or Appointment of Receiver or Trustee. To the extent provided by law, any Franchise may, at the option of the Town following a public hearing, be revoked one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the Grantee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding, unless within that one hundred twenty (120) day period:

a. Such assignment, receivership, or trustee¬ship has been vacated; or
b. Such assignee, receiver, or trustee has fully complied with the material terms and conditions of this Ordinance and a Franchise Agreement and has executed an agreement, approved by a court of competent jurisdiction, assuming and agreeing to be bound by the terms and conditions of this Ordinance and a Franchise Agreement, and such other conditions as may be established or as are required under Article 13.0 of this Ordinance.

c. In the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of a Grantee, the Town may revoke the Franchise, following a public hearing before the Town, by serving notice on the Grantee and the successful bidder at the sale, in which event the Franchise and all rights and privileges of the Franchise will be revoked and will terminate thirty (30) calendar days after serving such notice, unless the Town has approved the Transfer of the Franchise to the successful bidder, and the successful bidder has covenanted and agreed with the Town to assume and be bound by the terms and conditions of the Franchise Agreement and this Ordinance, and such other conditions as may be established or as are required pursuant to Article 9.0 of this Ordinance.

8.2.4 Procedures on Revocation, Abandonment, and Termination. If the Town revokes a Franchise, or if for any other reason a Grantee abandons, terminates, or fails to operate or maintain service to its Subscribers, the following procedures and rights are effective:

a. The Town may require the former Grantee to remove its facilities and equipment located in the Public Rights-of-Way and on public premises at the former Grantee's expense. If the former Grantee fails to do so within a reasonable period of time, the Town may have the removal done at the former Grantee's and/or surety's expense. The foregoing provisions shall not apply if, within three (3) months after expiration, termination or revocation of the Franchise, the Grantee obtains certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications services.

b. In the event of revocation, the Town, by written order, may acquire ownership of the Cable System at not less than fair market value, determined on the basis of the cable system valued as a going concern, but with no value allocated to the franchise itself, as specified at 47 U.S.C. §§ 547(a)(1).

c. If a Cable System is abandoned by a Grantee or the Franchise otherwise terminates, the ownership of all portions of the Cable System in the Public Rights-of-Way shall revert to the Town and the Town may sell, assign, or Transfer all or part of the assets of the System. If a
Grantee abandons a portion of its System, the ownership of the abandoned portions of the Cable System in the Public Rights-of-Way shall revert to the Town and the Town may sell, assign or transfer the abandoned facilities. A Cable System or a portion thereof shall be deemed "abandoned" if a Grantee (i) gives the Town written notice of its decision to abandon the System or the portion in question; or (ii) fails to provide Cable Service to Subscribers served by the System or the relevant portion thereof on a continuous basis for a period of thirty (30) consecutive calendar days or more.

8.2.5 Forfeiture for Failure to Comply With Franchise Obligation. Notwithstanding any other provision of this Ordinance other than the force majeure clause of Section 17.2, where the Town has issued a Franchise specifically conditioned in the Franchise Agreement on the completion of construction, System upgrade, or other specific obligation by a specified date, failure of the Grantee to complete such construction or upgrade, or to comply with such other specific obligations as required, will result in the automatic forfeiture of the Franchise without further action by the Town where it is so provided in the Franchise Agreement, unless the Town, at its discretion and for good cause demonstrated by the Grantee, grants an extension of time.

8.3 Obligation of Compliance. The Town's exercise of one remedy or a Grantee's payment of liquidated damages or penalties shall not relieve a Grantee of its obligations to comply with its Franchise. In addition, the Town may exercise any rights it has at law or equity.

8.4 Relation to Insurance and Indemnity Requirements. Recovery by the Town of any amounts under insurance, the performance bond, the security fund or letter of credit, or otherwise does not limit a Grantee's duty to indemnify the Town in any way; nor shall such recovery relieve a Grantee of its obligations under a Franchise, limit the amounts owed to the Town, or in any respect prevent the Town from exercising any other right or remedy it may have; provided that this section shall not be interpreted as permitting the Town to recover twice for the same damage. In addition, any civil fine imposed pursuant to Section 8.1(a) or other applicable law shall not be treated as a recovery for purposes of this section.

9.0 TRANSFERS
9.1 Town Approval Required. No Transfer shall occur without prior approval of the Town; provided, however, that no such approval shall be required for Transfers resulting from the transfer of ownership interests between existing holders of ownership interests in a Grantee, where such holders were also holders of ownership interests in the Grantee at the time of the original grant of the Franchise to the Grantee.

9.2 Application. An application for a Transfer shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the transferee, and on the potential impact of the Transfer on Subscriber rates and services. At a minimum, the information required under federal law and in Article 4.4.1-4, 4.4.9-11, 4.4.13, and 4.4.15 of this Ordinance shall be provided with respect to the proposed transferee.

9.3 Determination by Town. In making a determination as to whether to grant, deny, or grant subject to conditions an application for a Transfer of a Franchise, the Town shall not unreasonably withhold its consent, but shall first consider (i) the legal, financial, and technical qualifications of the transferee to operate the System; (ii) whether the incumbent cable operator is in compliance with its Franchise Agreement and this Ordinance and, if not, the proposed transferee's commitment to cure such noncompliance; (iii) whether the transferee owns or controls any other Cable System in the Town, or whether operation by the transferee may eliminate or reduce competition in the delivery of Cable Service in the Town; and (iv) whether operation by the transferee or approval of the Transfer would adversely affect Subscribers, the Town's interest under this Ordinance, the
Franchise Agreement, or other applicable law, or make it less likely that the future cable-related needs and interests of the community would be satisfied at a reasonable cost. The Town reserves the right to review the purchase price of any Transfer or assignment of a Cable System. To the extent permitted by applicable law, any negotiated sale value which the Town deems unreasonable will not be considered in the rate base for any subsequent request for rate increases.

9.4 Transferee's Agreement. No application for a Transfer of a Franchise shall be granted unless the transferee agrees in writing that it will abide by and accept all terms of this Ordinance and the Franchise Agreement, and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous Grantee under this Ordinance and the Franchise Agreement for all purposes, including renewal, unless the Town, in its sole discretion, expressly waives this requirement in whole or in part.

9.5 Approval Does Not Constitute Waiver. Approval by the Town of a Transfer of a Franchise shall not constitute a waiver or release of any of the rights of the Town under this Ordinance or a Franchise Agreement, whether arising before or after the date of the Transfer.

9.6 Processing Fee. As a condition of considering a Transfer, the Town may impose a fee on the transferee to cover its estimated out-of-pocket expenses in considering the application for Transfer of a Franchise. Any amount collected in excess of the estimated amount shall be returned to the transferee.

10.0 FRANCHISE FEE

10.1 Finding. The Town finds that the Public Rights-of-Way of the Town, county, and state to be used by a Grantee for the operation of a Cable System are valuable public property acquired and maintained by the county, state, and Town at great expense to the taxpayers. The Town further finds that the grant of a Franchise to use Public Rights-of-Way is a valuable property right without which a Grantee would be required to invest substantial capital.

10.2 Payment to Town. As compensation for use of the Public Rights-of-Way and in light of the scope of any Franchise, in addition to providing channels, facilities and other support for public, educational and governmental use of the Cable System, a Grantee shall pay the Town a Franchise fee. The amount of the fee shall be specified in a Franchise Agreement. The franchise fee shall be paid annually, provided that provisions for more frequent payments may be specified in a Franchise Agreement. At least once a year the Grantee shall provide the Town a report setting forth the total of Gross Revenues for the year or other period in question and identifying the amount of revenues attributable to each category of Gross Revenues received by the Grantee, including non-Subscriber Gross Revenues, and the number of Subscribers receiving each category of Cable Service offered by the Grantee.

10.2.1 Town Right to Request Audit. The Town shall have the right to retain an independent auditor to (i) audit the records of a Grantee to verify the computation of amounts payable under this Ordinance or a Franchise Agreement; and (ii) recompute any amounts determined to be payable under this Ordinance or a Franchise Agreement, whether the records are held by the Grantee, an Affiliate, or any other entity that collects or receives funds related to the Grantee's operation in the Town, including, by way of illustration and not limitation, any entity that sells advertising on the Grantee's behalf. The Grantee shall be responsible for all reasonable costs associated with any such audit, including the auditor's fees, as a cost incidental to the enforcement of the Franchise, and shall have no control over the identity or selection of the auditor. The Town shall have sole discretion in selecting the auditor and shall not be responsible for any costs associated with the audit. The Town shall have the right to review the auditor's report.
and methodology, including the right to obtain an explanation of all of the auditor's assumptions and calculations, and the right to challenge and request changes to any such assumptions and calculations. The Town shall not, however, be permitted to obtain copies of documents received by the auditor, with the exception of documents voluntarily provided by the Grantee to the Town, or subject to copying by the Town pursuant to Section 15.1. The Grantee shall be responsible for providing all such records to the auditor, without regard to by whom they are held. The records shall be maintained for at least three (3) years. Any additional amounts due to the Town as a result of an audit shall be paid within thirty (30) days following written notice to the Grantee by the Town of the underpayment, which notice shall include a copy of the audit report. The Town may exercise its audit right no more frequently than once per year, and only upon written notice to the Grantee.

10.2.2 Maintenance of Records. A Grantee shall maintain its fiscal and financial records and have all relevant fiscal and financial records maintained by others on its behalf in such a manner as to enable the Town to (i) determine the cost of assets of the Grantee which are used in providing services within the Town for purposes of assessing any personal property or other taxes and for purposes of verifying any filings that may be made in connection with any cost of service proceedings, and (ii) to determine Gross Revenues. For purposes of assessing state and local taxes, the cost of assets shall be determined in accordance with any applicable provision of state law. For purposes of any cost of service proceedings, and for purposes of assessing state and local taxes if state law does not provide a method, the cost of assets shall be determined in accordance with FCC rules pertaining to cost of service proceedings.

11.0 CONSTRUCTION PROVISIONS

11.1 System Construction Schedule. Every Franchise Agreement shall specify the construction schedule that will apply to any required construction, upgrade, or rebuild of the Cable System.

11.2 Construction Standards.

11.2.1 Construction Shall Be In Accordance With All Applicable Laws. The construction, operation, maintenance, and repair of a Cable System shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended, the National Electrical Safety Code, the National Electric Code, other applicable federal, state, or local laws and regulations that may apply to the operation, construction, maintenance, or repair of a Cable System, including, without limitation, local zoning and construction codes, and laws and accepted industry practices, all as hereafter may be amended or adopted.

11.2.2 Wires To Cause Minimum Inconvenience. All wires, cable lines, and other transmission lines, equipment, and structures shall be installed and located to cause minimum interference with the rights and convenience of property owners.

11.2.3 Installation of Equipment To Be of Permanent Nature. All installation of electronic equipment shall be of a permanent nature, using durable components.

11.2.4 Antennae. Without limiting the foregoing, to the extent applicable, antennae and their supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local laws, codes, and regulations, all as hereafter may be amended or adopted.

11.2.5 Good Engineering Practices. Without limiting the foregoing, all of a Grantee's plant and equipment, including, but not limited to, the antennae site, headend and distribution system, towers, house connections, structures, poles, wires, cable, coaxial cable, fiber optic cable, fixtures, and apparatuses shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and
operated in accordance with good engineering practices, performed by
experienced and properly trained maintenance and construction personnel so as
not to endanger or interfere with improvements the TOWN shall deem appropriate
to make or to interfere in any manner with the Public Rights-of-Way or legal
rights of any property owner or to unnecessarily hinder or obstruct pedestrian
or vehicular traffic.

11.2.6 Safety Practices. All safety practices required by
law shall be used during construction, maintenance, and repair of a Cable
System. A Grantee shall at all times employ reasonable care and shall install
and maintain in use commonly accepted methods and devices preventing failures
and accidents that are likely to cause damage, injury, or nuisance to the
public.

11.2.7 No Interference With Other Utilities. A Grantee
shall not place facilities, equipment, or fixtures where they will interfere
with any gas, electric, telephone, water, sewer, or other utility facilities,
or obstruct or hinder in any manner the various utilities serving the
residents of the TOWN of their use of any Public Rights-of-Way.

11.2.8 Repair of Rights-of-Way. Any and all Public
Rights-of-Way, public property, or private property that is disturbed or
damaged during the construction, repair, replacement, relocation, operation,
maintenance, or construction of a System or otherwise, including installation,
repair, maintenance or replacement of a Grantee's equipment shall be promptly
repaired by the Grantee.

11.2.9 Removal of System Due To Conditions in
Rights-of-Way. A Grantee shall, by a time specified by the TOWN, protect,
support, temporarily disconnect, relocate, or remove any of its property when
required by the TOWN by reason of traffic conditions; public safety; Public
Right-of-Way construction; Public Right-of-Way maintenance or repair
(including resurfacing or widening); change of Public Right-of-Way grade;
construction, installation or repair of sewers, drains, water pipes, power
lines, signal lines, tracks, or any other type of government-owned
communications system, public work or improvement or any government-owned
utility; Public Right-of-Way vacation; or for any other purpose where the
convenience of the TOWN would be served thereby; provided, however, that the
Grantee shall, in all such cases, have the privilege of abandoning any
property in place.

11.2.10 Removal by TOWN Due To Emergency. In the event of
an emergency, or where a Cable System creates or is contributing to an
imminent danger to health, safety, or property, the TOWN may remove, relay, or
relocate that portion of the Cable System. Unless the nature of the emergency
or danger is such that immediate action is necessary to preserve life or
property or to prevent physical harm to any individual, the TOWN shall provide
telephonic notice to the Grantee prior to removing, relaying or relocating any
portion of a Grantee's Cable System.

11.2.11 Raising or Lowering Wires To Permit Moving of
Buildings. A Grantee shall, on the request of any Person holding a building
moving permit issued by the TOWN, temporarily raise or lower its wires to
permit the moving of buildings. The expense of such temporary removal or
raising or lowering of wires shall be paid by the Person requesting same, and
the Grantee shall have the authority to require such payment in advance,
except in the case where the requesting person is the TOWN, in which case no
such payment shall be required. The Grantee shall be given reasonable advance
notice to arrange for such temporary wire changes, as provided in 35-A
M.R.S.A. § 2516.

11.2.12 Authority To Trim Trees. A Grantee shall have the
authority to trim trees that overhang a Public Right-of-Way of the TOWN so as
to prevent the branches of such trees from coming in contact with the wires,
cables and equipment of the Grantee. Except in emergencies, a Grantee shall
notify the TOWN at least one business day prior to performing any such
trimming. At the option of the TOWN, such trimming may be done by the TOWN or under the City's supervision and direction, at the expense of the Grantee.

11.2.13 Use of Existing Utility Facilities. A Grantee shall use, with the owner's permission, existing underground conduits of overhead utility facilities whenever feasible and may not erect poles or support equipment in Public Rights-of-Way without the express permission of the TOWN. Copies of agreements for use of conduits or other facilities shall be filed with the TOWN as required by a Franchise Agreement or upon the City's written request.

11.2.14 Undergrounding of Cable. (a) In Public Rights-of-Way or other places where electrical and telephone utility wiring is located underground, either at the time of initial construction of a Cable System or at any time thereafter, a Grantee's Cable System also shall be located underground. (b) Between a Public Right-of-Way and a Subscriber's residence, if either electric or telephone utility wiring is aerial, a Grantee may install aerial cable except where a property owner or resident requests underground installation and agrees to bear the additional cost of such installation over and above the cost of aerial installation. Where existing subdivision approvals, deed covenants, municipal zoning or other legal restrictions require underground location of utilities, Grantee's cable shall be located underground, and the Subscriber shall bear the additional cost of such installation on their property as a condition of receiving cable service.

11.2.15 TOWN Use of Grantee's Poles. The TOWN shall have the right to install and maintain free of charge upon the poles owned by a Grantee any wire and pole fixtures that do not materially interfere with the Cable System operations of the Grantee.

11.2.16 TOWN Approval of Construction. Prior to erection of any towers, poles, or conduits or the construction, upgrade, or rebuild of a Cable system authorized under this Ordinance or a Franchise Agreement, a Grantee shall first submit to the TOWN and other designated parties for approval a concise description of the Cable System proposed to be erected or installed, including engineering drawings, if required, together with a map and plans indicating the proposed location of all such facilities. No erection or installation of any tower, pole, underground conduit, or fixture or any rebuilding or upgrading of a Cable System shall be commenced by any Person until the Grantee has obtained all building permits, street operating permits or other approvals required by the TOWN under any ordinance, regulation or procedure generally applicable to such activities.

11.2.17 Contractors and Subcontractors. Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of System equipment must be properly licensed under laws of the State and all applicable local ordinances. The Grantee must ensure that contractors, subcontractors and all employees who will perform work for it are trained and experienced. Each contractor and subcontractor must perform work in compliance with all applicable provision of law and a Franchise Agreement, and the Grantee shall implement a quality control program to ensure that the work is so performed.

11.3 Publicizing Proposed Construction Work. Except in emergencies or to restore outages, Grantee shall publicize proposed construction work prior to commencement of that work by causing written notice of such construction work to be delivered to the TOWN and by notifying those Persons most likely to be affected by the work in at least two (2) of the following ways: by telephone, in person, by mail, by distribution of flyers to residences, by publication in local newspapers, or in any other manner reasonably calculated to provide adequate notice, including use of local informational channels. Whenever practicable, such notice shall be given at least one (1) week prior to commencement of the work concerned.

11.4 Continuity of Service.

11.4.1 Subscriber Right. It is the right of all Subscribers in a Grantee's Franchise Area to receive all services that a
Grantee is then providing under the terms of a valid Franchise as long as their financial and other obligations to the Grantee are satisfied; provided, however, that to the extent a Grantee's agreements with its programming providers prohibit the Grantee from providing certain Cable Services to nonresidential subscribers, the Grantee may exclude such services from its offerings to nonresidential Subscribers.

11.4.2 Assurance of Continuous Uninterrupted Service. A Grantee shall ensure that all Subscribers receive continuous uninterrupted service. To this end, Grantee shall: (a) In the event of a Sale or Transfer of its Franchise, cooperate with the TOWN to assure an orderly transition from it to another Grantee and take all steps necessary to maintain service to Subscribers until the Sale or Transfer has been completed; (b) not abandon service to the entire TOWN without having given 12 months' prior notice to the TOWN; and (c) not abandon service to any portion of the TOWN (excepting termination of service to individual subscribers as otherwise permitted) without having given 6 months' prior written notice to the TOWN. Following such notice, the Grantee shall continue to be obligated to comply with the terms and conditions of its Franchise Agreement and applicable laws and regulations and shall cooperate with the TOWN to assure an orderly transition from it to another Grantee.

11.4.3 Abandonment of System. If a Grantee abandons its System during the Franchise term, or fails to operate its System in accordance with this Article 11.0 during any Transition Period, the TOWN, at its option, may operate the System, designate another entity to operate the System temporarily until the Grantee restores service under conditions acceptable to the TOWN or until the Franchise is revoked and a new Grantee selected by the TOWN is providing service, or obtain an injunction requiring the Grantee to continue operations. If the TOWN is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the TOWN or its designee for all reasonable costs and damages incurred that are in excess of the revenues from the Cable System. In addition, any abandonment of a System shall be subject to all of the provisions of 30-A M.R.S.A. § 3008(3)(B).

11.4.4 Injunctive Relief. The TOWN shall be entitled to injunctive relief under the preceding paragraph if:

a. The Grantee fails to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area for ninety-six (96) consecutive hours, unless the TOWN authorizes a longer interruption of service or as permitted pursuant to the force majeure clause of § 17.2; or

b. The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area.

12.0 SYSTEM FACILITIES, EQUIPMENT, AND SERVICES

In addition to satisfying such requirements as may be established through the application process, every Cable System shall be subject to the following conditions, except as prohibited by federal law:

12.1 Provision of Service. Each Franchise Agreement shall contain a line extension policy that shall govern a Grantee's obligation to extend service. Unless otherwise specified in a Franchise Agreement, after Cable Service has been established by activating trunk distribution cable for an area specified in a Franchise Agreement, a Grantee shall provide Cable Service to any household requesting Cable Service within that area, including each multiple dwelling unit in that area, except for multiple dwelling units to which it cannot legally obtain access. In providing services to multiple dwelling units, a Grantee shall comply with all applicable provisions of 14 M.R.S.A. § 6041.
12.2 **Full Video Service to Municipal Buildings; Facilities and Equipment.** A Franchise Agreement may require a Grantee to install, at no charge, at least one service outlet at all municipal buildings within the Franchise Area that can be reached by a standard drop, and may provide that the Grantee shall charge only its time and material costs for any additional service outlets to such facilities. A Franchise Agreement may also require a Grantee to provide Basic Cable Service and the lowest tier of Cable Programming Services to such buildings free of charge. Finally, a Franchise Agreement may provide that such service outlets shall be capable of providing the full range of non-cable electronic data and telecommunication services provided by a Grantee, and may require other facilities and equipment and channel capacity in accordance with the Cable Act, at rates and terms set out in the Franchise Agreement.

12.3 **Technical Standards.**

12.3.1 **FCC Standards.** Any Cable System within the TOWN shall meet or exceed the technical standards set forth in 47 C.F.R. § 76.601 and any other applicable technical standards, including any such standards as hereafter may be amended or adopted by the TOWN in a manner consistent with federal law.

12.3.2 **Facilities Shall Not Interfere With Others' Signals or Facilities.** A Grantee shall not design, install, or operate its facilities in a manner that will interfere with the signals of any broadcast station, the facilities of any public utility, the Cable System of another Grantee, or individual or master antennae used for receiving television or other broadcast signals.

12.4 **Proof of Performance Tests.** At the times specified in a Franchise Agreement or as required by FCC rules, a Grantee shall perform proof of performance tests, and such other tests as may be specified in a Franchise Agreement, designed to demonstrate compliance with this Article, the Franchise Agreement, and FCC requirements. The Grantee shall provide the results of proof of performance tests promptly to the TOWN, upon the Town's written request. The TOWN shall have the right to inspect the Cable System during and after its construction to ensure compliance with this Article, the applicable Franchise Agreement, and applicable provisions of local, state and federal law, and may require the Grantee to perform additional tests based on the Town's investigation of Cable System performance or on Subscriber complaints.

13.0 **CONSUMER PROTECTION PROVISIONS**

13.1 **Telephone and Office Availability.**

13.1.1 **Office; Hours of Operation; Telephone.** Each Grantee shall maintain an office at a location reasonably convenient to Subscribers that shall be open at least 50 hours each week, including, during the hours of 8:30 a.m. to 5 p.m. Monday through Friday and 8:30 a.m. to 12 p.m. Saturday exclusive of all State and Federal holidays, to allow Subscribers to request service and conduct other business. Each Grantee shall ensure that its office shall meet all applicable access requirements of the Maine Human Rights Act and the Americans with Disabilities Act, and all other applicable federal and state laws and regulations. Each Grantee shall perform service calls, installations, and disconnects during at least the hours for which its office is open for business, provided that a Grantee shall respond to outages twenty-four (24) hours a day, seven (7) days a week. Each Grantee shall establish a publicly listed toll-free telephone number, and shall either ensure that its telephone service has TTY and TDD capabilities, or contract with a third party to provide Grantee with such services. The phone must be answered by customer service representatives at least during the hours for which the Grantee's office is open for business, for the purpose of receiving requests for service, inquiries, and complaints from Subscribers; after those hours a Grantee shall arrange for the phone to be answered so that customers can register complaints and report service problems on a twenty-four (24) hour
per day, seven (7) day per week basis, and so that the Grantee can respond to service outages as required herein.

13.1.2 Telephone Answering Time. Telephone answering time shall not exceed thirty (30) seconds or four (4) rings, and the time to transfer the call to a customer service representative (including hold time) shall not exceed an additional thirty (30) seconds. This standard shall be met ninety (90) percent of the time, measured quarterly. When the business office is closed, an answering machine or service capable of receiving and recording service complaints and inquiries shall be employed. Any after-hours answering service used shall comply with the same telephone answer time standard set forth in this Article 13.1. If required by its Franchise Agreement, a Grantee shall supply statistical data to verify it has met the standards set forth herein.

13.1.3 Staff. A Grantee must hire sufficient staff so that it can adequately respond to customer inquiries, complaints, and requests for service in its office, over the phone, and at the Subscriber's residence.

13.2 Scheduling Work.

13.2.1 Appointments. All appointments for service, installation, or disconnection shall be specified by date. Each Grantee shall offer a choice of morning, afternoon, or all-day appointment opportunities. If at any time an installer or technician believes it impossible to make a scheduled appointment time, an attempt to contact the customer will be made prior to the time of appointment and the appointment rescheduled.

13.2.2 Missed Appointments. Subscribers who experience a missed installation appointment due to the fault of a Grantee shall receive standard installation free of charge. If the installation was to have been provided free of charge, or for other appointments, the Subscriber shall receive one (1) month of the subscribed to Service Tier free of charge, or a credit of $20.00, whichever is greater.

13.2.3 Mobility-Limited Customers. With regard to mobility-limited customers, upon Subscriber request, each Grantee shall arrange for pickup and/or replacement of converters or other Grantee equipment at the Subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

13.2.4 Acknowledgement of and Response to Customer Requests. Requests for service, repair, and maintenance must be acknowledged by a Grantee within twenty-four (24) hours, or prior to the end of the next business day. A Grantee shall respond to all other inquiries (except billing inquiries) within five (5) business days of the inquiry or complaint. A Grantee shall acknowledge receipt of billing inquiries within five (5) days and provide a detailed response within thirty (30) days.

13.2.5 Completion of Work. Repairs and maintenance for service interruptions and other repairs not requiring in-unit work must be initiated within twenty-four (24) hours and must be completed within sixty-two (62) hours. All other requests for service must be completed within three (3) days from the date of the initial request, except installation requests, provided that a Grantee shall complete the work in the shortest time possible where, for reasons beyond the Grantee's control, the work could not be completed in those time periods even with the exercise of all due diligence; the failure of a Grantee to hire sufficient staff or to properly train its staff shall not justify a Grantee's failure to comply with this provision. Except as federal law requires, no charge shall be made to the Subscriber for this service, except for the cost of repairs to the Grantee's equipment or facilities where it can be documented that the equipment or facility was damaged by a Subscriber.

13.2.6 Work Standards. The standards of Articles 13.2.4 and 13.2.5 shall be met ninety-five (95) percent of the time, measured on a quarterly basis.
13.3 Notice to Subscribers.

13.3.1 Provision of Information to Subscribers. A Grantee shall provide each Subscriber at the time Cable Service is installed, and at least annually thereafter, written instructions for placing a service call, filing a complaint, or requesting an adjustment. Each Grantee shall also provide a notice informing subscribers of how to communicate their views and complaints to the cable company, the proper municipal official and the State Attorney General; stating the responsibility of the State Attorney General to receive consumer complaints concerning matters other than channel selection and rates; and stating the policy regarding and method by which subscribers may request rebates or pro-rata credits as provided in this Ordinance or applicable federal or state law or regulation. In addition, all Grantees shall provide Subscribers to their services a schedule of rates and charges, a copy of the service contract, delinquent Subscriber disconnect and reconnect procedures, and a description of any other of the Grantee's policies in connection with its Subscribers. Copies of these notices shall be provided to the TOWN. A Grantee shall provide the TOWN and each Subscriber at least thirty (30) days advance notice of any significant changes in any of the information required by this section.

13.3.2 Disclosure of Price Terms. All Grantee promotional materials, announcements, and advertising of residential Cable Services to Subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all promotional materials must clearly and accurately disclose price terms and in the case of telephone orders, a Grantee shall take appropriate steps to ensure that the customer service representatives clearly and accurately disclose price terms to potential customers in advance of taking the order.

13.3.3 Public File. Each Grantee shall maintain a public file containing all notices provided to Subscribers under these customer service standards, as well as all written promotional offers made to Subscribers by the Grantee. Material in the file shall be retained for at least one year after the later of the date of mailing or public announcement of the information contained in a notice.

13.4 Interruptions of Service. A Grantee may intentionally interrupt service on the Cable System only for good cause and for the shortest time possible and, except in emergency situations, only after a minimum of forty-eight (48) hours prior notice to Subscribers and the TOWN of the anticipated service interruption; provided, however, that planned maintenance that does not require more than two (2) hours' interruption of service and that occurs between the hours of 12:00 a.m. and 6:00 a.m. shall not require such notice to Subscribers, and notice to the TOWN may be given no less than twenty-four (24) hours prior to the anticipated service interruption.

13.5 Billing.

13.5.1 Proration of First Billing Statement. A Grantee's first billing statement after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit, made or given by the Subscriber to the Grantee.

13.5.2 Itemization. A Grantee's billing statement must itemize each category of service and equipment provided to the Subscriber and state clearly the charge therefor.

13.5.3 Payment Due Date. A Grantee's billing statement must show a specific payment due date not earlier than ten (10) days after the date the statement is mailed. Any balance not received within thirty (30) days after the due date may be assessed a late fee not exceeding one and one-half percent (1.5%) of the amount due or any higher amount allowed by State law. The late fee shall appear on the following month's billing statement.

13.5.4 In Person Payments. A Grantee must notify the Subscriber that he or she can remit payment in person at the Grantee's office.
in the greater Bangor area and inform the Subscriber of the address of that office.

13.5.5 **No Late Fees for Failures by Grantee.** Subscribers shall not be charged a late fee or otherwise penalized for any failure by a Grantee, including a failure to timely or correctly bill the Subscriber, or failure to properly credit the Subscriber for a payment timely made.

13.5.6 **Credit for Lack or Impairment of Service.** Upon request, the account of any Subscriber shall be credited a prorated share of the monthly charge for the service if said Subscriber is without service or if service is substantially impaired for any reason for a period exceeding six (6) hours during any twenty-four (24) hour period, except where it can be documented that a Subscriber seeks a refund for an outage or impairment which that Subscriber caused, or in the case of a planned outage occurring between the hours of 12:00 midnight and 6:00 a.m. of which the Subscriber had prior notice.

13.6 **Disconnection/Downgrades.**

13.6.1 **Subscriber Termination.** A Subscriber may terminate service at any time.

13.6.2 **Prompt Disconnection or Downgrade on Request:** Charges. A Grantee shall promptly disconnect or downgrade any Subscriber who so requests from the Grantee's Cable System, unless the Subscriber unreasonably hinders access by the Grantee to equipment of the Grantee or the Subscriber's premises to which the Grantee must have access to complete the requested disconnection. No period of notice prior to voluntary termination or downgrade of service may be required of Subscribers by any Grantee. No charge may be imposed for any voluntary disconnection, and downgrade charges must comply with the requirements of federal law. So long as the Subscriber returns equipment necessary to receive a service within five (5) business days of the disconnection, no charge may be imposed by any Grantee for any Cable Services delivered after the date of the request to disconnect.

13.6.3 **Subscriber Return of Equipment.** A Subscriber may be asked, but not required, to disconnect a Grantee's equipment and return it to the business office; provided that if a Subscriber requests that a Grantee pick up the equipment, the Subscriber shall provide reasonable access to the Subscriber's premises during Grantee's business hours to allow the Grantee to retrieve the equipment.

13.6.4 **Refund of Security Deposit.** Any security deposit and/or other funds due the Subscriber shall be refunded on disconnected accounts after the converter has been recovered by the Grantee. The refund process shall take a maximum of thirty (30) days or the next billing cycle from the date disconnection was completed as required herein to the date the customer receives the refund.

13.6.5 **Disconnection for Failure To Pay Fee.** If a Subscriber fails to pay a monthly Subscriber or other fee or charge, a Grantee may disconnect the Subscriber's service outlet; however, such disconnection shall not be effected until at least forty-five (45) days after the due date of the monthly Subscriber fee or other charge and, after ten (10) days' advance written notice of intent to disconnect is given to the Subscriber in question. If the Subscriber pays all amounts due, including late charges before the date scheduled for disconnection, the Grantee shall not disconnect service. Subject to Section 13.6.2, after disconnection, upon payment by the Subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, Grantee shall promptly reinstate service.

13.6.6 **Disconnection for Damage to System or Equipment.** A Grantee may immediately disconnect a Subscriber if the Subscriber is damaging or destroying the Grantee's Cable System or equipment. After disconnection, the Grantee shall restore service after the Subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including reconnect fees, a reasonable security
13.6.7 Disconnection for Signal Leakage. A Grantee may also disconnect a Subscriber that in any way, intentionally or otherwise, causes signal leakage in excess of federal limits. It may do so in accordance with Federal rules and requirements or, if the Subscriber fails to take steps to correct the problem. It may also do so without notice in the event of a danger to the public safety, provided that the Grantee shall immediately notify the Subscriber of the problem and, once the problem is corrected, reconnect the Subscriber without charge.

13.6.8 Removal of Grantee Property. Except as federal law may otherwise provide, if a Subscriber terminates service, a Grantee may offer the Subscriber the opportunity to acquire any wiring located on the premises that is the property of Grantee at replacement cost. If the Subscriber declines to purchase the wiring, the Grantee must remove its property from the Subscriber's premises within seven (7) days, if requested by the Subscriber. If a Grantee fails to remove the wiring in that period, the Grantee shall make no further attempt to remove the wiring or restrict its use.

13.7 Changes in Service. In addition to rights reserved by the TOWN, Subscribers shall have rights with respect to alterations in service. The Grantee may not alter the service being provided to a class of Subscribers (including by retiering, restructuring or otherwise) without the express permission of each Subscriber, unless it complies with this Article. At the time the Grantee alters the service it provides to a class of Subscribers, it must provide each Subscriber thirty (30) days' notice, explain the substance and full effect of the alteration, and provide the Subscriber the right within the thirty (30) day period following notice to opt to receive any combination of services offered by Grantee. Except as federal law otherwise provides, Subscribers may not be required to pay any charge (other than properly noticed rates), including an upgrade or downgrade charge, in order to receive the services selected. No charge may be made for any service or product for which there is a separate charge that a Subscriber has not affirmatively indicated it wishes to receive. Payment of the regular monthly bill does not in and of itself constitute such an affirmative indication.

13.8 Deposits. A Grantee may require a reasonable, non-discriminatory deposit on equipment provided to Subscribers. Deposits shall be placed in an interest-bearing account, and the Grantee shall return the deposit, plus interest earned to the date repayment is made to the Subscriber. Interest will be calculated at the prevailing commercial savings rate on all late payments.

13.9 Recording Subscriber Complaints. A Grantee shall maintain a record of subscribed complaints in accordance with 30-A M.R.S.A. § 3010(4);

a. Every franchisee shall keep a record or log of all written complaints received regarding quality of service, equipment malfunctions, billing procedure, employee attitude and similar matters. These records shall be maintained for a period of 2 years.

b. The record shall contain the following information for each complaint received:

(1) Date, time and nature of the complaint;
(2) Name, address and telephone number of the person
complaining;
(3) Investigation of the complaint;
(4) Manner and time of resolution of the complaint;
(5) If the complaint regards equipment malfunction or
the quality of reception, a report indicating corrective steps taken, with the
nature of the problem stated; and
(6) Consistent with subscriber privacy provisions
contained in the Cable Act and applicable FCC regulations, every Grantee shall
make the logs or records of complaints available to any authorized agent of
any franchising authority having a franchise with that Grantee or any authorized agent of a municipality considering a franchise with that Grantee upon request during normal business hours for on-site review.

13.10 Remedies for Violators. In addition to the remedies set forth elsewhere in this Ordinance and in the Franchise Agreement, subscribers shall have available the remedies provided by 30-A M.R.S.A. § 3010(7).

14.0 RATE REGULATION

14.1 TOWN May Regulate Rates. The TOWN may regulate all rates and charges except to the extent it is prohibited from doing so by law, and if the TOWN does exercise its rate regulatory authority, no rate or charge may be imposed or increased without the prior approval of the TOWN except such rates and charges that the TOWN is prohibited from regulating. Subject to the foregoing, any change made without prior approval is an illegal change, and a Grantee is prohibited from requesting or requiring a Subscriber to pay an illegal rate as a condition of providing service. This section shall not be construed to mean that any Grantee has consented or will consent to subject itself to rate regulation.

14.2 Authority to Adopt Regulations. All rates that are subject to regulation by the TOWN must be reasonable. The TOWN may adopt such regulations, procedures, and standards as it deems necessary to implement rate regulation and may regulate rates by amendment to this Ordinance, by a separate resolution or ordinance, by amendment to a Franchise Agreement, or in any other lawful manner. This section shall not be construed to mean that any Grantee has consented or will consent to subject itself to rate regulation.

14.3 Rate Change.

14.3.1 Advance Notice of Rate Changes. At least thirty (30) days prior to implementing any increases in rates, or changes in channel positions, programming, or service terms or conditions, a Grantee shall provide the TOWN and each Subscriber with written notice describing any such changes it plans to make and the proposed effective dates for the changes. A Grantee shall not be required to provide 30 days' notice of rate decreases or temporary promotional offers that result in lower rates for Subscribers, provided that it has given the TOWN notice of such decreases and offers prior to implementation.

14.3.2 Explanation of Rate Changes. In addition to the required notice, before it alters services or service terms or conditions, a Grantee must provide a reasonably simple and clear written notice explaining the substance and full effect of the alteration, including the effect on rates and service options and the effect of the change on the use of other consumer electronic equipment. Such written notice shall be provided to the TOWN at least thirty (30) days, and to Subscribers at least thirty (30) days, before the change.

14.3.3 Changes Made Without Required Notice Invalid. Any change made without the required 30 days' notice shall be of no force or effect, and a Grantee shall be obligated to refund any increased amount collected without the required 30 days' notice, and to restore service to the prior existing status, at least until the required notice is provided. This subsection shall not limit the right of a Grantee to implement any rate decreases or temporary promotional offers that result in lower rates for Subscribers immediately upon providing written notice of these rate changes to the TOWN. This subsection shall not be interpreted to limit the Town's right to exercise its rate regulation authority under Article 14.1 of this Ordinance, the availability of remedies under applicable laws or regulations, or rights under the customer service standards set forth in Article 13.0 of this Ordinance.
15.1 **Open Books and Records.** The TOWN shall have the right to inspect and copy at any time after reasonable notice during normal business hours at a Grantee's local office, all materials and records of the Grantee relevant to the Town's management of the Public Rights-of-Way and regulation of customer service and consumer affairs including all maps, plans, service complaint logs, performance test results, records of requests for service, computer records, codes, programs, and discs or other storage media and other like material which the TOWN reasonably deems appropriate in order to monitor compliance with the terms of this Ordinance, a Franchise Agreement, or applicable law. A Grantee shall make available to the TOWN, to the best of its ability, the same types of materials which the TOWN deems relevant and which are held by an Affiliate, a cable operator of the Cable System, and any contractor, subcontractor or any person holding any form of management contract for the Cable System. The Grantee is responsible for collecting, to the best of its ability, such requested information and producing it at its offices in the greater Bangor area, and as part of its application it must affirm that it can and will do so. The TOWN shall preserve the confidentiality on proprietary business information of a Grantee or another party provided to the TOWN by the Grantee, to the extent permissible under Maine law. To that end, the Grantee shall clearly identify any proprietary business information that it believes to be entitled to confidential treatment, so that the TOWN may establish appropriate safeguards against improper disclosure. The TOWN shall also have the right to inspect at any time after reasonable notice during normal business hours at a Grantee's local office all materials relevant to the financial condition of the Grantee, including all books, records, receipts, contracts, financial statements, computer records, codes, programs, and discs or other storage media and other like material which the TOWN reasonably deems appropriate in order to monitor compliance with the terms of this Ordinance, a Franchise Agreement, or applicable law. A Grantee shall make available for inspection by the TOWN, to the best of its ability, the same types of materials that the TOWN deems relevant and that are held by an Affiliate, a cable operator of the Cable System, and any contractor, subcontractor or any person holding any form of management contract for the Cable System. The Grantee is responsible for collecting, to the best of its ability, such requested information and producing it at its offices in the greater Bangor area, and as part of its application it must affirm that it can and will do so. The TOWN shall preserve the confidentiality of proprietary business information of a Grantee provided for inspection by the TOWN by the Grantee, to the extent permissible under Maine law. To that end, the Grantee shall clearly identify any proprietary business information that it believes to be entitled to confidential treatment, so that the TOWN may establish appropriate safeguards against improper disclosure.

15.2 **Required Reports.** A Grantee shall file the following with the TOWN in a form acceptable to the TOWN:

15.2.1 **Annual Construction Report.** An annual report setting forth the physical miles of plant construction and plant in operation during the fiscal year shall be submitted to the TOWN. Such report also shall contain any revisions to the System "as built" maps filed with the TOWN. The annual report shall be provided at the time specified in the Franchise Agreement.

15.2.2 **Notices Instituting Civil or Criminal Proceedings.** A Grantee shall provide the TOWN with copies of any notice of deficiency, forfeiture, or other document issued by any state or federal agency instituting any investigation or civil or criminal proceeding regarding the Cable System, the Grantee, or any Affiliate of the Grantee, to the extent the same may affect or bear on operations in the TOWN. A notice that an Affiliate that has a management contract for the Cable System was not in compliance with FCC EEO requirements within the work unit serving the TOWN would be deemed to
affect or bear on operations in the TOWN. This material shall be submitted to
the TOWN at the time it is filed or within five (5) days of the date it is
received.

15.2.3 Bankruptcy Declarations. Any request for protection
under bankruptcy laws, or any judgment related to a declaration of bankruptcy
by the Grantee or by any partnership or corporation that owns or controls the
Grantee directly or indirectly. This material shall be submitted to the TOWN
at the time it is filed or within five (5) days of the date it is received.

15.3 Reports To Be Provided on Request.

15.3.1 Reports Required by FCC. Upon the Town's written
request, a Grantee shall deliver to the TOWN copies of all reports required by
the FCC, including, but not limited to, any proof of performance tests and
results, Equal Employment Opportunity reports, and all petitions, pleadings,
notices, and applications regarding the Cable System, or a group of Cable
Systems of which the Grantee's Cable System is a part, submitted or received
by the Grantee, an Affiliate, or any other Person on the behalf of the
Grantee, either to or from the FCC, or any other federal or state regulatory
commission or agency having jurisdiction over any matter affecting operation
of the Grantee's System, for the time period specified in the Town's request.

15.3.2 Financial Reports. The TOWN may request the
following financial reports for the Franchise Area once per calendar year:

a. An ownership report, indicating all Persons who at
any time during the preceding year did control or benefit from an interest in
the Franchise of five (5) percent or more.
b. An annual income statement showing Subscriber revenue
from each category of service and every source of non-Subscriber revenue.
c. A current annual statement of all capital
expenditures, including the cost of construction and of equipment, used or
placed within the TOWN.
d. An annual list of officers and members of the Board
of Directors of the Grantee and any Affiliates.
e. An organizational chart showing what corporations or
partnerships with more than a five (5) percent interest own the Grantee, and
the nature of that ownership interest (limited partner, general partner,
preferred share holder, etc.); and showing the same information for each
corporation or partnership so identified and so on until the ultimate
corporate and partnership interests are identified.
f. An annual report of each entity identified in Article

15.3.2.e which issues an annual report.

15.3.3 System and Operational Reports. The following
System and operational reports shall be submitted annually upon request of the
TOWN:

a. An annual summary of the previous year's activities
including, but not limited to, Subscriber totals for each category of service
offered, including number of pay units sold, new services offered, and the
amount collected annually from other Users of the System and the character and
extent of the service rendered thereto.
b. An annual projection of System and service plans for
the future.

15.4 Additional Reports. The Grantee shall prepare and
furnish to the TOWN, at a time reasonably prescribed by the TOWN, such
additional reports with respect to its operation, affairs, transactions, or
property as the TOWN may reasonably deem necessary and appropriate to the
performance of any of the rights, functions, or duties of the TOWN in
connection with this Ordinance or the Franchise Agreement.

15.5 Records Required.

15.5.1 Records To Be Maintained. A Grantee shall at all
times maintain and shall deliver to the TOWN upon request, the following
records:
Section 13.9.

a. Records of all complaints maintained pursuant to

b. A full and complete set of plans, records, and "as built" maps showing the exact location of all System equipment installed or in use in the TOWN, exclusive of Subscriber service drops.

c. Records of outages, indicating date, duration, area, and the estimated number of Subscribers affected, type of outage, and cause.

d. Records of service calls for repair and maintenance indicating the date and time service was required, the date of acknowledgement and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved.

e. Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgement, and the date and time service was extended.

15.5.2 Additional Information. The TOWN may request and a Grantee shall promptly provide additional information, reports, records, and documents as may be reasonably required from time to time for the performance by the TOWN of any of its rights, functions, or duties in conversations with this Ordinance or a Franchise Agreement.

15.6 Performance Evaluation.

15.6.1 TOWN Discretion To Hold Public Sessions. The TOWN may, at its discretion, hold scheduled performance evaluation sessions. All such evaluation sessions shall be open to the public.

15.6.2 Announcement of Sessions. All evaluation sessions shall be open to the public and announced in a newspaper of general circulation.

15.6.3 Discussion Topics. Topics that may be discussed at any scheduled or special evaluation session may include, but are not limited to, system performance and construction, Grantee compliance with this Ordinance and a Franchise Agreement, customer service and complaint response, Subscriber privacy, services provided, programming offered, service rate structures, if applicable, Franchise fees, penalties, free or discounted services, applications of new technologies, judicial and FCC filings, and line extensions.

15.6.4 Grantee Cooperation. During the review and evaluation by the TOWN, a Grantee shall fully cooperate with the TOWN and shall provide such information and documents as the TOWN may need to reasonably perform its review.

15.7 Voluminous Materials. If the books, records, maps or plans, or other requested documents are too voluminous, or for security reasons cannot be copied and moved, then a Grantee may request that the inspection take place at some other location, provided that (i) the Grantee must make necessary arrangements for copying documents selected by the TOWN after review; and (ii) the Grantee must pay reasonable travel and additional copying expenses incurred by the TOWN in inspecting those documents or having those documents inspected by its designee, if done outside the greater Bangor area.

15.8 Retention of Records; Relation to Privacy Rights. Each Grantee shall take all steps required, if any, to ensure that it is able to provide the TOWN all information which must be provided or may be requested under this Ordinance or a Franchise Agreement, including by providing appropriating Subscriber privacy notice. Nothing in this Article shall be read to require a Grantee to violate 47 U.S.C. § 551. Each Grantee shall be responsible for blacking out any data that federal or state law prevents it from providing to the TOWN.
16.0 RIGHTS OF INDIVIDUALS PROTECTED


16.1.1 Discrimination Prohibited. A Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, programmers, or residents of the TOWN on the basis of race, color, religion, national origin, sex, age, physical handicap, or on any other basis prohibited by federal or state law. This provision is not intended to require a Grantee to provide any equipment or service free of charge to any Subscriber, unless such equipment or service is provided free in a manner that discriminates among Subscribers in a manner that is prohibited by state or federal law, or unless the provision of free equipment or service is required by state or federal law.

16.1.2 Discrimination for Exercise of Right Prohibited. A Grantee shall not discriminate among Persons or take any retaliatory action against a Person because of that Person's exercise of any right it may have under federal, state, or local law, nor may the Grantee require a Person to waive such rights as a condition of taking service.

16.1.3 Differential Rates Based on Subscriber Income Prohibited. A Grantee shall not deny access or levy different rates and charges on the residents of any particular geographical area because of the income of the residents of that geographical area.

16.1.4 Rate Preferences Prohibited. Except to the extent the TOWN may not enforce such a requirement, a Grantee is prohibited from discriminating in its rates or charges or from granting undue preferences to any Subscriber, potential Subscriber, or group of Subscribers or potential Subscribers, provided, however, that a Grantee may offer temporary, bona fide promotional discounts in order to attract or maintain Subscribers, so long as such discounts are offered on a non-discriminatory basis to similar classes of Subscribers throughout the TOWN; a Grantee may offer discounts for the elderly, the handicapped, or the economically disadvantaged, and such other discounts as it is expressly entitled to provide under federal law, if such discounts are applied in a uniform and consistent manner, and a Grantee may enter into bulk service agreements with multiple dwelling unit owners, if the rates under such agreements are established and applied in a uniform and consistent manner. A Grantee shall comply at all times with all applicable federal, state, and local laws, and all executive and administrative orders relating to non-discrimination.

16.2 Equal Employment Opportunity. A Grantee shall not refuse to employ, discharge from employment, or discriminate against any Person in compensation or in terms, conditions, or privileges of employment because of race, color, religion, national origin, sex, age, or any other basis prohibited by federal or state law. A Grantee shall comply with all federal, state, and local laws and regulations governing equal employment opportunities.

16.3 Subscriber Privacy.

16.3.1 Grantee Shall Protect Subscriber Privacy. A Grantee shall at all times protect the privacy of all Subscribers pursuant to the provisions of Section 631 of the Cable Act, 47 U.S.C. § 551, and 30-A M.R.S.A. § 3010(6-A). A Grantee shall not condition Subscriber service on the Subscriber's grant of permission to disclose information which, pursuant to federal or state law, cannot be disclosed without the Subscriber's explicit consent.

16.3.2 Selling Subscriber Information Prohibited. Neither a Grantee nor its agents or employees shall, without the prior and specific written authorization of the Subscriber involved, sell or otherwise make available for commercial purposes the names, addresses, or telephone numbers of any Subscriber or Subscribers, or any information that identifies the individual viewing habits of any Subscriber or Subscribers.
17.1 Compliance With Laws. A Grantee shall comply with all applicable federal, state, and local laws and regulations as they become effective, unless otherwise stated.

17.2 Force Majeure. A Grantee shall not be deemed in default with provisions of its Franchise where performance was rendered impossible by war or riots, civil disturbances, floods, or other natural catastrophes beyond the Grantee's control, and a Franchise shall not be revoked or a Grantee penalized for such noncompliance, provided that the Grantee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with its Franchise without unduly endangering the health, safety, and integrity of the Grantee's employees or property, or the health, safety, and integrity of the public, Public Rights-of-Way, public property, or private property.

17.3 Connections to System; Use of Antennae.

17.3.1 Subscriber Right to Attach Devices. Subscribers shall have the right to attach devices to a Grantee's System to allow them to transmit signals or services for which they have paid to VCR's receivers, and other terminals provided that such terminals are located within the Subscriber's premises, and provided that such transmissions do not result in interference with the operations of Grantee's System, or violations of signal leakage compliance standards. Subscribers also shall have the right to use their own legally acquired remote control devices and tuners, and other similar equipment, and a Grantee shall provide information to consumers which will allow them to adjust such devices so that they may be used with the Grantee's System.

17.3.2 Requiring Disconnection of Antennae Prohibited. A Grantee shall not, as a condition of providing service, require a Subscriber or potential Subscriber to remove any existing antenna, or disconnect an antenna except at the express direction of the Subscriber or potential Subscriber, or prohibit or discourage a Subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes.

17.4 Calculation of Time. Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

17.5 Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which has been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the TOWN and shall thereafter be binding on the Grantee and the TOWN.

17.6 Captions. The captions and headings of this Ordinance are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Ordinance.

PASSED AND ADOPTED this 18th day of August, 1997

Approved: ________________________________
Mayor, Hampden Town Council

ATTEST: ________________________________
Town Clerk
CONCOURSE GATHERING ORDINANCE
TOWN OF HAMPTON, MAINE
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ADOPTED: Hampden Town Council July 24, 1978
Effective Date: August 24, 1978

AMENDED: Hampden Town Council November 17, 2003
Effective Date: December 17, 2003
CONCOURSE GATHERING ORDINANCE
TOWN OF HAMPDEN, MAINE

ARTICLE 1
GENERAL ADMINISTRATION

1.1. Title. This ordinance shall be known and may be cited as the “Concourse Gathering Ordinance of the Town of Hampden, Maine,” and will be referred to herein as “this Ordinance”.

1.2. Purpose. The purposes of this ordinance are to further the maintenance of safe and healthful conditions for the masses of people which attend public outdoor gatherings for an extended period of time and to assure the comfort, convenience, safety, health and welfare of the citizens of the Town of Hampden, Maine and surrounding communities.

1.3. Definitions. In general, words and terms used in this ordinance shall have their customary dictionary meanings. For the purpose of this ordinance, certain words and terms are defined as follows:

Concourse: An outdoor space where crowds of people may gather.

Concourse Gathering: A gathering of 200 or more persons for an extended period of time in an outdoor space.

Concourse Gathering Permit: A permit is required by this ordinance.

Extended Period of Time: A duration of time greater than 20 hours. Such time will include eight (8) hours before and eight (8) hours after the scheduled times of the permit.

Gathering of People: An accumulation of people attending an event such as an amusement show, music festival, theatrical performance or pageant.

Municipality: A city, town or other district having local self-government. The specific meaning of the word “municipality” used herein would be the Town of Hampden, Maine.

Parking Space: As defined in State laws.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind.

1.4. Separability. The invalidity of any provision of this ordinance shall not invalidate any other part.

1.5. Effective Date. This ordinance shall take effect and be in force thirty (30) days after it is enacted by the voters of the Town of Hampden, Maine.

The effective date of this ordinance is August 24, 1978.

ARTICLE 2
STANDARDS OF ISSUANCE

2.1. Factors Applicable to Issuance of Permit. The municipal officers shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may
otherwise be obtained, they find that:

1. The conduct of such gathering of people will not interfere with the movement of fire fighting equipment enroute to a fire.

2. The concentration of persons, animals, and vehicles at the concourse gathering site will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas or within the concourse area.

3. Control over the concourse gathering will be such that the entire group of people understand that this ordinance does not grant any property rights, it does not authorize any person to trespass, it does not authorize any person to infringe upon or injure the property of another, it does not excuse any person of the necessity of complying with other laws and regulations.

4. The conduct of such gathering of people will not create a fire hazard such as to grassland or woodland.

2.2. **Water Supply.** The water supply shall be adequate, of a safe, sanitary quality and from a source approved by the Town of Hampden Plumbing Inspectors

2.2.1. *Inspection of Water Supplies.* All water supplies shall be subject to inspection at all times by the Town of Hampden Plumbing Inspector. Water from such sources shall not be used or supplied to the public unless samples therefrom have been tested and approved by the State of Maine Department of Health and Welfare within the preceding six (6) months. A copy of the water analysis shall be available on the premises.

2.2.2. *Distribution of Water Supply.* Supplies of safe, sanitary, portable water shall be located throughout the concourse gathering area at reasonable intervals or sequence. The volume of water available at these locations shall be such that it will serve each person a minimum of one and one half gallons per day. There shall be an adequate number of spigots, drinking cups, and dispensers provided at these water supply locations.

2.3. **Off Street Parking Facilities.** Adequate off street parking facilities shall be provided and shall be subject to approval of the Town of Hampden Road Commissioner.

2.3.1. *Parking Facilities Per Person.* Off street parking facilities shall be provided at a minimum rate of one parking space for each four (4) persons reasonably expected to attend.

2.3.2. *Parking Facility Entrances.* All entrances to the off street parking facility from a public street shall be approved by the Town of Hampden Road Commissioner or the State of Maine Department of Transportation or both. Any expense involved with the provision of these entrances shall be born by the permittee.

2.3.3. *Traffic Officers.* Traffic officers shall be provided, at each off street parking entrance during periods of substantial use. It shall be the obligation of the permittee to provide said traffic officers and bear any and all expenses involved.

2.4. **Sanitation Facilities.**

2.4.1. *Solid Waste Containers.* Solid waste containers constructed of metal, wood, or plastic shall be located throughout the concourse gathering area at a reasonable interval for the disposal of material
such as paper, cans, bottles, and garbage. These containers shall be emptied of all their contents at least every six (6) hours or when full, which ever comes first. The material from these containers shall be disposed of by removal from the gathering site and taken to a municipal dump.

2.4.2. Toilet Facilities. Separate male and female toilet facilities shall be provided at the rate of one toilet seat for each forty persons. One third of the male facilities may consist of urinals. Hand washing provisions shall be available at each toilet facility and shall consist of stored water in containers equipped with spring operated spigots, soap dispensers, and paper towels. Adequate provision for the disposal of hand washing waste water shall be made such as by dry wells or soakage pits.

2.4.3. Inspection of Sanitary Facilities. All sanitary facilities shall be subject to inspection at all times by the Town of Hampden Plumbing Inspector.

2.5. Medical Facilities. A first aid facility shall be provided. This facility shall consist of a structurally stable enclosure and stocked with medical supplies sufficient to administer necessary medical attention to the number of people attending the concourse gathering.

2.5.1. Registered Nurses. The first aid facility shall be staffed with a minimum of two Registered Nurses certified by the State of Maine.

2.5.2. Ambulance Vehicles. A minimum of two vehicles, in a safe and good running condition, shall be available at all times (with a driver for each vehicle) to be used as ambulances.

2.5.3. Inspection of First Aid Facility. The first aid facility shall be subject to inspection at all times by the State of Maine Department of Human Services and the Town of Hampden Civil Emergency Preparedness Director.

2.6. Dining Facilities. A reasonable number of outdoor fireplaces and tables shall be provided throughout the concourse gathering area.

2.7. Fire Prevention Facilities. Fire prevention facilities shall be provided throughout the concourse gathering area. Equipment such as fire extinguishers, spades, brooms, sand and water shall be provided.

The fire prevention facilities shall be approved by the Town of Hampden Fire Chief and shall be subject to inspection at all times by the Town of Hampden Fire Chief.

ARTICLE 3
PERMIT PROCEDURE

3.1. Permit Required. No person shall engage in, participate in, aid, form, or start any concourse gathering unless a concourse gathering permit shall have been obtained from the municipal officers.

3.1.1. Governmental Agencies Exempted. This ordinance shall not apply to any governmental agency acting within the scope of its functions.

3.1.2. Boy Scouts and Girl Scouts of America Exempted. This ordinance shall not apply to outdoor outings concerned with the Boy Scouts of America or the Girl Scouts of America, in performance of their normal Scout activities.

3.2. Permit Application. A person seeking issuance of a concourse gathering permit shall file an application with the municipal officers.
3.2.1. **Filing Period.** An application for a concourse gathering permit shall be filed with the municipal officers not less than twenty one (21) days nor more than sixty (60) days before the date on which it is proposed to commence the event.

3.2.2. **Authorization.** If the concourse gathering is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such concourse gathering permit shall file with the municipal officers a communication in writing from the person proposing to hold the concourse gathering event authorizing the applicant to apply for the permit on his behalf.

3.3. **Information Included on Application.** The application for a concourse gathering permit shall set forth the following information:

1. The name, address, and telephone number of the person applying to conduct such event requiring a concourse gathering permit.

2. If the concourse gathering event is proposed to be conducted for on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization, and the names, addresses, and telephone numbers of the authorized and responsible officials of such organization.

3. The name, address, and telephone number of the person or persons providing the site or sites for the concourse gathering event to be held.

4. A written statement from the property owner or owners providing the site or sites for the concourse gathering event stating that he authorizes the use of his land for such event.

5. The name, address, and telephone number of the person who will be the chairman of the event and who will be responsible for its conduct.

6. The commencing date of the concourse gathering and the termination date of the concourse gathering.

7. The location or locations of the Concours gathering event.

8. The number of persons who, the number and kind of animals which, and the number and types of vehicles which are expected to attend and/or take part in the concourse gathering event.

9. A Plan View Drawing of the site or sites specifically showing the location and size of the site, location and extent of water supply facilities, location and extent of sanitary facilities, location and extent of fire protection facilities, location and extent of first aid facilities, location and extent of dining facilities, location and extent of off street parking facilities, and other pertinent data.

10. A corporate surety bond from a company authorized to do business in the State of Maine insuring that after the event is over and the mass of people have vacated the site or sites the grounds shall be left in a clean and neat fashion, and damages to public and/or private property arising out of or in connection with the event will be paid promptly. Such bond shall be in the amount of five thousand dollars ($5,000.00) for each one thousand (1,000) persons or fractional part thereof, expected to be in attendance.

The municipal officers may request any additional information which is deemed reasonably necessary for a fair determination to issue a concourse gathering permit.
3.4. **Fee.** There shall be paid at the time of filing the application for a concourse gathering permit a fee in accordance with the Town of Hampden Fees Ordinance. *(Amended: 11-17-03)*

3.5. **Notice of Rejection.** The application must be presented at least five (5) days prior to the next regularly scheduled Town Council meeting. Action to be taken by the Town Council within thirty (30) days of said regular meeting, and notification of the decision to be sent to the applicant stating the reason for the denial.

3.6. **Appeal Procedure.** Any person aggrieved by the denial of the municipal officers to issue a concourse gathering permit shall have the right to appeal the denial of concourse gathering permit to the Penobscot County Superior Court. The appeal shall be taken within seven (7) days after notice.

3.7. **Notice to Town Officials and Other Officials.** Immediately upon issuance of a concourse gathering permit, the municipal officers shall send a copy thereof to the following:

1. The Town Manager
2. The Town Attorney
3. The Fire Chief
4. The Police Chief
5. The Municipal Officers of:
   a. The City of Bangor
   b. The Town of Hermon
   c. The Town of Newburgh
   d. The Town of Winterport

3.8. **Contents of Permit.** Each concourse gathering permit shall state the following information:

1. Starting Date and Time
2. Ending Date and Time
3. Location
4. Such other information as the municipal officers shall find necessary to the enforcement of this ordinance.

3.9. **Duties of Permitee.** A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

The concourse gathering chairman or other person heading such activity shall carry the permit upon his person during the conduct of the concourse gathering.
ARTICLE 4
MISCELLANEOUS REGULATIONS

4.1. Public Conduct During Concourse Gathering. No person shall unreasonably hamper, obstruct, impede, or interfere with any legally authorized concourse gathering or with any person, vehicle, or animal participating in, or involved with, such conourse gathering.

4.2. Revocation of Permit. The municipal officers shall have the authority to revoke a conourse gathering permit issued hereunder upon application of the standards for issuance herein set forth.

4.3. Release of Corporate Surety Bond. Before a permiitee may be released from any obligation required by his corporate surety bond, the municipal officers will require from the Town Manager, and whatever other agencies may be involved, certification that the conourse gathering site or sites have been satisfactorily cleaned up and that all damages to public and private property have been settled.

ARTICLE 5
ENFORCEMENT

5.1. Penalties. Any person, firm, or corporation convicted of violating any of the provisions of this ordinance shall be fined an amount not exceeding five hundred dollars ($500.00) per day for each violation of this ordinance.
TOWN OF HAMPDEN, MAINE
CONSUMER FIREWORKS ORDINANCE

ADOPTED: Hampden Town Council, June 3, 2013
Effective Date: July 3, 2013

CERTIFIED BY: __________________________________________
Denise Hodsdon, Town Clerk

Affix Seal

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ARTICLE 1:
PURPOSE

1.1 Purpose. This Ordinance regulates the use of consumer fireworks to ensure the public health, safety and welfare of the residents and property owners of the Town of Hampden and of the general public.

ARTICLE 2:
TITLE AND AUTHORITY

2.1 Title and Authority. This Ordinance shall be known as the "Town of Hampden Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S. § 3001, and the provisions 8 M.R.S. § 223-A.

ARTICLE 3:
DEFINITIONS

3.1 Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

A. Missile-type rockets, as defined by the State Fire Marshal by rule;

B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Display – means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects. “Display” includes a “special effects display” as defined in 8 M.R.S. §221-A(10).

Fireworks – means any:

A. Combustible or explosive composition or substance;

B. Combination of explosive compositions or substances;
C. Other article that was prepared for the purpose of producing visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, and other fireworks of like construction;

D. Fireworks containing any explosive or flammable compound;

E. Tablets or other device containing any explosive substance or flammable compound.

The term “fireworks” does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

Red Flag Warning – A term designated by the NOAA’s National Weather Service (www.weather.gov) and used by fire-weather forecasters to call attention to limited weather conditions of particular importance that may result in extreme burning conditions. The warning is issued when it is an ongoing event or the fire weather forecaster has a high degree of confidence that the Red Flag criteria will occur within 24 hours of issuance. Red Flag criteria occurs whenever a geographical area has been in a dry spell for a week or two, or for a shorter period, if before spring green-up or after fall color, and the National Fire Danger Rating System (NFDRS) is high to extreme and the following forecast weather parameters are forecasted to be met: 1) a sustained wind average 15 miles per hour or greater, 2) a relative humidity less than or equal to 25 percent and 3) a temperature of greater than 75 degrees F. In some states, dry lightning and unstable air are criteria. A Fire Weather Watch may be issued prior to the Red Flag Warning.

ARTICLE 4:
USE OF CONSUMER FIREWORKS RESTRICTED

4.1 Limits on Hours and Dates. A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Hampden or in or from any watercraft within waters of the Town except during the following times:

between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following days:

a) July 4th;

b) December 31st; and

c) The weekends immediately before and after July 4th and December 31st.
4.2 Limits on Locations. A person may use, display, fire, or cause to be exploded consumer fireworks only on that person’s property or on the property of a person who has consented to the use of consumer fireworks on that property.

4.3 Cessation After Multiple Complaints. Upon complaints from multiple households to Hampden’s Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about immediately cease the use, display, firing, or explosion of consumer fireworks for a 12 hour period from the time of notification to cease if the official determines that any such activity disturbs the quiet, comfort or repose of any reasonable person located within or upon any residential premises.

4.4 Cessation After Single Complaint. Upon complaint from a single household to Hampden’s Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about cease the use, display, firing, or explosion of consumer fireworks if in the judgment of the official the complainant has special aggravating circumstances such as a sick family member or the presence of animals in the area and the propensity of such animals to suffer adverse health effects from exposure to the noise accompanying fireworks, or, as a result of fear resulting from exposure to such noise, may endanger others. The length of the cessation required will be at the discretion of the Public Safety Director or designee. In instances where the required cessation extends beyond the 12 hour period from the time of notification to cease, the person(s) complained about will be provided with the cessation order in writing.

4.5 Red Flag Warning. A person may not use, display, fire or cause to be exploded consumer fireworks on days that are designated by the Maine Forest Service and or NOAA as Red Flag Warning days. It is the sole responsibility of persons using consumer fireworks to ascertain the fire danger rating for the day that the consumer fireworks are used.

4.6 Collateral Debris on Neighboring Properties and Right of Ways. A person may not use, display, fire or cause to be exploded consumer fireworks in a manner that does not contain all falling debris from the fireworks to the user’s property.

4.7 Visible Intoxication or Impairment. A person may not use, display, fire or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs.

ARTICLE 5:
VIOLATION AND ENFORCEMENT

5.1 Penalty For Violation. Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than one hundred dollars ($100.00) and not more than five hundred dollars ($500.00) plus attorney’s fees and costs to be recovered by the Town of Hampden for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

5.2 Enforcement. This Ordinance shall be enforced by the Town of Hampden Police Department.
5.3 *Injunction.* In addition to any other remedies available at law or equity, the Town of Hampden, acting through its Town Manager, may authorize an attorney apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

5.4 *Seizure & Disposal Of Consumer Fireworks.* The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

ARTHICLE 6:
EXCEPTIONS

6.1 *Exceptions.* This Ordinance does not apply to any person(s) who has obtained a permit under 8 M. R. S. §227-A to conduct a display of fireworks.

ARTICLE 7:
SEVERABILITY

7.1 *Severability.* In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.
# TOWN OF HAMPDEN, MAINE
## E911 ADDRESSING ORDINANCE

**ENACTED DATE:** AUGUST 19, 2013  
**EFFECTIVE DATE:** SEPTEMBER 18, 2013

**CERTIFIED BY:**  
Denise R. Hodsdon  
Town Clerk

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ARTICLE 1.
TITLE

1.1 Title. This Ordinance shall be known as the "Addressing Ordinance."

ARTICLE 2.
PURPOSE

2.1 Purpose. The purpose of this Ordinance is to enhance the easy and rapid location of structures by law enforcement, fire, rescue, and emergency medical services personnel in the Town of Hampden.

ARTICLE 3.
AUTHORITY

3.1 Authority. This ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

ARTICLE 4.
DEFINITIONS

4.1 Construction Language. In this Ordinance, certain terms or words shall be interpreted as follows: The word "person" includes a firm, association, organization, partnership, trust, company, corporation or other legally recognized entity, as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory; the word "structure" includes the word "building" and the word "dwelling" includes the word "residence", the word "parcel" includes the words "lot" or "plot". In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. Terms not defined shall have the customary dictionary meaning.

4.2 Definitions. In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Road: A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare serving three or more structures. A road name assigned by the municipality in accordance with this ordinance shall not constitute or imply Town acceptance of the road as a public way or Planning Board approval as a feature of a subdivision plan.
ARTICLE 5.
ADMINISTRATION

5.1 Administration. This Ordinance shall be administered by the designated e911 Addressing Officer who is authorized to and shall assign and/or approve road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Articles 6 and 7. The Addressing Officer shall be responsible for maintaining the following official records of this ordinance:

a) A municipal map(s) for official use showing road names and numbers.
b) An alphabetical list of all property owners as identified by current tax records, by last name, showing the assigned numbers.
c) An alphabetical list of all roads with property owners listed in order of their assigned numbers.

The Town Manager shall designate an Addressing Officer, who is responsible for and authorized to provide all required addressing and database information to the state agency responsible for the implementation of Enhanced 9-1-1 service.

ARTICLE 6.
ROAD NAMING SYSTEM

6.1 Road Naming System. All roads that serve three or more structures shall be named regardless of whether the ownership is public or private. A road name assigned by the municipality shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

a) No two roads shall be given the same name (ex. Pine Road and Pine Lane).
b) No two roads shall have similar-sounding names (ex. Beech Lane and Peach Lane).
c) Each road shall have the same name throughout its entire length located within the boundaries of Hampden. Roads that continue through into an adjacent town may change names at the town border.

ARTICLE 7.
NUMBERING APPLICATION PROCESS AND NUMBERING SYSTEM

7.1 Numbering Criteria. The following criteria shall govern the numbering system:

7.1.1 Numbers shall be assigned to structures only. This includes but is not limited to: single or multi-family dwellings, camps, businesses, apartments, mobile homes, construction site office trailers. This process is initiated when a building permit application is pulled, so that numbers are assigned to structures being built, and not at the end of the construction period.
7.1.2 Numbers shall be assigned every 50 (fifty) feet along both sides of the road regardless of zone or location in town, with even numbers appearing on the right side of the road and odd numbers appearing on the left side of the road, as the numbers ascend.

7.1.3 All number origins shall begin from the intersection of Route 9 (Western Avenue) and Route 1A (Main Road North) or that end of a road closest to the designated origin. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

7.1.4 The number assigned to each structure shall be that of the numbered interval falling closest to the driveway of said structure.

7.1.5 Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy, i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Road, Apt 2.

7.1.6 Parcels with more than one structure, such as a mobile home park or group development, shall be assigned unique addresses that make the most logical sense to each situation. Each structure shall be identified by a unique number. For example, 235 Maple Road, Lot 1 or 235 Maple Road, Unit 1.

7.2 Numbering Application Process. Numbers will be assigned when an applicant fills out and submits a “Driveway Entrance/e911 Address” application available at the town office. This application can be completed as a stand-alone application for an already-existing structure, or as part of the building permit application process for new structures. Applicants must adhere to all terms of the application, including staking and flagging the proposed or existing driveway entrance. The Addressing Officer will then GPS the staked/flagged location, process the GPS data, and scale out and assign an appropriate number.

ARTICLE 8.
COMPLIANCE

8.1 Compliance. All owners of structures shall display and maintain in a conspicuous place, assigned numbers in the following manner:

a) Number at the Road Line. The assigned number shall be displayed on a post, fence, wall, mail box, or on some structure adjacent to the walk or access drive to the residence or structure.

b) Size, Color, and Location of Number. Numbers shall be of a color that contrasts with their background color and shall be a minimum of four (4) inches in height. Numbers shall be located to be visible from the road at all times of the year.

c) Proper number. Every person whose duty is to display an assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this Ordinance.
d) Interior location. All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.

ARTICLE 9.
NEW CONSTRUCTION, NEW SUBDIVISIONS, AND NEW ROADS

9.1 New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Addressing Officer. This shall be done at the time of the issuance of the building permit.

9.2 New Subdivisions. Any prospective subdivider shall show a proposed road name system on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Addressing Officer, shall constitute the assignment of road names in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 feet so as to aid in the assignment of numbers to structures subsequently constructed.

9.3 New Roads. Any prospective new roads not serving a new subdivision shall show a proposed road name on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Addressing Officer, shall constitute the assignment of road names. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 feet so as to aid in the assignment of numbers to structures subsequently constructed.

ARTICLE 10.
EFFECTIVE DATE

10.1 Effective Date. This Ordinance is not retroactive. Pursuant to Section 213(c) of the Town Charter, this Ordinance shall become effective at the expiration of 30 days after its adoption by the Town Council. It shall be the duty of the Addressing Officer to notify each property owner and the U.S. Postal Service of any new addresses assigned after the effective date of this ordinance.

ARTICLE 11.
ENFORCEMENT AND CIVIL PENALTY

11.1 Enforcement. The Addressing Officer has the authority to enforce the provisions of this Ordinance, as well as any officer of the Public Safety Department. If the Addressing Officer finds that any provision of this Ordinance has been violated, the Officer shall notify the property owner(s), or other person(s) responsible, in writing of the nature of the violation and the corrective action required. If the corrective action is not completed within 15 days of the issuance of the notice, the Town Manager, upon notice from the Addressing Officer, may authorize any and all actions and proceedings that may be available or necessary to enforce the provisions of this Ordinance.
11.2 Civil Penalty. Any person who violates any provision of this Ordinance commits a civil violation, and shall be subject to relief and a civil penalty in accordance with 30-A M.R.S. A. §4452, as may be amended or replaced from time to time. Each day that a violation continues shall constitute a separate violation. If the Town is the prevailing party in an enforcement action, it shall be entitled to its costs, expert witness fees, and reasonable attorney’s fees.

ARTICLE 12.
SEVERABILITY

12.1 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
TOWN OF HAMPDEN

EDYTHE L. DYER COMMUNITY LIBRARY ORDINANCE

Adopted
May 16, 1983

TOWN OF HAMPDEN, MAINE
EDYTHE L. DYER COMMUNITY LIBRARY ORDINANCE

CERTIFIED BY:

[Signature]
Paula Scott, Town Clerk
<table>
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<td>November 01, 2017</td>
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SECTION III VALIDITY; REPEALER AND EFFECTIVE DATE ................. 3
EDYTHE L. DYER COMMUNITY LIBRARY ORDINANCE

Enactment: Pursuant to the provisions of the charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, THE TOWN OF HAMPDEN HEREBY ORDAINS that there is established a public library, to be known as the Edythe L. Dyer Community Library, to be organized, administered and governed in accordance with the following provisions:

SECTION I - ESTABLISHMENT

The Edythe L. Dyer Community Library is established as a department of the town, and shall be administered consistent with its role as such.

SECTION II - ORGANIZATION AND ADMINISTRATION

Section 2.1 Library Director

a. Position - There is hereby authorized and established the position of Library Director. This position shall be included in the Personnel Classification and Compensation Plan for the Town of Hampden.

b. Appointment – The Library Director shall be appointed by the Town Manager in consultation with the Board of Trustees, subject to confirmation by the Town Council and consistent with the personnel rules of the Town and the Town Charter.

c. Duties – The Library Director shall have the responsibility for the daily operation and management of the Library as a department of the Town and consistent with the personnel rules of the Town and the Town Charter. The Library Director shall make a periodic report to the Town Manager at such frequency as s directed as to the business of the Library for the period since the last report. The Library shall be operated and managed subject to the directives of the Town Manager and consistent with the policies and rules and regulations promulgated by the Board of Trustees.

The Library Director shall be a member, ex-officio of the Board of Trustees.

Section 2.2 - Board of Trustees

a. Appointment Term - The Board of Trustees of the library shall consist of 9 persons, appointed by the Town Council. The trustees shall serve staggered three (3) year terms. No member of the Town Council may serve on the Board of Trustees.

b. Duties; Function - The Board of Trustees shall have the responsibility for establishing Library policies, authorizing the expenditures of Library funds and, consistent with the position of the Library as a town department, shall otherwise assume responsibility for operation and administration of the Library. The Board of Trustees shall have the power to adopt such reasonable rules and regulations for the management and administration of the Library as it deems appropriate, including the power to establish fines and penalties for violation of said rules and regulations. The Board shall meet regularly. The Board shall adopt its own bylaws and at an annual meeting shall elect a Chair, Vice-Chair, and Treasurer. The Board may also create an Executive Committee, consisting of three members of the Board of Trustees, one of which shall be Chair, to which certain of the responsibilities of the Board may be delegated. Such rules or regulations for
management and administration of the Library as the Board adopts shall be promptly reported to the Town Manager. The Town Manager and Town Mayor are members ex-officio of the Board of Trustees, and in the event the Board chooses to create an Executive Committee, the Town Manager shall be an ex-officio member of said committee. The Board of Trustees shall also make recommendations to the Town Manager as to nominations for membership to the Board. The Board of Trustees shall have the authority to name various persons to the Board of Trustees as honorary members of the Board as it deems appropriate, but only by a majority vote of the membership of the entire Board. Honorary Trustees may participate in meetings of the full Board of Trustees but may not vote and shall have no authority as to the administration of the Library, which is hereby granted to the Board of Trustees. The Board of Trustees may also accept gifts and donations to the Library either in trust or outright, and may act as trustee of any donations or gifts in trust. In the event the Board accepts any gifts or donations in trust it shall at all times be consistent with the terms of the trust or gift. The responsibility of the Board for gifts or donations in trust may not be delegated to a lesser committee of the Board.

SECTION III - VALIDITY, REPEALER AND EFFECTIVE DATE

Section 3.1 - Validity; Conflict of Laws; Effective Date

a. Validity - Should any section or provisions of this ordinance be declared by a court of competent jurisdiction to be invalid, such determination of invalidity shall not invalidate or affect any other section or provision of this ordinance, and to that end the provisions of this ordinance are declared to be severable.

b. Repealer - All ordinances, resolutions, orders and votes of the Town of Hampden, by whatever governing body enacted, and which relate to the creation of a public library in the Town of Hampden, are hereby repealed to the extent they are inconsistent with this ordinance.

c. Effective Date - The effective date of this ordinance shall be thirty (30) days after adoption by the Town Council.
The Town of Hampden hereby ordains that the following ordinance be adopted:

EXCISE TAX REFUND ORDINANCE OF THE TOWN OF HAMPDEN

Title and Authority: This ordinance shall be known as the Excise Tax Refund Ordinance of the Town of Hampden. It is adopted pursuant to the authority created by 36 MRSA ss1482(7).

Purpose: The purpose of this ordinance is to provide equitable rebate of the excise taxes paid to the Town of Hampden for an annual duration with respect to leased Special Mobile Equipment as defined in 29-A MRSA ss101(70) when the registration for that property has been voluntarily surrendered and its use on the roadways of this state is discontinued within the annual excise tax period.

Procedure: After the effective date of this ordinance and pursuant to 36 MRSA ss1482(7), the Excise Tax Collector is directed to prepare for the Treasurer’s Warrant an excise tax refund check, to be approved by the municipal officers, according to all of the conditions of this section.

A. The excise tax refund check must be issued in the name of the registrant of the leased special mobile equipment as defined in 29-A MRSA ss101(70) who is on record for paying to the Town of Hampden the annual excise tax for same equipment.

B. The excise tax refund check must not be issued unless the registrant provides sufficient evidence to the Tax Collector that the registration had been voluntarily surrendered and canceled pursuant to 29-A MRSA ss410. The submission of such evidence shall be considered an application for the excise tax refund check. The application for the excise tax refund check must be presented to the tax collector no later than 30 days after the effective date of the cancellation of the registration.

C. The excise tax refund check must be made out in the amount that is the percentage of the annual excise tax which was actually paid to the Town of Hampden on the leased special mobile equipment, which percentage represents the number of full months remaining in the year of the cancelled registration.
Effective Date: Pursuant to Section 213(c) of the Town Charter, this Ordinance shall become effective at the expiration of 30 days after its adoption by the Town Council.

ADOPTED: 01/07/2002
EFFECTIVE: 02/06/2002
TO: Hampden Town Council  
FROM: Sue Lessard, Town Manager  
DATE: 8/15/07  

The legislature passed a law this last session which allows a municipality to refund excise tax in the case where a person takes a credit for a former vehicle against a new registration and the excise amount on the credit is more than the new excise. Up until this law passed, that amount was not refunded. The Town is not required to do this if the municipal officers vote not to do so and I am requesting that we keep things as they are now.

The cost of this program is additional time, postage, checks and processing on the part of the staff. The way the law reads, if we do it for one, it has to be done in every instance. In many cases the cost of processing would exceed the value of the reimbursement. In addition, people moving into this municipality who transfer vehicles would end up getting a refund from us and never having paid the excise here in the first place. Following this item on the tax collector/clerk list serve indicates that municipalities in general are not endorsing this.
## TOWN OF HAMPDEN, MAINE

### FEES ORDINANCE

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**Adopted:**
- Hampden Town Council October 20, 1986
  Effective: November 19, 1986

**Amended:**
  Effective: January 5, 1988
- Hampden Town Council March 21, 1991
  Effective: April 21, 1991
- Hampden Town Council July 6, 1993
  Effective: August 5, 1993
- Hampden Town Council December 20, 1993
  Effective: January 19, 1994
- Hampden Town Council May 6, 1996
  Effective: June 6, 1996
- Hampden Town Council February 7, 1998
  Effective: March 18, 1998
- Hampden Town Council November 17, 2003
  Effective: December 17, 2003
- Hampden Town Council March 21, 2005
  Effective: April 20, 2005
- Hampden Town Council April 4, 2005
  Effective: May 4, 2005
- Hampden Town Council October 6, 2008
Effective: November 5, 2008

AMENDED: Hampden Town Council June 15, 2009
Effective: July 15, 2009

AMENDED: Hampden Town Council August 3, 2009
Effective: September 2, 2009

AMENDED: Hampden Town Council January 19, 2010
Effective: February 18, 2010

AMENDED: Hampden Town Council September 19, 2011
Effective: October 19, 2011

AMENDED: Hampden Town Council April 23, 2012
Effective: May 23, 2012

AMENDED: Hampden Town Staff, November 27, 2012
Effective: December 27, 2012

AMENDED: Hampden Town Council, April 22, 2014
Effective: May 22, 2014

AMENDED: Hampden Town Council, September 2, 2014
Effective: October 2, 2014

AMENDED: Hampden Town Council, December 1, 2014
Effective: December 31, 2014

AMENDED: Hampden Town Council, February 16, 2016
Effective March 17, 2016

AMENDED: Hampden Town Council, April 19, 2016
Effective May 19, 2016

AMENDED: Hampden Town Council, May 16, 2016
Effective June 16, 2016

AMENDED: Hampden Town Council, September 8, 2016
Effective October 8, 2016

AMENDED: Hampden Town Council, February 21, 2017
Effective March 21, 2017

AMENDED: Hampden Town Council, May 15, 2017
Effective June 14, 2017

8.8.4, 8.9, 8.10, 8.11, 8.15, 8.16.1, 8.16.3, 8.16.5 (new 8.11 added and remainder of Article 8 re-numbered)

New 1.13 added and remainder of Article 1 re-numbered, 3.5, 3.6, 3.7, 3.8, 7.2, 7.3, added 7.4 and 7.5

Deleted Article 8.12 and 8.13

Articles 6.2, 6.3 and 6.4

Articles 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, and 8.16

Articles 3.1, 3.3, 3.5, 3.7 and 3.8; 3.9 and corrected numbering of Article 3; and Articles 4.2, and 4.4

Article 2.9

Articles 1.8, 1.9, 1.15 (new), 2.3, 2.5, 2.7, 2.8, 2.13, 5.1, 5.2, 8.1, 8.3, 8.4, 8.6, 8.7, 8.10, 8.14, and 8.16

Articles 2.6, 2.12.2, 2.12.4, 2.16.2, 2.16.4, 2.16.5, and 2.16.8

Article 6.3.8, 6.3.9, and 6.4.4

Articles 6.2.1- 6.2.7, 6.3.1 – 6.3.4, 6.3.11

Preamble, Articles 1.2, 1.6, 1.10, 1.16, 1.17 2.9.1, 2.9.3, 2.9.4, 2.9.5, 2.12, 2.12.4 – 2.12.6, Footnote 1, 2.15, 2.16.2.1 – 2.16.2.5, 2.16.4, 2.16.4.1 – 2.16.4.3, 2.16.5, 2.16.9, 2.16.9.1 – 2.16.9.2, 2.16.10.4, Footnote 2, 2.16.10.4.1 – 2.16.10.4.4, 2.16.11.1, 2.16.12.
### Fees Ordinance

**Effective November 14, 2018**

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<td>AMENDED:</td>
<td>Hampden Town Council, July 2, 2018</td>
<td>Effective August 1, 2018</td>
<td>Article 2.12.6, 2.16.8 (site plan), 2.16.11 (deleted commercial secure landfill applications), 2.16.9 (added conditional use)</td>
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<td>AMENDED:</td>
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<td>Effective November 14, 2018</td>
<td>Article 1.2.1.1.2.2.1.2.3, 1.7.2.6.2, 2.6.3, 2.6.4, 7.6, 7.6.1, 7.6.2, 7.6.3</td>
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**CERTIFIED BY:**

Paula Scott, Town Clerk

Affix Seal
TOWN OF HAMPDEN, MAINE
FEES ORDINANCE

The Town of Hampden hereby ordains:

In addition to those Town fees and charges, the authorization of which is provided for by Town Ordinances, the following schedule of fees for Town services is approved:

**Exemptions:** All Town Government activities and projects shall be exempt from these fees except in the case where Maine Statutes dictate otherwise. Organizations located in Hampden with a not-for-profit status recognized by the Internal Revenue Service pursuant to 501(c)(3) shall be exempt from building permit fees (2.16.1), demolition fees (2.16.2(1-3)), sign permit fees (2.16.3), fees for certificates of occupancy and compliance (2.16.4) and additional inspection fees (2.16.5) *(Amended 11/6/17)*

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### ARTICLE 1
### ADMINISTRATION

*Amended 11-17-03, 3-21-05, 6-15-09, 4-23-12, 4-19-16, 5-15-17*

*Please note: Fees for items which are state regulated are subject to change without notice*

| 1.1. | **Business or Sole Proprietor filing** *(Amended 10/15/2018)* | $10.00 (State Regulated) |
| 1.2. | **Copy of Vital Record** *(Amended 5/15/17) (Amended 10/15/2018)* |  |
| 1.2.1. | Certified Copy *(Amended 10/15/2018)* | $15.00 (State Regulated) |
| 1.2.2. | Each additional copy purchased the same day *(Amended 10/15/2018)* | $6.00 (State Regulated) |
| 1.2.3. | Attested Copy *(Amended 10/15/2018)* | $10.00 (State Regulated) |
| 1.3. | **Copy of Subdivision Ordinance** | At Cost |
| 1.4. | **Copy of Zoning Ordinance** | At Cost |
| 1.5. | **Copy of other ordinances**  |
| 1.5.1. | up to 20 pages | $0.25/page |
| 1.5.2. | and a page after that | $0.15/page |
| 1.6. | **Photocopies**  |
| 1.6.1. | 8½ inch x 11 inch or smaller (B&W) | $0.25/page |
| 1.6.2. | 8½ inch x 14 inch (B&W) | $0.50/page |
| 1.6.3. | 11 inch x 17 inch (B&W) | $0.75/page |
| 1.6.4. | 8½ inch x 11 inch or smaller (color) *(Amended 5/15/17)* | $1.00/page |
| 1.6.5. | 8½ inch x 14 inch (color) *(Amended 5/15/17)* | $1.25/page |
| 1.7. | **Marriage License** *(Amended 10/15/2018)* | $40.00 (State Regulated) |
| 1.8. | **Notary Fee**  |
| 1.8.1. | Free for Hampden residents |  |
| 1.8.2. | $3.00 for non-residents |  |
1.9. **Record Search** $15.00/hour (for hours over 1)

1.10. **Recording of Pole Permits** *(Amended 5/15/17)* $4.00

1.11. **Tax Maps**
   1.11.1. (11 inch x 17 inch) $50.00/complete set
   1.11.2. (24 inch x 36 inch) *(Amended 05/15/17)* $8.00 map

1.12. **Compact Disk copies of ordinances, documents or recorded meetings (audio only)** *(Amended 11/6/17)* $5.00

1.13. **DVD copies of video recorded meetings** *(Added 4/23/12)* *(Amended 11/6/17)* $5.00

1.14. **Liquor License** *(Amended 6/15/09)*
   (Public hearing not required) $50.00
   (Public hearing is required) $150.00

1.15. **Incoming Faxes** $1.00/page

1.16. **Hunting on Town Land Authorization and Map Book** *(Amended 5/15/17)* *(Amended 11/6/17)* $12.00 (resident)
    $17.00 (non-resident)

1.17. **Dog Licensing:**
   1.17.1. **Spayed/Neutered** *(Amended 5/15/17)* *(Amended 10/15/18)* $6.00 (State Regulated)
   1.17.2. **Male/Female dog** *(Amended 5/15/17)* *(Amended 10/15/18)* $11.00 (State Regulated)
   1.17.3. **Late Fee** *(Amended 5/15/17)* *(Amended 10/15/18)* $25.00 (State Regulated)
ARTICLE 2
FEES FOR ACTIVITIES REGULATED BY TOWN ORDINANCE
Amended 11-17-03, 3-21-05, 6-15-09, 8-3-09, 4-19-16, 05/15/17

2.1. Animal Control Ordinance
2.1.1. Animal Impoundment Fee *(Amended 8/7/17)*
- $35.00 First offense
- $45.00 Second offense
- $55.00 Third offense

2.2. Cable Television Ordinance
2.2.1. Initial Franchise Application Filing Fee
- $500.00
2.2.2. Renewal Franchise Application Filing Fee
- $500.00
2.2.3. Modification of a Franchise Agreement
- $500.00
2.2.4. Combined Filing Fee for participating towns
- $7,000.00

2.3. Cemetery Ordinance
2.3.1. Lot Fees including perpetual care.
   - 2.3.1.1. Resident
     - $325.00
   - 2.3.1.2. Resident - Infant or Cremation
     - $325.00
   - 2.3.1.3. Non-Resident
     - $450.00
   - 2.3.1.4. Non-Resident Infant or Cremation
     - $450.00
2.3.2. Interment fees
   - 2.3.2.1. Grave Openings Weekdays Adult
     - $400.00
   - 2.3.2.2. Grave Openings Weekdays Infant or Cremation
     - $150.00
   - 2.3.2.3. Grave Openings Weekends or Holidays Adult
     - $600.00
   - 2.3.2.4. Grave Openings Weekends or Holidays Infant or Cremation
     - $300.00
2.3.3. Town Crypt Fees
   - 2.3.3.1. Resident
     - Free
   - 2.3.3.2. Non-Resident
     - $50.00
2.3.4. Disinterment
- $1,000.00
2.3.5. Vault Cremation
- $400.00
2.3.6. Cemetery Crew Labor After 3:00 PM
- $35.00/hour/person

2.4. Concourse Gathering Ordinance
2.4.1. Concourse Gathering Permit Fee
- $100.00

2.5. Floodplain Management Ordinance
2.5.1. Application Fee
- $100.00
2.5.2. Experts Fee
- $500.00 horizontal review
- $1,000.00 vertical review and horizontal review.
This is a draw account established for a professional to establish flood elevation data where possible. Any unspent funds are to be returned to the applicant.

2.5.3. Cost for public notices and mailings
*(Any "at cost" fee must be paid to the Town before the issuance of approved permits or variances, or action on a board order is undertaken).*
- At cost
2.6. **Harbor Ordinance**

- **2.6.1. Private mooring** $100.00 annual fee.
- **2.6.2. Unattended tie-ups (Added 10/15/2018)** $25.00 - $100.00/day
- **2.6.3. Moorings violation (Added 10/15/2018)** $25.00 - $100.00/violation
- **2.6.4. Willful destruction of channel marker/buoy (Added 10/15/18)** $100.00 - $200.00/violation

2.7. **Historic Preservation Ordinance**

- **2.7.1. Certificate of Appropriateness Application Fee** $75.00
- **2.7.2. Historic Site or Landmark Designation Application Fee** $150.00
- **2.7.3. Cost of public notices and mailings** At cost

2.8. **Mobile Home Park Ordinance**

- **2.8.1. Annual Mobile Home Park License** (This includes application review, initial inspection of premises and a follow-up inspection).
  - $200.00
- **2.8.2. Additional Inspection Fee**
  - (If the town needs to perform additional inspections as a result of applicant deficiencies, each inspection will be charged prior to the inspection).
  - $200.00

2.9. **Sewer Ordinance** (Amended 8/3/09, 2/16/16)

- **2.9.1. Sewer Service Charge Rate** (Amended 8/3/09) (Amended 5/15/17)
  - $11.60 per 100 cubic feet of water (c.f.w.) consumed as indicated by consumer’s water meter.
  - **2.9.1.1. Sewer Charge Flat Rate Town Water No Meter** $0.00
  - **2.9.1.2. Sewer Charge Flat Rate Well Water No Meter** $182.66
  - **2.9.2. Sewer Service Capital Charge** (Deleted 10/15/2018)
    - **2.9.2.1.** (Deleted 10/15/2018) $0.00
    - **2.9.2.2.** (Deleted 10/15/2018) $0.00
    - **2.9.2.3.** (Deleted 10/15/2018) $0.00
    - **2.9.2.4.** (Deleted 10/15/2018) $0.00
- **2.9.3. Sewer Service Minimum Charge Rate** $31.39
- **2.9.4. Sewer Service “Ready to Serve” Charge** $31.39
- **2.9.5. Special Sewer Service Charge (Sewer Ord. Sec. 10.4)** As determined by Town Council.
- **2.9.6. Sewer Service Charge Rate Outside Town Limits** As determined by Town Council.

2.10. **Solid Waste Flow Control Ordinance**

- **2.10.1. License Application Fee (initial one-time fee, Per Company, up to 4 Vehicles)** $200.00 (Amended 11/6/17)
- **2.10.2 License Application Fee (initial one-time fee, Per Company, more than 4 Vehicles)** $250.00 (Amended 11/6/17)
- **2.10.3. Annual License Fee Per Vehicle** $50.00 (Amended 5/15/17) (Amended 11/6/17)
2.11. *Special Amusement Ordinance* *(Amended 11/6/17)*

2.11.1. Permit Application Fee (Public Hearing Required) $125.00

2.12. *Subdivision Ordinance*

2.12.1. Subdivision Sketch Plan No Charge

2.12.2. Minor Subdivision *(Amended 5/15/17)* $100.00 plus $20.00/lot

2.12.3. Minor Subdivision Review/Inspection Draw Not required

2.12.4. Major Subdivision Preliminary Plan

2.12.4.1. on existing road *(Amended 5/15/17)* $150.00 plus $50.00/lot

2.12.4.2. with new road $500.00 plus $50.00/lot

2.12.4.3. Draw Account Deposit (for technical review)¹,²,³ $2,000.00

2.12.5. Major Subdivision Final Plan *(Amended 5/15/17)*

2.12.5.1. Following Preliminary Plan $150.00 plus $20.00 per lot

2.12.5.2. If no Preliminary Plan $500.00 plus $50.00 per lot

2.12.5.3. Draw Account Deposit (for technical review)¹,²,³ None if Preliminary Plan completed and no significant modifications to infrastructure made; otherwise $2,000.00.

2.12.6. Draw Account Deposit for Construction Inspections²,³ $5,000.00 *(Required prior to the start of construction for any subdivision with infrastructure that is proposed to be accepted by the Town of Hampden.)* *(Amended 7/2/18)*

2.12.7. Cost for public notices and mailings *(Amended 5/15/17)* At cost

2.13. *Vtualers Ordinance* *(Amended 6/15/09, 4/19/16)*

2.13.1. Vtualers License Application

2.13.1.1. Public hearing not required $100.00

2.13.1.2. Public hearing is required $150.00

2.13.1.3. Cost for public notices and mailings At cost

The above fees include all inspections required by Town of Hampden Vtualers Ordinance. If an inspection is performed and the Code Enforcement Officer or Fire Inspector, or their alternate, believe a reinspeaction is needed because of a fault of the applicant or agent then a fee per 2.16.5 will be charged and due prior to the issuance of the Vtualers License.


2.14.1. Application Fee $50,000.00

This is a draw account to be used by the Council to hire consultants as necessary to review the proposal. If at any time balance drops to $10,000.00 the applicant shall deposit an additional $10,000.00. Any unexpended balance shall be returned after a final decision on the application is rendered.
2.15. Zoning Ordinance

2.15.1. Building Permit Applications for all Construction

Building Permit Applications for all Construction

$25.00 plus $0.10 per sq. ft. of total building area including but not limited to finished areas, basements, attics, decks, pools, porches, sheds, garages, etc.

(Plumbing Permit Application)

2.15.2. Demolition/Earth Moving Permit Application

2.15.2.1 Demolition (residential-with sewer connection) 

(Amended 5/15/17) $100.00

2.15.2.2 Demolition (residential-no sewer connection) 

(Amended 5/15/17) $50.00

2.15.2.3 Demolition (commercial) 

(Amended 5/15/17) $150.00

2.15.2.4 Earth Moving (Code Enforcement Issued) 

(Amended 5/15/17) $100.00

2.15.2.5 Earth Moving (Planning Board Issued) 

(Amended 5/15/17) $200.00

2.15.3. Sign Permit Application

Sign Permit Application $25.00 per sign

2.15.4. Certificate of Compliance or Occupancy

2.15.4.1 Certificate of Compliance Application 

(Amended 5/15/17) $100.00

2.15.4.2 Certificate of Occupancy Application 

(Amended 5/15/17) $100.00

2.15.4.3 Dual applications (filed together) 

(Amended 5/15/17) $150.00

2.15.5. Additional Inspections

(If the town needs to perform additional inspections as a result of applicant deficiencies). (Amended 5/15/17) $35.00 per hour per inspector

2.15.6. Zoning Board of Appeals Variance Application

2.15.6.1 General Variance $250.00

2.15.6.2 Dimensional Variance $250.00

2.15.6.3 Disability Variance Free

2.15.6.4 Administrative Appeal Application $250.00

2.15.6.5 Cost for public notices and mailings At cost

2.15.7. Zoning Ordinance Map Amendment Request (Amended 5/15/17)

2.15.7.1 Amendment Application (Amended 5/15/17) $650.00

2.15.7.2 Cost for public notices and mailings At cost

2.15.8. Site Plan Review Applications (Amended 7/2/18)

2.15.8.1 Minor Revision $75.00
2.15.8.2 Minor Site Plan $150.00
2.15.8.3 Major Site Plan
   2.15.8.3.1 Less than 1 acre of land disturbance $300.00
   2.15.8.3.2 1 to < 3 acres of land disturbance $600.00
   2.15.8.3.3 3 to < 5 acres of land disturbance $850.00
   2.15.8.3.4 5 to < 8 acres of land disturbance $1,200.00
   2.15.8.3.5 8 acres or more of land disturbance $1,500.00

2.15.8.4 Draw Account Deposit (for technical review) \(^{1,2,3}\)
   2.15.8.4.1 General Engineering $800.00
   (Amended 5/15/17)
   2.15.8.4.2 Stormwater Analysis
       (Where proposed use disturbs more than 20,000 sq. ft. of land).
       $600.00
       (Amended 5/15/17, 7/2/18)
   2.15.8.4.3 Traffic Analysis
       (Where proposed use will generate at least 350 average daily trip ends).
       $1,000.00
       (Amended 5/15/17)
   2.15.8.4.4 Construction Inspections\(^{2,3}\)
       (Where proposal includes any infrastructure proposed to be accepted by the Town of Hampden.)
       $5,000
       (Amended 5/15/17, 7/2/18)

2.15.8.5 Cost for public notices and mailings At cost
   (Amended 5/15/17)

2.15.9 Conditional Use Applications (Amended 7/2/18)
   2.15.9.1 Conditional Use without site plan $75
   2.15.9.2 Conditional Use with site plan $50
       (This is in addition to the site plan review application fee)
   2.15.9.3 Cost for public notices and mailings At Cost

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\(^1\) In addition to the Planning Board application fees the applicant must make a deposit for a Peer Technical Review draw account when the nature of the review exceeds the technical capability of Town personnel. Applications which require subsequent re-review of additional information, or amended submittals shall be responsible to provide additional funds to cover the full peer review costs. (Amended 5/15/17)

\(^2\) Upon exhausting in excess of 75% of the funds in the original deposit, the applicant shall provide additional funding in increments of 50% of the original deposit. (Amended 5/15/17)

\(^3\) Any remaining funds held in the draw account upon endorsement of the plan (for technical review accounts) or issuance of a certificate of compliance (for construction inspections), after all invoices are paid, shall be returned to the applicant. (Amended 5/15/17, 7/2/18)
ARTICLE 3
FIRE DEPARTMENT
Amended 11-17-03, 4-4-05; 4-23-12; 12-1-14

3.1. **DELETED** *(Amended 12-1-14)*

3.2. **Report Copies** $10.00

3.3. **DELETED** *(Amended 12-1-14)*

3.4. **Fee for pumping:** 1 time emergency Free

3.5. **DELETED** *(Amended 12-1-14)*

3.6. **Advanced Life Support 1 Rates** *(Amended 4-23-12)*
   
   3.6.1. ALS 1 Base Rate $685.00
   3.6.2. ALS 2 Base Rate $885.00
   3.6.3. ALS Non-Emergency Rate $475.00
   3.6.4. ALS Mileage $17.00
   3.6.5. ALS Backup Fee $100.00

3.7. **Basic Life Support Rates** *(Amended 4-23-12; 12-1-14)*
   
   3.7.1. BLS Base Rate $550.00
   3.7.2. BLS Non-Emergency Rate $450.00
   3.7.3. **DELETED** *(Amended 12-1-14)*
   3.7.4. BLS Mileage $17.00

3.8. **Ambulance Stand-by fee for special events**
   
   $143.06 per EMS staff member per 0 to 4 hour event. Each additional 0 to 4 hour event shall be billed at an additional $143.06 per EMS staff member.

3.9. **DELETED** *(Amended 12-1-14)*
ARTICLE 4
POLICE DEPARTMENT
Amended 11-17-03; 12-1-14

4.1. Report Copies (accident or criminal) $10.00 for the first page plus .25 per page thereafter

4.2. Special Detail (Dances, games, guard duty, etc.) (Amended 12-1-14) $143.06 per officer for the first two hours. Each additional hour shall be billed at the current average overtime rate plus administrative fee.

4.3. Concealed Weapons (Hand Gun) Permit
   4.3.1. First Permit - State Maximum $35.00
   4.3.2. Renewal $20.00

4.4. Deleted (Amended 12-1-14)
ARTICLE 5
PUBLIC WORKS
Amended 11-17-03, 4-19-16

5.1. Additional Fees

5.1.1. Public Works Dept. Labor After 3:00 PM $200.00 per person (up to 4 hours); $50.00 per person per hour for every hour above 4.

5.1.2. Street Opening/Utility Connection Permit $50.00

5.1.3. Sewer Connection Determined based on proposed use and flow in accordance with Sewer Connection Fee Calculation Worksheet and Sewer Connection Fee Schedule.

5.2. Solid Waste Fees

5.2.1. (DELETED 11/6/17) Refer to Article 2

5.2.2. (DELETED 11/6/17) Refer to Article 2

5.2.3. (DELETED 11/6/17) Refer to Article 2

5.2.4. Resident Transfer Station Decal $10.00

5.2.5. Replacement of lost Transfer Station Decal $5.00

(Amended 5/15/17)
ARTICLE 6
RECREATION
Amended 11-17-03, 4-22-14

6.1. Recreation Fee Waiver Policy: Any person interested in any Hampden Recreation program that feels they do not have the financial means to afford the full fee shall receive a waiver at the sole discretion of the Recreation Director. Full or partial fee waivers may be given as determined by financial need and the recreation program for which the waiver is requested.

6.2. Program Fees:
   6.2.1. Kids Kamp (full week) (Amended 2-21-17) $140.00-$160.00
   6.2.2. Kids Korner AM Program (day) (Amended 2-21-17) $8.00-$11.00
   6.2.3. Kids Korner PM Program (day) (Amended 2-21-17) $12.00-$15.00
   6.2.4. Kids Korner Half Day Program (12-6 PM) (day) $25.00-$30.00
   6.2.5. Kids Korner Full Day Program (7 AM-6 PM) (day) $40.00-$45.00
   6.2.6. Team Sport-Resident (depend on session length) $35.00-$40.00
   6.2.7. Team Sport-Non Resident (depend on session length) $40.00-$45.00
   6.2.8. Program Registration Late Fee (per person, per program) $10.00

6.3. Skehan Recreation Center Fees:
(all requests are subject to availability and require advance written reservation contract and payment)
   6.3.1. Gymnasium Rental-1/2 Gym (Amended 2-21-17) $25.00-$40.00/hour
   6.3.2. Gymnasium Rental-Full Gym (Amended 2-21-17) $50.00-$75.00/hour
   6.3.3. Allen Fitness Room Rental (Amended 2-21-17) $25.00-$40.00/hour
   6.3.4. Interior Classroom Rental (Amended 2-21-17) $25.00-$40.00/hour
   6.3.5. Gymnasium Rental Full Day negotiated at contract
   6.3.6. Allen Fitness Room Rental Full Day negotiated at contract
   6.3.7. Interior Classroom Rental Full Day negotiated at contract
   6.3.8. Affiliated Program Rental 1/2 Gym negotiated at contract
   6.3.9. Affiliated Program Rental Full Gym negotiated at contract
   6.3.10. Gymnasium Rental-Multi Day/Multi Week negotiated at contract
   6.3.11. Private Party Rental (Amended 2-21-17) $100.00-$150.00

2 hours full gym includes classroom for any food consumed

6.4. RESERVED Outdoor Play Field/Space Rental Fees: Ball Field or Soccer Field
(all requests are subject to availability and require advance written reservation contract and payment)
   6.4.1. Single Field/Single Game-Resident $25.00
   6.4.2. Single Field/Full Day-Resident $50.00
   6.4.3. Single Field-Multi Day/Multi Week-Resident negotiated at contract
   6.4.4. Affiliated Program Rental negotiated at contract
   6.4.5. Single Field/Single Game-Non Resident $50.00
   6.4.6. Single Field/Full Day-Non Resident $100.00
   6.4.7. Single Field-Multi Day/Multi Week-Non Res. negotiated at contract
   6.4.8. Single Field-Light Use $15.00 per event
ARTICLE 7
LIBRARY
Amended 11-17-03, 1-19-10; 4-23-12

7.1. Library Fees
   7.1.1. Resident Annual Fee Free
   7.1.2. Non-Resident Annual Fee $35.00/year
   7.1.3. Overdue Fees
       7.1.3.1. Books and Periodicals $0.10/day
       7.1.3.2. Audio or Video $0.10/day
       7.1.3.3. Maximum Overdue Fee $3.00/item

7.2 Self-service Photocopies (Amended 4/23/12) $0.25/page

7.3 Self-service Printer Pages (Amended 4/23/12) $0.25/page

7.4 Self-service Sending of Faxes (Added 4/23/12)
   7.4.1. Within United States $1.00/page
   7.4.2. International $2.00/page

7.5 Receiving of Faxes (Added 4/23/12) Not Allowed

7.6 Meeting Room Use (Added 10/15/2018)
   7.6.1 Non-profit organizations during business hours No Charge
   7.6.2 For-profit organizations during business hours $50.00/up to three hours
   7.6.3 Any use outside of business hours $50.00/hour
ARTICLE 8
POOL
Amended 11-17-03, 4-4-05, 10-6-08, 9-19-11, 11-27-12, 9-2-14, 4-19-16

8.1. Susan G. Abraham Memorial Endowed Scholarship provides the opportunity to learn to swim (see 8.9 & 8.10) to those who could not otherwise afford it. The scholarship is based on individual assessment of financial need and recipient must be resident of RSU #22 District. (Amended 9/19/2011; 9/2/2014)

8.2. **Annual Resident Membership Fees:** (Amended 9/2/2014; Amended 11/6/17)

<table>
<thead>
<tr>
<th>Membership Type</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Family</td>
<td>$276.00</td>
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<tr>
<td>Single Adult</td>
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<tr>
<td>Youth/Teen</td>
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<td>Senior</td>
<td>$157.00</td>
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8.3. **Six Month Resident Membership Fees:** (Amended 9/2/2014; 4/19/16) (Amended 11/6/17)

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<td>$83.00</td>
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<td>Senior</td>
<td>$101.00</td>
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8.4. **Three Month Resident Membership Fees:** (Amended 9/2/2014; 4/19/16) (Amended 11/6/17)

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<th>Membership Type</th>
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<td>Senior</td>
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8.5. **Annual Non-Resident Membership Fees:** (Amended 9/2/2014) (Amended 11/6/17)

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<tr>
<td>Single Adult</td>
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<td>Youth/Teen</td>
<td>$160.00</td>
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<td>Senior</td>
<td>$188.00</td>
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8.6. **Six Month Non-Resident Membership Fees:** (Amended 9/2/2014; 4/19/16) (Amended 11/6/17)

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<td>Youth/Teen</td>
<td>$103.00</td>
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<tr>
<td>Senior</td>
<td>$119.00</td>
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8.7. **Three Month Non-Resident Membership Fees:** (Amended 9/2/2014; 4/19/16) (Amended 11/6/17)

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<th>Membership Type</th>
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<td>Single Adult</td>
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<td>Youth/Teen</td>
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<td>Single Swim - Resident</td>
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<tr>
<td>Single Swim – Non-Resident</td>
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<tr>
<td>Resident 12 Use Punch Card</td>
<td>$48.00</td>
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<tr>
<td>Non-Resident 12 Use Punch Card</td>
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8.9. **Resident Swim Lessons** *(Amended 9/19/2011; 9/2/2014; Amended 11/6/17)*

8.9.1. Members $5.00 per class
8.9.2. Non-Members $6.50 per class

8.10. **Non-Resident Swim Lessons** *(Amended 9/19/2011; 9/2/2014; 4/19/16; Amended 11/6/17)*

8.10.1. Members $7.00 per class
8.10.2. Non-Members $9.00 per class

8.11. **Private Swim Lessons** *(Amended 9/19/2011; Amended 11/6/17)*

8.11.1. Resident Member
   1 Child $16.00 per class
   2 Children $21.00 per class

8.11.2. Resident Non-member
   1 Child $21.00 per class
   2 Children $26.00 per class

8.11.3 Non-resident Member
   1 Child $21.00 per class
   2 Children $26.00 per class

8.11.4 Non-resident Non-member
   1 Child $26.00 per class
   2 Children $32.00 per class

8.12. **Deleted** November 27, 2012

8.13. **Deleted** November 27, 2012

8.14. **Adult Aqua Fitness:** *(Amended 4/19/16; Amended 11/6/17)*

8.14.1. Residents $5.00/class
8.14.2. Non-Residents $6.00/class

8.15. **Gentle Aerobics** *(deleted 9/19/2011)*


8.16.1. Resident Pool/Lounge Rental (up to 50 total guests) $100.00/hour
8.16.2. *(DELETED 11/6/17)*
8.16.3. Non-Resident Pool/Lounge Rental (up to 50 total guests) $125.00/hour
8.16.4. *(DELETED 11/6/17)*
8.16.5. *(DELETED 11/6/17)*

*Note:* Pool Party Package payments due in full at time of rental. Payments may be made online or in person, and may be paid by cash, check or credit card.

8.17. **Swim Diaper** $1.00
ARTICLE 9
ANNUAL REVIEW BY TOWN COUNCIL

9.1 An itemized listing of fees for each town department will be submitted to the Town Council by the Town Manager on or before October of each year for the Council’s review, revision, and approval.
Appendix A: Town of Hampden
Sewer Connection Fee Calculation Worksheet

Date: ____________________

Sewer Connection Location: ____________________________
Address: ____________________________________________

**Contractor Name & Address**

Name: ____________________________________________ Paid: ____________________
Address: ____________________________________________ Check Number: _______
Phone: ____________________________ Eng Receipt: _______

**Owner Name & Address**

Name: ____________________________________________ Phone: ____________________
Address: ____________________________________________

Property Use: If applicable
Food Service Provided: Y N
Grease Interceptor: Y N
Oil/Sand Separator: Y N

<table>
<thead>
<tr>
<th>Category</th>
<th>gpd/unit</th>
<th>$/gpd</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area 1:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Square feet</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Units</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Seats</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Beds</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td><strong>Area 2:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Square Feet</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Units</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Seats</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Beds</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td><strong>Area 3:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Square Feet</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Units</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Seats</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Beds</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>1.06</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

**Total Connection Fee:**
(minimum Fee for Sewer Connection $50.00) $________
### Appendix B: Town of Hampden
### Sewer Connection Fee Schedule

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amusement Park</td>
<td>Determined by Public Works Director</td>
</tr>
<tr>
<td>Apartment Building</td>
<td>185 gpd/unit</td>
</tr>
<tr>
<td>Auto Body Shop</td>
<td>0.05 gpd/ft²</td>
</tr>
<tr>
<td>Auto Sales Garage</td>
<td>0.05 gpd/ft²</td>
</tr>
<tr>
<td>Bakery</td>
<td>0.15 gpd/ft²</td>
</tr>
<tr>
<td>Bank</td>
<td>0.1 gpd/ft²</td>
</tr>
<tr>
<td>Barber Shop</td>
<td>0.35 gpd/ft²</td>
</tr>
<tr>
<td>Beauty Salon</td>
<td>0.75 gpd/ft²</td>
</tr>
<tr>
<td>Boarding House</td>
<td>50 gpd/bed</td>
</tr>
<tr>
<td>Bowling Alley</td>
<td>75 gpd/lane</td>
</tr>
<tr>
<td>Car Wash</td>
<td>Determined by Public Works Director</td>
</tr>
<tr>
<td>Church (sanctuary)</td>
<td>185 gpd</td>
</tr>
<tr>
<td>Day Care</td>
<td>10 gpd/child</td>
</tr>
<tr>
<td>Dry Cleaners</td>
<td>0.15 gpd/ft²</td>
</tr>
<tr>
<td>Duplex, any Combination</td>
<td>270 gpd/unit</td>
</tr>
<tr>
<td>Fast Food Restaurant (no table service)</td>
<td>20 gpd/seat</td>
</tr>
<tr>
<td>Funeral Home</td>
<td>0.05 gpd/ft²</td>
</tr>
<tr>
<td>Government Building</td>
<td>0.1 gpd/ft²</td>
</tr>
<tr>
<td>Health Club</td>
<td>0.15 gpd/ft²</td>
</tr>
<tr>
<td>Hospitals</td>
<td>150 gpd/bed</td>
</tr>
<tr>
<td>Hotels/Motels</td>
<td>100 gpd/unit</td>
</tr>
<tr>
<td>Industrial (process flow)</td>
<td>Determined by Public Works Director</td>
</tr>
<tr>
<td>Laundry</td>
<td>2.0 gpd/20lb machine</td>
</tr>
<tr>
<td>Lodge</td>
<td>0.25 gpd/ft²</td>
</tr>
<tr>
<td>Medical/Dental</td>
<td>0.15 gpd/ft²</td>
</tr>
<tr>
<td>Mobile Homes</td>
<td>270 gpd</td>
</tr>
<tr>
<td>Nursing</td>
<td>100 gpd/bed</td>
</tr>
<tr>
<td>Offices</td>
<td>0.06 gpd/ft²</td>
</tr>
<tr>
<td>Restaurant</td>
<td>35 gpd/seat</td>
</tr>
<tr>
<td>Retail</td>
<td>0.05 gpd/ft²</td>
</tr>
<tr>
<td>Retirement</td>
<td>120 gpd/unit</td>
</tr>
<tr>
<td>Schools</td>
<td>10 gpd/student</td>
</tr>
<tr>
<td>Senior Housing Facility</td>
<td>65 gpd/island</td>
</tr>
<tr>
<td>Single Family Homes</td>
<td>270 gpd</td>
</tr>
<tr>
<td>Supermarket</td>
<td>0.05 gpd/ft²</td>
</tr>
<tr>
<td>Taverns, Bars, Lounges</td>
<td>0.09 gpd/ft²</td>
</tr>
<tr>
<td>Theater</td>
<td>3 gpd/seat</td>
</tr>
<tr>
<td>Train/Bus Stations</td>
<td>0.075 gpd/ft²</td>
</tr>
<tr>
<td>Utilities</td>
<td>0.01 gpd/ft²</td>
</tr>
<tr>
<td>Veterinarians</td>
<td>0.65 gpd/ft²</td>
</tr>
<tr>
<td>Warehouse</td>
<td>0.05 gpd/ft²</td>
</tr>
</tbody>
</table>
FIRE DEPARTMENT ORDINANCE

Be it ordained by the Town Council of the Town of Hampden as follows:

ARTICLE I GENERAL

1.1 Fire Department Created - In accordance with Article #2, Section 212 of the Town Charter, there is hereby established a Fire Department.

1.2 Statement of Policy - It shall be the policy of the Town of Hampden that the basic purpose of the Hampden Fire Department is to provide a full time Fire Suppression and Fire Prevention capability for citizens of Hampden by staffing the department at all times with an on duty Firefighter or Fire Chief; minimum staffing shall be four (4) full time Firefighters including the Fire Chief. Call Firefighters shall be used when required.

1.3 Functions of the Fire Department
   (a) Protection of life and property
   (b) Fire suppression and prevention
   (c) Maintenance and operation of Fire Department equipment
   (d) Enforcement of laws and ordinances coming within the jurisdiction of the department

ARTICLE II - FIRE CHIEF

2.1 Position of Fire Chief Established - There is hereby authorized and established the position of Fire Chief. This position and duties shall be included in the Personnel Classification and Compensation Plan for the Town of Hampden. The Fire Chief shall be appointed by the Town Manager, subject to the confirmation of the Town Council for an indefinite term. The Town Manager shall have the power to remove such Fire Chief when necessary for cause after notice and hearing.

2.2 Authority of Chief within the Department - The Fire Chief is the Chief Executive Officer of the department and the final department authority in all matters of policy, operation and discipline. He exercises all lawful powers of his office and issues such orders as are necessary to assure the effective performance of the department.

2.3 Duties of the Fire Chief -
   (a) Be responsible for the operation of the Fire Department
   (b) Be responsible for the care and maintenance of all property used by the Fire Department
   (c) Plan, direct, coordinate, control and staff all activities of the department for its continued and efficient operation
   (d) Enforce rules and regulations within the department
   (e) Compile and forward such reports as required by law or requested by the Town Manager
   (f) Be responsible for the department relations with the citizens, town government and other agencies, including
Submit a monthly written report to the Town Manager with a summary of activities of the department and administrative or operational problems.

Designate an acting Fire Chief in his absence subject to the confirmation of the Town Manager.

Prepare an annual Fire Department budget and work program.

Provide a training program for employees of the department.

Establish and maintain a manual of rules and operating procedures. (Copy of same to be provided for the Town Manager).

Provide for the personnel file of each employee an annual performance evaluation. Employees to have access to file and submit refutal information.

Maintain effective employee relations by establishing and maintaining a policy to solicit views and opinions of employees.

The Fire Chief shall make such reports and perform such other duties as may be prescribed by the Town Manager, the Town Charter, the laws of the State of Maine or any other ordinances of the Town.

Implement lawful policy decisions of the Town Council as directed by the Town Manager and administrative decisions of the Town Manager.

**ARTICLE III - FIREFIGHTERS**

3.1 Position of Firefighters Established - There is hereby authorized and established the position of Firefighter. This position and duties shall be included in the Personnel Classification and Compensation Plan for the Town of Hampden. Firefighters shall be appointed by the Town Manager for an indefinite term or he may delegate this authority to the Fire Chief as provided for in Article III, Section 301 of the Charter of the Town of Hampden. The Town Manager shall have the power to remove such appointed Firefighters for cause after notice or he may delegate this authority to the Fire Chief.

3.2 Call Firefighters -
3.2.1 Appointment and Removal - Call Firefighters to be appointed and removed by the Town Manager when necessary or he may delegate this authority to the Fire Chief.

**ARTICLE IV - FIRE INSPECTOR**

4.1 Position of Fire Inspector - There is hereby authorized and established the position of Fire Inspector. This position and duties shall be included in the Personnel Classification and Compensation Plan for the Town of Hampden. The Fire Inspector shall be appointed by the Town Manager for a definite term or the authority may be delegated to the Fire Chief as provided for in Article III, Section 301 of the Charter of the Town of Hampden. The Town Manager shall have the power to remove such appointed Fire Inspector for cause after notice or the authority may be delegated to the Fire Chief.
The Town of Hampden hereby ordains the following:

FIREARMS DISCHARGE ORDINANCE

Section 1. Purpose. This Ordinance is enacted for the purpose of promoting and protecting the health, safety and general welfare of residents and visitors of the Town of Hampden by prohibiting the discharge of firearms in certain areas.

Section 2. Discharge of Firearms Prohibited. No person shall fire or discharge, or cause to be fired or discharged, any firearm as defined herein, except as authorized in Section 3 and Section 4 herein, on or from any land or area located within the area bounded as follows: Beginning on the Penobscot River at the boundary line between the Town of Hampden and the City of Bangor; thence by and along said boundary line to the northwesterly line of Route #202; thence in a generally southwesterly direction by and along the northwesterly line of Route #202 to the northerly line of Route #9; thence in a generally westerly direction by and along the northerly line of Route #9 to the westerly line of the Bangor and Aroostook Railroad right-of-way; thence in a generally southerly direction by and along the westerly line of said right-of-way to the northerly line of the Kennebec Road; thence in a generally easterly direction by and along the northerly line of the Kennebec Road to the westerly line of Route #1A; thence in a generally southerly direction by and along the westerly line of Route #1A to a point thereon which intersects with an extension of the northerly line of Hopkins Road to the westerly line of Route #1A; thence in a generally easterly direction by and along said extension of the northerly line of the Hopkins Road and the northerly line of Hopkins road and any extension thereof to the Penobscot River; thence in a generally northeasterly direction by and along the Penobscot River to the point of beginning.

Section 3. Exception for Licensed Firing Range.

A. The prohibition the discharge of a firearm shall not apply to a firing range area licensed by the Chief of Police.

B. Before the Chief of Police may grant a license for a firing range area, the owner or operator thereof shall make an application for a license on forms to be provided by the Chief of Police. In addition, the owner or operator shall also submit a plan, drawn to scale, containing the following information:

1. Scale of the plan
2. Name of the applicant
3. Boundaries of the tract of land on which the firing range area is to be located.
4. Location of existing and proposed buildings and other structures, including use and proposed use thereof.

5. Location and use of buildings on abutting properties or situated within 600 feet of the property line of the tract of land on which the firing range area is to be located.

6. Location of existing and proposed screening, landscaping, or natural vegetation.

7. Construction details outlining the method and materials to be used in the construction of the firing range area.

C. Before the Chief of Police may grant a license for a firing range area, the Chief shall hold a public hearing on the application. At least ten (10) days in advance of said hearing, notice thereof shall be published in a local newspaper and shall be mailed to each landowner abutting the property on which the proposed firing range is to be located or situated within 600 feet thereof. Landowners shall be considered to be those against whom property taxes are assessed, and failure of any landowner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Chief of Police. The applicant shall pay the application processing fee established by which costs shall be paid at the time of application.

D. Within thirty (30) days of the public hearing, the Chief of Police shall approve, approve with conditions, or disapprove the license for firing range area. The burden is on the applicant to demonstrate that the proposed area is designed and set up for the safe discharge of firearms so as to provide adequate protection in the form of a backstop and/or a proper field of fire, and so arranged so as to prevent any danger to neighboring property or persons. As a minimum, any firing range area shall be constructed and maintained in accordance with the following standards:

1. The backstop shall be constructed of wood materials with a thickness of at least 12 inches with an earthen barrier behind, or an earth barrier of suitable materials with no less than a 45 degree slope.

2. There shall be a natural obstruction of trees or terrain to the rear of the backstop.

3. The target area shall be placed no less than three feet from the top and sides of the backstop.

4. The range width to the target shall be no less than 15 feet for 50 yards, 25 feet for 100 yards, and 50 feet for 200 yards.
5. No range area shall be situated less than 100 yards from the nearest roadway or residence.

6. No range area shall be constructed, maintained, or operated in a manner which allows the projectile from a firearm to travel towards a roadway or residence.

7. No shooting shall be permitted in a range area except between the hours commencing one hour after sunrise and ending one hour before sunset. For the purposes herein, the time of sunrise and sunset shall be as established by the United States Weather Service for the date in question.

Section 4. Exceptions. The foregoing prohibition on the discharge of firearms shall not apply to the firing or discharge of firearms at any military exercise or review; nor to any military personnel or law enforcement officers in the performance of their duties or authorized training; nor to any person in the lawful defense of his person, family or property; nor to any person in protection of his property from destruction by animals.

Section 5. Firearms Defined. The term "firearm" shall mean any weapon, whether loaded or unloaded, which will expel a projectile by the action of an explosive or other propellant, and includes any such weapon commonly referred to as a pellet gun, pistol, revolver, rifle, gun, shot gun or the like.

Section 6. Penalty. Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not less than Fifty Dollars ($50.00) and not more than One Hundred Dollars, which fine shall inure to the benefit of the Town of Hampden. Each discharge shall be considered a separate offense.

Section 7. Separability. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the provision so declared to be invalid.

Adopted: August 7, 1989
Effective: September 5, 1989
FIREARMS ORDINANCE BOUNDARY LINE

BOLD BLACK LINE = BOUNDARY LINE
TOWN OF HAMPDEN, MAINE
FLOODPLAIN MANAGEMENT ORDINANCE

Effective Date: June 16, 2004

AMENDED: Hampden Town Council, June 19, 2006
Effective Date: July 19, 2006

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE
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4. APPLICATION FEE AND EXPERT’S FEE .................................................. 4
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ARTICLE 1
PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Hampden, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Hampden, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Hampden, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Hampden has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Hampden having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Hampden, Maine.

The areas of special flood hazard, Zones A and AE are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Hampden, Maine, Penobscot County," dated September 4, 1987 with accompanying "Flood Insurance Rate Map" dated September 4, 1987 and "Flood Boundary and Floodway Map" dated September 4, 1987, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE 2
PERMIT REQUIRED

Before any construction or other development (as defined in Article 13), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article 1, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Hampden, Maine.

ARTICLE 3
APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
   a. in Zone AE from data contained in the "Flood Insurance Study -Town of Hampden, Maine," as described in Article 1; or,
   b. in Zone A:
      (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article 6.K. and 8.D.;
      (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article 6;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

K. The following certifications as required in Article 6 by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of
Article 3.H.4.; Article 6.G.; and other applicable standards in Article 6;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article 6.L.2.a.;

3. a certified statement that bridges will meet the standards of Article 6.M.;

4. a certified statement that containment walls will meet the standards of Article 6.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article 6 will be met.

ARTICLE 4
APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee payable to the Town of Hampden shall be paid in accordance with the Town of Hampden Fees Ordinance to the Code Enforcement Officer and a copy of a receipt for the same shall accompany the application. An additional fee(s) may be charged if the Code Enforcement Officer and/or the Zoning Board of Appeals need(s) the assistance of a professional engineer or other expert. The expert's fee shall be payable to the Town of Hampden in accordance with the Town of Hampden Fees Ordinance. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE 5
REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article 6 (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood data contained in the "Flood Insurance Study - Town of Hampden, Maine," as described in Article 1;

2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article 3.H.1.b.; Article 6.K.; and Article 8.D., in order to administer Article 6 of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in
Article 3.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article 1 of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article 6, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article 6.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article 9 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles 3, 6, and 7 of this Ordinance.
ARTICLE 6
DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On Site Waste Disposal Systems - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Residential - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article 3.H.1.b.; Article 5.B; or Article 8.D.

G. Non Residential - New construction or substantial improvement of any non-residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

   a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of
b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article 3.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article 3.H.1.b.; Article 5.B; or Article 8.D., or

a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article 6.G.1.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone AE shall:

a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) all components of the anchoring system described in Article 6.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

a. be elevated on a permanent foundation, as described in Article 6.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article 3.H.1.b.; Article 5.B; or Article 8.D.; and

b. meet the anchoring requirements of Article 6.H.1.c.
I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zone AE shall either:
   
a. be on the site for fewer than 180 consecutive days,

   b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

   c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article 6.H.1.

J. **Accessory Structures** - Accessory Structures, as defined in Article 13, located within Zones AE and A, shall be exempt from the elevation criteria required in Article 6.F. & G. above, if all other requirements of Article 6 and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than $3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article 6.L.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** –

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map" or "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article 6.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

   a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article 6, including the elevation requirements of Article 6, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article 13;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
   
   a. be engineered and certified by a registered professional engineer or architect; or,
   
   b. meet or exceed the following minimum criteria:

   (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

   (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

   (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other nonautomatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2. a registered professional engineer shall certify that:

   a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article 6.K.; and
b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones AE and A shall:
   a. have the containment wall elevated to at least one foot above the base flood elevation;
   b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
   c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article 3.K.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE 7.
CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article 6, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant’s written notification; and,
2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.
ARTICLE 8.
REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article 6 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE 9.
APPEALS AND VARIANCES

Compliance With Board of Appeals Ordinance. All appeals and variances shall be 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. (Amended: 06-19-06)

The Town of Hampden Board of Appeals of the may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:
   1. a showing of good and sufficient cause; and,
2. a determination that should a flood comparable to the base flood occur, the granting of a variance
will not result in increased flood heights, additional threats to public safety, public expense, or
create nuisances, cause fraud or victimization of the public or conflict with existing local laws or
ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws
or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this
subsection means:
   a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
   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; and,
   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.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary,
considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions
to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for
the conduct of a functionally dependent use provided that:

1. other criteria of Article 9 and Article 6.K. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during
the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic
Structures upon the determination that:

1. the development meets the criteria of Article 9, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s
continued designation as a Historic Structure and the variance is the minimum necessary to
preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article 9, paragraphs A. through E. shall be notified by the
Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly
increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance
coverage;

2. such construction below the base flood level increases risks to life and property; and,
the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. Deleted. (Amended: 06-19-06)

4. The person filing the appeal shall have the burden of proof.

5. Deleted. (Amended: 06-19-06)

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Deleted. (Amended: 06-19-06)

ARTICLE 10.
ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective
denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National

ARTICLE 11.
VALIDITY AND SEVERABILITY

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

ARTICLE 12.
CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other
applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes
a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall
control.

ARTICLE 13.
DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning
as they have at common law and to give this Ordinance its most reasonable application. Words used in the
present tense include the future, the singular number includes the plural, and the plural number includes
the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - means a small detached structure that is incidental and subordinate to the principal
structure.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the
proposed walls of a structure.

Area of Shallow Flooding - means a designated AO and AH zone on a community's Flood Insurance Rate
Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three
feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and
where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of
flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this
Ordinance.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given
year, commonly called the 100-year flood.

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

Building - see Structure.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure
is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

**Development** - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

**Elevated Building** - means a non-basement building

a. built, in the case of a building in Zones AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE or A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article 6.L.

**Elevation Certificate** - An official form (FEMA Form 81-31, 07/00, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study - see Flood Elevation Study.**

**Floodplain or Flood-prone Area** - means any land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood
control works, and floodplain management regulations.

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see Regulatory Floodway.

Floodway Encroachment Lines - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:
   a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
   b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
   c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
   d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
      1. By an approved state program as determined by the Secretary of the Interior, or
      2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in
Article 6.L. of this ordinance.

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

New Construction - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood - see Base Flood.

Recreational Vehicle - means a vehicle which is:
   a. built on a single chassis;
   b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
   c. designed to be self-propelled or permanently towable by a motor vehicle; and
   d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -
   a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
   b. when not designated on the community’s Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
Special Flood Hazard Area - see Area of Special Flood Hazard.

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE 14.
ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).
TOWN OF HAMPDEN

GENERAL ASSISTANCE RULES AND REGULATIONS

The Town of Hampden enacts the following General Assistance Ordinance. This Ordinance is filed with the Commissioner of the Department of Human Services in compliance with Title 22 M.R.S.A. ss 4305.4

Signed the ______ day of DECEMBER, 1996 by the municipal officers.

[Signatures]

Adopted 12/2/96

Effective 12/2/96
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TOWN OF HAMPDEN
PUBLIC WELFARE DEPARTMENT

ARTICLE I
PUBLIC WELFARE DEPARTMENT CREATED

In accordance with Article III, Section 302 of the Town Charter, the Town of Hampden hereby ordains that there is established a Public Welfare Department and Rules and Regulations for the administration of General Assistance.

All ordinances or parts of ordinances now existing which are in conflict with the provisions or intent of this ordinance are hereby repealed.

ARTICLE II
DIRECTOR OF PUBLIC WELFARE

There is hereby authorized and established the position of the Director of Public Welfare. The Director of Public Welfare shall supervise the entire operation of the Welfare Department and shall exercise all the powers and perform all the duties conferred and imposed by law upon Overseers of the Poor. This position shall be included in the Personnel Classification and Compensation Plan for the Town of Hampden. The Director of Public Welfare shall be appointed by the Town Manager on the basis of merit and fitness alone, subject to the confirmation of the Hampden Town Council.

2.1 Monthly Report to Town Manager

The Public Welfare Director shall make a report to the Town Manager, before the first Council meeting of each month, as to the business of his/her office during the preceding month.

2.2 Other Duties

To perform such other duties as may be prescribed by the Town Manager or any applicable state and local laws and ordinances.

ARTICLE III
STATEMENT OF POLICY

The Town of Hampden administers a program of general assistance available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided herein and in 22 M.R.S.A. ss 4301 et sep. Every effort will be made to recognize the dignity of the applicant and to encourage self-respect and self-reliance. The program will help each person achieve self-maintenance and will encourage the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. General assistance
will promote strengthening the family, especially with regard to the care and protection of children.

The general assistance program will place no restrictions on the personal rights of the applicant or recipient, nor will there be any discrimination based on sex, age, race, religion, handicap or political affiliation. The applicant or recipient will be informed of his/her rights and responsibilities under the general assistance program.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. Within 24 hours of receiving an application, the administrator will give the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also give the applicant written notice that if dissatisfied with the decision, he/she may appeal to the fair hearing authority. When an applicant is determined to be eligible, assistance will be furnished within 24 hours after the completed application is submitted.

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential.

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance will be readily available to any member of the public upon request. Notice to this effect will be posted.

**ARTICLE IV DEFINITIONS**

4.1 Common Meaning of Words

Unless otherwise apparent or defined, all words in these Rules and Regulations will have their common meaning.

4.2 Special Definitions

**Applicant** - A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application.

In addition, all persons on whose behalf an application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

**Application Form** - A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

**Basic Necessities** - Food, clothing, shelter, fuel, electricity, non elective medical services as recommended by a physician, non-prescription drugs, telephone where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or
service determined essential by the municipality. "Basic necessities" do not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full. (22 M.R.S.A. ss 4301.1).

Case Record - An official file containing an application form, correspondence, narrative records and all other communications pertaining to an applicant or recipient, determination of initial or subsequent eligibility, reasons for decisions and actions by the general assistance administrator, and types of assistance provided each recipient.

Categorical Assistance - All State and Federal income maintenance programs.

Claimant - A person who has requested a fair hearing.

Deficit - An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in Section 8.8 of this ordinance less the household income as calculated pursuant to section 8.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

Dwelling Unit - A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit. (22 M.R.S.A. ss 4301.2).

Disabled Person - A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician.

Eligible Person - A person who, is qualified to receive general assistance from the municipality, according to the standards of eligibility set forth in this ordinance. (22 M.R.S.A. ss 4301.3).

Emergency - Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. (22 M.R.S.A. ss 4301.4, 4308.2, 4310).

General Assistance Program - A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person has need and is found to be otherwise eligible to receive general assistance. (22 M.R.S.A. ss 4301.5).
General Assistance Administrator - A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an overseer or an authorized agent such as a town manager, welfare director, or caseworker. (22 M.R.S.A ss 4301.12).

Household - "Household" means an individual or a group of individuals who share a dwelling unit or other basic necessities. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of household members not legally liable for supporting the household must be considered as available to the applicant only when there is a pooling of income. (22 M.R.S.A ss 4301.6).

Income - "Income" means any form of income in cash or in kind received by the household including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members.

The following items shall not be considered as income or assets which must be liquidated for the purposes of deriving income.

1.) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
2.) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
3.) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need the period of time used as a basis for the calculation shall be a 30 day period commencing on the date of application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality. 22 M.R.S.A ss 4301.7).

Just Cause - A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility. (22 M.R.S.A ss 4301.8, 4316-A.5).
**Lump Sum Payment** - "Lump sum payment" means a one-time or typically nonrecurring sum of money issued to an applicant or recipient after an initial application. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. (22 M.R.S.A. ss 4301.8-A).

**Material Fact** - A material fact is a fact that necessarily has some bearing on the determination of an applicant's General Assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

**Maximum levels of assistance** - The amount of assistance as established in Section 6.8 of this Ordinance or the actual cost of any basic necessity, whichever is less.

**Misconduct** - "Misconduct" means conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer. (26 M.R.S.A. ss 1043(23).

**Municipality** - Any city, town or plantation administering a general assistance program.

**Municipality of Responsibility** - The municipality which is liable for the support of an eligible person at the time of application. (22 M.R.S.A. ss 4301.9, 4307).

**Need** - The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance. (22 M.R.S.A. ss 4301.10, 4308).

**Net General Assistance Costs** - Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program. (22 M.R.S.A. ss 4301.11, 4311).
**Period Of Eligibility** - The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month. (22 M.R.S.A. ss 4309.1).

**Pooling Of Income** - "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumption of pooling income.

**Real Estate** - Any land, buildings, homes, mobile homes and any other things affixed to the land. (22 M.R.S.A. ss 4301.13).

**Recipient** - A person who has applied for and is currently receiving general assistance.

**Resident** - A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (see Section 6.10) (22 M.R.S.A. ss 4307).

**Resources** - Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: available and potential. Potential resources are programs, services, non-liquid assets, or trusts which typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released. Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual. Potential resources include AFDC, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g. relocation beyond the immediate region). Available resources also include the services, commodities or facilities made available by private organizations when 1.)
the applicant voluntarily agrees to utilize such services. 2.) the municipality has established a contractual relationship with the private organization to provide services or commodities when requested, 3.) the municipality is able to secure the services or commodities needed by an applicant from the private organization for any consideration acceptable to both the organization and the municipality, and 4.) the service is available and offered at no cost to the applicant and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist. Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant's fundamental rights. (Field v. Lewiston, Andro. Sup. Ct. CV 87-4; Bolduc v. Lewiston, Andro. Sup. Ct. CV 87-248).

30-day Need. An applicant's 30-day need is the sum of the household's prospective 30-day costs, form the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity of the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

Unmet Need - An applicant's unmet need is the household's 30-day need as established by section 8.6 of the ordinance less the household income as calculated pursuant to Section 8.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

Work Requirements - Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed or authorized by 22 M.R.S.A. ss 4316-A to extent such obligations ensure a continuing potential eligibility for general assistance when compl9ed with, result in disqualification when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing income.

ARTICLE V

ADMINISTRATIVE RULES AND REGULATIONS

The following are rules and regulations for the administration of general assistance.

5.1 Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released. (22 M.R.S.A. ss 4306).
a. **Release of Information** - Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a legal representative, however, unless the administrator receives a consent form signed by the applicant authorizing the release of his/her records. Whenever the administrator releases any information, he/she will make notations in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

b. **Fair Hearing Authority** - If an applicant requests a fair hearing (see Article IX, The Fair Hearing), the fair hearing authority will be given copies of the record prior to the hearing. The claimant will have access to information that is available to the hearing authority.

c. **Information From Other Sources; Penalty** - Information furnished to the municipality by the Department of Human Services or any other agency or institution pursuant to 22 M.R.S.A. ss 4314, concerning recipients of categorical assistance, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of records concerning prescriptions for narcotic drugs and records concerning birth, marriage and death. (22 M.R.S.A. ss 2374 and 2706, respectively.

Any person who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than $25 nor more than $100. Any person, including the applicant, who willfully gives false information to the administrator is guilty of a Class E crime (22 M.R.S.A. ss 4314, 4315).

d. **Misuse of Information** - Misuse of any information relating to an applicant or recipient is a punishable offense. (22 M.R.S.A. ss 42(2)).

5.2 **Maintenance of Records**

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. ss 4303). These records are necessary to:

a. provide a valid basis of accounting for municipal expenditures;

b. document and support decisions concerning and applicant or recipient; and

c. assure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by general assistance administrator.

**CASE RECORDS** - The administrator will establish and maintain a separate case record for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts
of assistance provided, written decisions, any requests for fair hearings and the fair hearing authority decisions. The record may also include a narrative history documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid and suspension or termination of eligibility.

Case records will not include information or material that is irrelevant to an applicant's or recipient's application or to the general assistance administrator's decisions.

ARTICLE VI  APPLICATION PROCEDURE

6.1 Right to Apply

Who may apply - Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in an emergency as provided in Section 6.9 of this ordinance or except when the applicant is a resident of an emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. ss 4304(3). The administrator may require a representative to present a signed statement documenting that he/she is in fact authorized. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. ss 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator.

Application via telephone - When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. This application will be subject to the administrator receiving written verification via mail or visiting the applicant's home with his/her permission (22 M.R.S.A. ss 4304).

Written Application Upon Each Request - Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. ss 4308, 4309).

Applications Accepted; Posted Notice - Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator, however, in an emergency the administrator will be available to accept applications for assistance whenever necessary (22 M.R.S.A. ss 4304).
6.2 Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

6.3 Contents of the Application

At a minimum, the application will contain the following information:

a. Applicant's name, address, and phone number.

b. Names of other household members for whom the applicant is seeking assistance.

c. Total household number.

d. Employment information.

e. All household income and resources.

f. Expenses.

g. Types of assistance being requested.

h. Penalty for false representation.

i. Applicant's permission to verify information.

j. Signature of applicant and date.

6.4 General Assistance Administrator's Responsibilities at the Time of the Application

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and reimbursement obligations.

Application Requirement - The administrator will help the applicant fill out the application form. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to
evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

Eligibility Requirement - At the time of application, the administrator will inform the applicant of the eligibility requirements of the program, including:

* the income standard of need;
* the applicants ongoing use of income, work related, and resource related responsibilities, as described in the section immediately below;
* the financial reduction in assistance that is the consequence of spending household income on non-necessities; and
* the disqualification penalties associated with committing fraud, failing to perform work related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources have been explained to the applicant in writing.

Applicant Rights -
The administrator will inform all applicants of their rights to:

* review the municipal General Assistance ordinance and Maine General Assistance law;
* apply for assistance;
* receive a written decision concerning eligibility within 24 hours of applying for assistance;
* confidentiality
* contact the Department of Human Services;
* challenge the administrator's decision by requesting a fair hearing.

Reimbursement - The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. In addition to seeking repayment from a recipient the municipality also may recover the amount of assistance granted to a recipient during the previous twelve months from any relative legally liable for the applicant's support pursuant to M.R.S.A. Title 19 (spouses, parents of persons under the age of 25, parents of persons of any age who are incapacitated from earning a living and without sufficient means). (See Article VII, Recovery of Expenses, p.27). (22 M.R.S.A. ss 4318, 4319; 19 M.R.S.A. ss 441-443).

6.5 Responsibilities of the Applicant at the Time of the Application -

The applicant has the following responsibilities at the time of each application to provide accurate, complete and current information and verification concerning his/her income, resources, assets, household, employment, how the applicant has spent his/her
income, the names and addresses of any relatives legally liable for the applicant's support, and any change in this information that would affect his/her eligibility (22 M.R.S.A. ss 4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows that the applicant:

a. Has remained employed, if previously employed, and not quit work without just cause or being discharged from employment for misconduct;

b. has been seeking employment, if previously unemployed or employed on a part time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

c. has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and

d. has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish his or her need for general assistance (22 M.R.S.A. ss 4316-A, 4317).

6.6 Action on Applications

Written Decision - The general assistance administrator will give a written decision to the applicant concerning his/her eligibility within 24 hours after he/she submits a written application and will furnish assistance to eligible applicants within that period (22 M.R.S.A. ss 4305, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

Content - The written decision will contain the following information:

a. The type and amount of aid the applicant is eligible or ineligible to receive or the applicant's ineligibility;

b. The period of eligibility if the applicant is eligible for assistance;

c. The specific reasons for the decision.

d. The applicant's right to a fair hearing; and

e. The applicant's right to notify the Department of Human Services if he/she believes the municipality has acted illegally. (22 M.R.S.A. ss 4321).
6.7 Withdrawal of an Application

An application is considered withdrawn if:

a. The applicant requests in writing, that his/her application be withdrawn; or

b. The applicant refuses to complete or sign the application, or any other form needed by the general assistance administrator.

6.8 Temporary Refusal To Accept Application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications for 24 hours. Such circumstances may include, but are not limited to, the following:

a. When the applicant’s conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will be accepted when his/her conduct is under control;

b. When a third person applies for assistance on behalf of the applicant. That person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. ss 4308).

6.9 Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonable be expected to pose a threat to the health or safety of the applicant or a member of the household. (22 M.R.S.A. ss 4301.4). Although they may be considered otherwise ineligible to receive general assistance, people who apply for assistance to alleviate an emergency will be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency. (22 M.R.S.A. ss 4308).

Disqualification - A person who is currently disqualified from receiving General Assistance due to a violation of Section 7.5, 7.6, 7.7, or 8.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. ss 4308.2(A)).

Dependents of a disqualified person may be eligible for assistance. For the purposes of this section, "dependents" are defined as: 1.) a dependent minor child; 2.)
an elderly, ill or disabled person; or 3.) a person whose presence is required to provide care for any child under the age of six years or any ill or disabled member of the household (22 M.R.S.A. ss 4309.3). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

**Assistance Prior To Verification** - Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

a. After interviewing the applicant the administrator has determined that he/she will probably be eligible for assistance after a verification of information is completed; and

b. The applicant submits documentation when possible, to verify his/her need.

The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. ss 4310).

**Telephone Applications** - If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and if there is no authorized representative who can apply for the applicant, the administrator will accept an application over the telephone.

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his/her home or by mail and the administrator cannot determine his/her eligibility through any other means.

**Limitation On Emergency Assistance** - Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace that money. Applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

a.) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rental, mortgage or utility payments), and the negative account balance was created over a longer period of time.
In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.

b.) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period.

c.) The applicant shall provide evidence of income and resources for the applicable time period.

d.) The administrator shall compute all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessities or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.

e.) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.

f.) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in sub-section (e), even when such a grant will not totally alleviate the emergency situation.

g.) The administrator shall not apply this limitation of emergency assistance to first time applicants, that is, persons who have not applied for or received general assistance from this municipality within the last twelve months or any other municipality within the last six months.

h.) The administrator may elect not to apply the above limitation on emergency assistance in life threatening situations or in situations where the applicant did not have reasonably sufficient notice of the municipal authority to so-limit a grant of emergency assistance.

i.) Notice of the municipal authority to limit emergency assistance according to 22 M.R.S.A. ss 4308(2)(B) and this ordinance shall be issued to all applicants.

j.) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

6.10 Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his/her eligibility and, if eligible, will
grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. ss 4307).

Moving/Relocating - The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help the applicant relocate, this municipality will be responsible for providing assistance to him/her for 30 days after he/she moves provided the recipient remains eligible.

Institutions - If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for 6 months after he/she enters the institution. The municipality thereafter retains responsibility for an applicant in an institution if he/she has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if he/she had no residence prior to entering the institution. (22 M.R.S.A. ss 4307.4).

Temporary Housing - Hotels/motels and similar places of temporary lodging are considered institutions (see above) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging. (NOTE: Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties. (22 M.R.S.A. ss 4307.4).)

Disputes - When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the Department of Human Services in Augusta (289-3691 or 1-800-442-6603). If the applicant applies in this municipality first, the administrator will determine his/her eligibility and, if eligible, will grant assistance until the Department has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the Department will recover the amount due from the other municipality. (22 M.R.S.A. ss 4307.5, 4307.6).

ARTICLE VII  ELIGIBILITY FACTORS

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

7.1 Initial Application

Initial Application. For initial applicants, need will be the sole condition of eligibility. the exception to this general rule, as provided by law, applies to all
applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. ss 4316-A(1-A)). An initial applicant is a person who has never applied for general assistance in any municipality in Maine (22 M.R.S.A. ss 4308.1).

"Need" means that the applicant's income and resources are less than either the total maximum levels of assistance contained in section 8.8 of this ordinance or the actual 30-day costs, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

Subsequent Applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people one whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must: (1) be in need; (2) have used their income and resources to secure basic necessities; and (3) meet all other eligibility requirements.

7.2 Eligibility For Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance, if he/she is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of food stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need. (7 U.S.C. ss 2017(b)). Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or resources; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his/her total fuel costs (42 U.S.D. ss 624 (f); Dept, of Health and Welfare v. Block, 784 F.2d 895). The computation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under Types of Income at section 8.6 of this ordinance.

Applicants or recipients must apply for other program benefits within seven days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to receive a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. ss 4317).

7.3 Personal Property

a. Liquid Assets - No person owning assets easily convertible into cash including, but not limited to, bank deposits, stocks, bonds, certificates of deposit and
other marketable security will be eligible for general assistance unless he or she uses these assets to meet his/her basic needs and thereby exhausts them.

b. Tangible Assets - No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application and when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

c. Automobile Ownership - Ownership of one automobile per household will not make a person ineligible for assistance, if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant and his/her family. Recipients of general assistance who own an automobile with a market value greater than $5000 may be required, with written, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than $5000. Any income received by the applicant by virtue of such a trade down must be used for his/her basic necessities. Failure to liquidate or trade down the excess value of an automobile asset can result in disqualification. (22 M.R.S.A. ss 4317). The municipality will neither pay nor consider as necessary expenses any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with Section 8.8(f)(6 and 7) Travel/work related expenses.

d. Insurance - Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for 4 weeks or more after the initial application.

e. Transfer of Property - Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will be denied. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will be issued. There will be a presumption that the applicant transferred his/her assets in order to be eligible for general assistance if the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of an arms length transaction.
7.4 Ownership of Real Estate

If the applicant or dependents own real property other than that occupied as the principal home, continued eligibility will depend on the applicant making a reasonable effort to:

a. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need: or

b. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to someone solely to appear eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (22 M.R.S.A. ss 4320, see also Section 8.8).

7.5 Work Requirement

All general assistance recipients are required to work, look for work, and fulfill the work requirements, unless they are exempt as provided below.

Employment; Rehabilitation - All unemployed applicants and members of their households who are over the age of 16 years of age or older will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided below (see Exemptions below). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A "suitable job" means any job which the applicant is mentally and physically able to perform.

"Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

Verification - Applicants will be required to provide verification of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers. For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish a set number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonable related to the number of hours in the week the applicant has available for work search activities after considering all time obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these
requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

**Disqualification** - After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

- a. Refuse to register for employment with the Maine Job Service;
- b. Refuse to search diligently for employment when the search is reasonable and appropriate. Recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent worksearch and will be disqualified.
- c. Refuse to accept a suitable job offer;
- d. Refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e. Fail to be available for work;
- f. Voluntarily quit work or are discharged for misconduct connected with his or her work. Applicants who are employed are expected to remain on the job and not quit or lose their employment except for just cause. (22 M.R.S.A. ss 4301.8, 4316-A).

**Just Cause** - Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. Just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a. The applicant has a physical or mental illness or disability, which prevents him/her from working;
- b. The work assignment pays below minimum wages;
- c. The applicant was subject to sexual harassment;
- d. The applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;
- e. The applicant has no means of transportation to or from work or a training or rehabilitation program;
- f. The applicant is unable to arrange for necessary child care or care of ill or disabled family members;
- g. Any reason found to be good cause by the Maine Employment Security Commission, or any other verifiable reason which the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. ss 4316-A.5).

**Applicants Burden Of Establishing Just Cause** - If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the
responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. ss 4316-A).

Eligibility Regained - Persons who are disqualified for 120 days because they violated the work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement they violated.

Persons who have been disqualified for 120 days for refusing to participate in the municipal workfare program, or for performing their workfare assignment in a substandard manner, shall be limited to a single opportunity to regain eligibility. If a workfare participant fails to regain eligibility, without just cause, after being offered a distinct and separate opportunity to do so, the administrator shall enforce the 120 day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial period of disqualification for failing to comply with the municipal work program, that participant shall be ineligible for a new 120 day period beginning with a new disqualification date, but with no opportunity to requalify (22 M.R.S.A. ss 4316-A(4)).

Dependents - Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

a. A dependent minor child;

b. An elderly, ill, or disabled person; and

c. A person whose presence is required in order to provide care for any child under the age of 6 years or for any ill or disabled member of the household (22 M.R.S.A. ss 4309.3).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

Exemptions - The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child under the age of 6 years or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, participation in a training program which is either approved or determined by the Department of Labor to be
expected to assist the applicant in securing employment, or participation in a degree-granting program under the control of the Department of Human Services or Department of Labor.

7.6 Use Of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his/her need for general assistance (see definition of Resources). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. ss 4317).

Minors - A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

1) the minor is residing in a foster home, maternity home, or other adult supervised supportive living arrangement; or
2) the minor has no living parent or the whereabouts of both the parents are unknown; or
3) no parent will permit the minor to live in the parent's home; or
4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
5) the Department of Human Services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
6) the Department of Human Services determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility. (22 M.R.S.A. ss4309.4).

Any person under the age of 25 who is applying independently from his/her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his/her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his/her parents are financially capable of repaying the municipality. (22 M.R.S.A. ss 4319). With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his/her parents. If the applicant's parents declare a willingness to provide the applicant his/her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his/her parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his/her needs are being provided by a legal liable relative.
Mental and Physical Disability - Each applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician and which are available to the applicant provided they would not constitute a financial burden or create a physical risk to the individual.

Written Notice; Disqualification - The administrator will give each applicant written notice that he/she is required to utilize any and all potential resources. Any applicant who refuses to utilize potential resources, without just cause, after receiving a written 7 day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize the resources.

General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

Forfeiture of Benefits - Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, or a knowing or intentional violation of program rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture. To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture unless the municipality is prohibited by federal or state law form considering the forfeited resource as available with respect to local public assistance programs. (22 M.R.S.A. ss 4317).

7.7 Period of Disqualification

No one will have his/her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. ss 4321-4322). Each person will be notified in writing of the reasons for his/her ineligibility, and if disqualified for not complying with the ordinance, the period of disqualification.

Work Requirement - All general assistance recipients are required to work, look for work, and fulfill the work requirements. Work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person who whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt.

Employment; Rehabilitation - All unemployed applicants and members of their household who are 16 years of age or older will be required to accept any suitable job offer or opportunity for rehabilitative services. Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.
A "suitable job" means any job which the applicant is mentally and physically able to perform. "Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

Verification - Unemployed applicants or applicants employed on a part time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers. For repeat applicant's the administrator will establish a set number of employer contacts, reasonable related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities.

Fraud - People who commit fraud are disqualified from receiving assistance for a period of 120 days. (See Section 8.4 Fraud). The administrator will notify recipients that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the expiration of a grant of assistance the period of disqualification shall commence on the day following the end of the period covered by the grant of assistance or on the day the fair hearing authority renders its decision, whichever is later. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of disqualification, unless subsequently modified by the fair hearing authority.

7.8 Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. ss 4316-A.2).

Consent - Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it to themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

Limitations - The work requirement is subject to the following limitations. (22 M.R.S.A. ss 4316-A.3).

1). No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated
at a rate of at least the prevailing minimum wage under state or federal law. (Note: the federal minimum wage is $4.75/hour as of October 1, 1996, and shall be increased to $5.15/hour on September 1, 1997).

2). No workfare participant shall be required to do work for a non-profit organization if that work would violate the participant's basic religious beliefs.

3). In no case shall eligible persons performing work under this subsection interfere with an eligible person's:
   a) existing employment;
   b) ability to follow up on a bonafide job offer;
   c) attendance at an interview for possible employment;
   d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
   e) classroom or on site participation in an approved training program under the control of the Department of Human Services or the Department of Labor.

4). In no case shall eligible persons performing work under this subsection replace regular municipal employees.

5). In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has a full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his/her regular employment would result in the person working more than 40 hours per week.

6). In no case will an eligible person be required to perform work beyond his/her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. ss 4309).

   If the administrator requires a doctor's statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the applicant has no means to pay for the exam, however in such a case the administrator will choose the doctor. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. ss 4316.5).

7). In no case may an eligible person with an immediate need (i.e. a person in an emergency situation who has not been disqualified for receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work for the assistance received. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following "workfare first" policy.

"Workfare First" Policy - Under the authority of 22 M.R.S.A. ss 4316-a(2)(d), the administrator may, in accordance with the following guidelines, require a recipient of
general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.

2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
   a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
   b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);
   c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
   d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will actually be issued;
   e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers, and
   f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.

3) as previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.

4) In addition to any disqualification penalty that may apply, the consequences of failing to perform or completely failing to perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards that job, without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided the workfare participant in writing.

5) If some of the workfare first assignments satisfactory performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant.

6) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned.

Work Related Expenses - A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided
to the person (22 M.R.S.A. ss 4316.2(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his/her assignment.

**Disqualification** - Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for assistance for 120 days. (22 M.R.S.A. ss 4316-A.1). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient that he/she is disqualified for 120 days unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

**Eligibility Regained** - Recipients who are disqualified from receiving assistance because they have violated the requirement of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first workfare assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible.

If during the 120 day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause, failed to perform, the disqualified recipient will be given an opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible. If under such a set of circumstances the recipient has an emergency need, the administrator will provide sufficient emergency assistance to avert the emergency, but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 120 day disqualification if the recipient fails to regain eligibility by satisfactorily performing the workfare assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked to regain their eligibility during the 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120 day disqualification for the term of its initial duration.

If a workfare recipient regains eligibility under this section but is subsequently disqualified within the initial 120 day period of disqualification for failing to comply with the municipal work program, that participant will be ineligible for a new 120 day period beginning with a new disqualification date, but no opportunity to requalify.

Any recipient who intentionally causes damage to property or harms other employees by his/her actions and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

**Reports** - The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the Department of Human Services (22 M.R.S.A. ss 4316-A.2).
ARTICLE VIII  DETERMINATION OF ELIGIBILITY

8.1 Recognition of Dignity and Rights

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his/her individual rights.

8.2 Determination; Redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he/she is receiving assistance if the administrator is notified of any change in the recipient's circumstances which may alter the amount of assistance which the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and allowing the recipient to appeal the decision to the fair hearing authority (22 M.R.S.A. ss 4309).

8.3 Verification

**Applicant's Responsibility** - Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her need, income, expenses, and any changes information previously reported on the application. The administrator will require documentation of the applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable, except that food and household supplies will be budgeted at the actual amount paid up to the maximums allowed in Section 8.8 of this ordinance. The recipient is responsible for notifying the administrator of any changes in his/her household or income that may affect his/her eligibility.

When determining an applicant's eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered only with the knowledge of the applicant (22 M.R.S.A. ss 4309).

**Decision** - If an applicant does not have the necessary information at the time of application, the administrator will give him/her the opportunity to provide the
information prior to the expiration of the 24 hour period within which the administrator must act on the application. If all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24 hour period, and the administrator can not determine the applicant's eligibility, the applicant will be denied assistance for that reason (22 M.R.S.A. ss 4309.1-B).

**Denial of Assistance** - The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his/her needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished (22 M.R.S.A. ss 4309.1-B).

**Right to Verify** - It is the administrator's responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: the Department of Human Services and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers and landlords, and physicians, and legally liable relatives. The administrator will request the applicant's written consent authorizing the administrator to receive the necessary information (22 M.R.S.A. ss 4314).

**Penalty For Refusing to Release Information** - Any person who is required but who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than $25 nor more than $100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. ss 4314.5, 4314.6).

**8.4 Fraud**

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance (22 M.R.S.A ss 4315). A material fact is any information which has direct bearing on the person's eligibility. False representation shall consist of any individual knowingly and willfully:

a. Making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
b. Concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or

c. Using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

**Period of Ineligibility** - When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for up to 120 days. For the purpose of this section, a material misrepresentation is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of disqualification issued by the administrator shall inform the applicant of his/her right to appeal the administrator's decision to the fair hearing authority within 5 working days of receipt. Unless modified by the fair hearing authority, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of disqualification, whichever is later. When the administrator considers there to be a significantly mitigating circumstance, the period of disqualification for fraud can be reduced to a period of time less than 120 days.

**Right to a Fair Hearing** - Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with Article IX of this ordinance. No recipient shall have his/her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the Superior Court pursuant to Rule 80-B (22 M.R.S.A. ss 4315).

**Reimbursement** - If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, he/she will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

**Dependents** - In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. ss 4315). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.
8.5 Period Of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. ss 4309). Upon any application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis. For reasons of administrative efficiency, however, the administrator may elect to disburse that applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

8.6 Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. ss 4301.7). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 8.8, whichever is less. Applicants will not be considered eligible if their income and other resources exceeds this calculation except in an emergency (see section 6.9 22 M.R.S.A. ss 4308.2).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 8.8 (22 M.R.S.A. ss 4301.10, 4305.3-B). The difference between the applicant's income/resources and the overall maximum levels of assistance established by this ordinance is the applicant's deficit. Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity listed in Section 8.8 shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. ss 4305.3-A).

Income for Basic Necessities - Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to the application on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility. (22 M.R.S.A. ss 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need
assistance with other basic necessities will be eligible, provided that their income does not exceed the maximum levels of assistance.

Use-Of-Income Requirements - Except for initial applicants, anyone applying for general assistance must document their use of income to the administrator. This documentation can take the form of check stubs and/or receipts which demonstrate that the applicant has used his/her income for basic necessities.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, food and non-prescription drugs up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the costs of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement or insurance; the reasonable cost of essential clothing, and the costs of any other commodity or service determined essential by the administrator.

Cable television, cigarettes/alcohol, gifts purchased, costs of trips or vacations, court fines paid, repayments of unsecured loans, credit card debt, costs associated with pet care, etc. are not considered basic necessities and will not be included in the budget computation.

The municipality reserves the right to apply additional use-of-income requirements to any applicant other than an initial applicant who fails to use his/her income for basic necessities or fails to reasonably document his/her use of income. (22 M.R.S.A. ss 4315-A). Those additional requirements will be applied in the following manner:

1.) The administrator may require the applicant to use some or all of his/her income, at the time it becomes available toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities.

2.) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them.

3.) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income.

4.) If the applicant does not spend his/her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

Computation of Income and Expenses - In determining need the administrator will subtract the applicant's net income from his/her allowed expenses for basic necessities contained in Section 8.8. If income is greater than the allowed expenses, the applicant is not in need and will not be eligible except in an emergency (see Section 4.9). If the applicant's income is less than what is needed to provide the allowed basic necessities, the applicant will be considered in need. Any applicant who is in need will be considered eligible the first time he/she supplies. Any applicant who submits
subsequent applications will be eligible only if he/she is in need and meets all other eligibility conditions as provided in this ordinance.

The municipality will provide assistance in an amount up to the deficit (unmet need) in the applicant's total allowed budgeted need. The municipality will not grant assistance in excess of the maximum amounts allowed in Section 8.8 of this ordinance, except in an emergency or when the administrator elects to consolidate the applicant's unmet need, as provided immediately below.

Consolidation Of Deficit - As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

1.) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
2.) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
3.) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient misspending his or her income or resources in violation of the use-of-income requirements of this ordinance.

8.7 Income

Income Standards - Applicants whose income exceeds the overall maximum levels of assistance provided in Section 8.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time they apply.

Calculation of Income - To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30 day period commencing on the date of application and any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was spent during the previous 30-day period on items that are not basic necessities. If their income exceeds the amount they need for basic necessities, up to the maximum levels contained in Section 8.8, applicants will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded (22 M.R.S.A. ss 4308). (See Section 6.9) To calculate weekly income and expenses, the administrator will divide the applicants' monthly income and expenses by 4.3.
Types of Income - Income which will be considered in determining an applicant's need includes:

a. Earned Income - income is cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee is considered earned income. If a person is self-employed, total income will be computed by subtracting business expenses from gross income. When income consists of wages, the amount computed will be that available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income. ACTUAL WORK-RELATED EXPENSES SUCH AS UNION DUES, TRANSPORTATION TO AND FROM WORK, SPECIAL EQUIPMENT OR WORK CLOTHES, AND CHILD CARE COSTS WILL NOT BE CONSIDERED AVAILABLE INCOME AND WILL BE DEDUCTED (22 M.R.S.A. ss 4301.7).

b. Income From Other Assistance or Social Services Programs - State categorical assistance benefits SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive, although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise obviated an actual fuel-related cost over the prospective 30-day period. The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his/her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his/her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

c. Court-Ordered Support Payments - Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually
received to the State Department of Human Services' Support Enforcement Location Unit.

d. Income From Other Sources - Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. ss 4301.7).

e. Earnings of a Son or Daughter - Income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

f. Income From Household Members - Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another (Boisvert v. Lewiston, CV80-436, Androscoggin County Superior Court). CV 86-436.

g. The Pooling Of Income - When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. ss 4301.12-A). One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, check stubs, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs. If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his/her income and his/her pro-rata share of actual household expenses.

h. Lump Sum Income - A lump sum payment received by a household prior to the date of application for general assistance shall be considered as income available to the household, with the exception of any required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of...
bills earmarked for the purpose for which the lump sum payment was made and any
amount of the lump sum payment which the applicant can document was spent on basic
necessities, as described below.

In the case where a lump sum payment was received by household at any time
prior to the date of application for general assistance, the administrator may also assess
the possibility of prorating an applicant's eligibility for general assistance according to
the following criteria (22 M.R.S.A. ss 4301.7).

1.) Identify the date the lump sum payment was received.
2.) subtract from the lump sum payment all required payments;
3.) subtract from the lump sum any amount the applicant can demonstrate was
spent on basic necessities, including all basic necessities provided by general assistance
up to the specific maximum levels of assistance, per month, provided in this ordinance;
payment of funeral or burial expenses for a family member; travel costs related to the
illness or death of a family member; repair or replacement of essentials lost due to fire,
flood or other natural disaster; repair or purchase of a motor vehicle essential for
employment, education, training or other day-to-day living necessities (22 M.R.S.A. ss
4301.7).

4.) add to the remainder all income received by the household between the date of
receipt of the lump sum payment and the date of application for general assistance.
5.) divide the sum created by subsection (4) by the aggregate maximum monthly
allocation of general assistance available to the household pursuant to 22 M.R.S.A. ss
4305.3-B.

The dividend remaining after following the above guidelines represents the number
of months from the receipt of the lump sum payment that the applicant(s) will not be
eligible for non-emergency assistance, except no proration of eligibility can extend
longer than twelve months from the date of application. Applicants who have been
declared ineligible for reasons of lump sum proration shall be eligible for emergency
general assistance during the period of proration according to the standards at Section
6.9 of this ordinance.

The administrator shall provide notice to all applicants of the municipality's
authority to prorate eligibility in the above manner.

8.8 Basic Necessities; Maximum Levels of Assistance

**Overall Maximum Levels of Assistance** - Not with standing any of the maximum
levels of assistance for specific basic necessities listed in this section, an applicant's
eligibility for general assistance will be first determined by subtracting his/her income
from the overall maximum level of assistance designated immediately below for the
applicable household size (22 M.R.S.A. ss 4305.3-B). The difference yielded by this
calculation shall be the applicant's deficit. Applicants will be eligible for general
assistance up to the calculated deficit to the extent the applicant is unable to otherwise
provide the basic necessities essential to maintain themselves or their families.
Applicants with no deficit shall be found ineligible for general assistance unless they are
in an emergency, in which case eligibility for emergency general assistance will be
determined according to section 6.9 of this ordinance.
<table>
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<td>6</td>
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<td>871.00</td>
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Additional Persons $75.00 per person

Maximum Levels Of Assistance For Specific Basic Necessities - The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit (unmet need) toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to although if the administrator determines that there are exceptional circumstances and an emergency is shown to exist, these absolute levels will be waived in order to meet immediate needs (Glidden v. Town of Fairfield, et al., CV79-17, Somerset County Superior Court). In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

The applicant's need for common living expenses for food, rent, fuel, etc. will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. This presumption may be rebutted by evidence that the other household members had no income with which to pay their share of common expenses. No applicant will be allowed to claim a need for any expense which in fact, has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bull that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance. Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence or a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

A. FOOD - The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size. For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of
Human Services on or about October of each year. In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. ss 4301.7(A); Dupler et als v. City of Portland et als, CV-74-134 SD). The municipality will authorize vouchers to be used solely for approved food products.

**THE MAXIMUM AMOUNTS ALLOWED FOR FOOD ARE:**

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<th>NO. IN HOUSEHOLD</th>
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<th>MONTHLY</th>
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<tbody>
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<tr>
<td>8</td>
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<td>735.00</td>
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Additional persons in the household will be budgeted at $19.76 per person per week or $85 a month. The administrator will exceed the above maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement which verifies that there is a special dietary need that requires an expenditure for food which is greater than the ordinance maximums.

**B. HOUSING** - The administrator will provide assistance with rent or mortgage payments that are reasonable and within the allowed maximum levels below. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist him/her in his/her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

**Rental Payments To Relative** - The municipality will not authorize any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents,
grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children. 22 M.R.S.A. ss 4319(2).

**Rental Payments To Private Homes** - When applicants living in private homes or sharing dwelling units with other people who are not requesting general assistance, the amount allowed as the applicant's shelter expense will be the applicant's prorata share of the actual, total shelter cost, up to the ordinance maximum. (22 M.R.S.A. ss 4301.6).

Any housing assistance issued to a recipient in such a circumstance shall be issued, whenever reasonably possible, to the landlord or property owner with most superior legal or equitable interest in the property.

When the municipality issues in aggregate more than $600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments during the calendar year will be issued to the Internal Revenue Code.

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, obtain a lodging license from the Department of Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

**Mortgage Payments** - In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

1. The marketability of the shelter's equity,
2. The amount of equity,
3. The availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs,
4. The extent to which liquidation may aid the applicant's financial rehabilitation,
5. A comparison between the amount of mortgage obligations and of anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing,
6. The imminence of the applicant's dislocation from owned housing because of his/her inability to meet the mortgage payments,
7. The likelihood that the provision of housing assistance will prevent such dislocation, and
8. The applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide. If after reviewing the above criteria the
administrator determines that: (1) the monthly mortgage obligation is in accordance either the maximum levels of assistance available for housing appropriate to the applicant's household size; (2) there in no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporary or remortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continues right of possession of the property, then the administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below, whichever is less. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his/her home. If there is not sufficient equity in the home with which to use to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his/her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

Liens - When the municipality makes mortgage payments, the municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments (22 M.R.S.A. ss 4320). No lien may be enforced against a recipient except upon his/her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment it must file a notice of the lien with the county register of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the same eligible person. Not less than 10 days prior to filing the lien notice in the registry, the municipal officers must send a different notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested that a lien notice is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment or the imposition of interest. This notice must include the same information that appeared on the original notice of proposed filing sent to the recipient.
The municipality will charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer. The interest will accrue from the date the lien is filed.

**Property Taxes** - In the event an applicant requests assistance with his/her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.R.S.A. ss 841(2) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

a.) the property tax in question is for the applicant's place of residence;

b.) there is a tax lien on the property which is due to mature within 60 days of the date of application; and

c.) as a matter of policy or practice it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and

d.) the applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values as those values are prepared and distributed by the Maine Department of Human Services on or about November 1st of each year, those values are hereby incorporated by reference. If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the Department of Human Services, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. ss 4305.

**The Maximum Amounts Allowed For Housing Are:**

<table>
<thead>
<tr>
<th>NO. OF BEDROOMS</th>
<th>UNHEATED WEEKLY</th>
<th>UNHEATED MONTHLY</th>
<th>HEATED WEEKLY</th>
<th>HEATED MONTHLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>$ 56</td>
<td>$ 240</td>
<td>$ 69</td>
<td>$ 298</td>
</tr>
<tr>
<td>1</td>
<td>72</td>
<td>308</td>
<td>84</td>
<td>363</td>
</tr>
<tr>
<td>2</td>
<td>90</td>
<td>389</td>
<td>108</td>
<td>465</td>
</tr>
<tr>
<td>3</td>
<td>120</td>
<td>517</td>
<td>142</td>
<td>612</td>
</tr>
<tr>
<td>4</td>
<td>121</td>
<td>521</td>
<td>149</td>
<td>642</td>
</tr>
</tbody>
</table>
HEATED - PLUS LIGHTS

<table>
<thead>
<tr>
<th>NO. IN HOUSEHOLD</th>
<th>WEEKLY</th>
<th>MONTHLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>$ 86</td>
<td>$344</td>
</tr>
<tr>
<td>1</td>
<td>104.75</td>
<td>419</td>
</tr>
<tr>
<td>2</td>
<td>123.25</td>
<td>493</td>
</tr>
<tr>
<td>3</td>
<td>154.50</td>
<td>618</td>
</tr>
<tr>
<td>4</td>
<td>173.25</td>
<td>693</td>
</tr>
</tbody>
</table>

C. UTILITIES - Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants for their most recent bill. The municipality is not obligated to pay back bills or security deposits. Exceptions may be made in emergency situations pursuant to Section 6.9 Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds. Applicants have the burden of providing evidence of their income for the applicable time period (22 M.R.S.A. ss 4308.2, see Section 8.9). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

ELECTRICITY MAXIMUMS FOR HOUSEHOLDS WITHOUT ELECTRIC HOT WATER. The maximum amounts allowed for utilities for lights, cooking, and other electric uses, excluding electric hot water are:

<table>
<thead>
<tr>
<th>NO. IN HOUSEHOLD</th>
<th>WEEKLY</th>
<th>MONTHLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$14.00</td>
<td>$60.00</td>
</tr>
<tr>
<td>2</td>
<td>15.70</td>
<td>67.50</td>
</tr>
<tr>
<td>3</td>
<td>17.45</td>
<td>75.00</td>
</tr>
<tr>
<td>4</td>
<td>19.20</td>
<td>82.50</td>
</tr>
<tr>
<td>5</td>
<td>21.00</td>
<td>90.00</td>
</tr>
<tr>
<td>6</td>
<td>22.70</td>
<td>97.50</td>
</tr>
</tbody>
</table>

additional members, add 7.50/month
ELECTRICITY MAXIMUMS FOR HOUSEHOLDS WITH ELECTRIC HOT WATER. The maximum amounts allowed for electric utilities for dwelling units that have electrical heated hot water shall be $70 per month for the first member of the household, with an additional $10 per month for each additional member.

<table>
<thead>
<tr>
<th>NO. IN HOUSEHOLD</th>
<th>WEEKLY</th>
<th>MONTHLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$16.30</td>
<td>$70.00</td>
</tr>
<tr>
<td>2</td>
<td>18.60</td>
<td>80.00</td>
</tr>
<tr>
<td>3</td>
<td>21.00</td>
<td>90.00</td>
</tr>
<tr>
<td>4</td>
<td>23.30</td>
<td>100.00</td>
</tr>
<tr>
<td>5</td>
<td>25.60</td>
<td>110.00</td>
</tr>
<tr>
<td>6</td>
<td>27.90</td>
<td>120.00</td>
</tr>
</tbody>
</table>

additional members, add 7.50/month

Note: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum amount for fuel as provided below.

In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant, even when the arranged payment amount exceeds the above maximums or actual usage.

1.) This SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for non-electrically heated dwelling units.

2.) The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.

3.) The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

Pursuant to the use-of-income requirements in section 8.6 of this ordinance, whenever the administrator budgets for SPA's or BPA's under this section, the recipient will be required to pay the SPA or BPA him or herself to the extent of the income capacity of the household.

Non-Electric Utilities - The allowed amount for water and sewer utility service will be budgeted at the actual 30-day cost for those services.

D. FUEL - Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants for their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in
Section 6.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 6.9 of this ordinance.

When considering requests for fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

<table>
<thead>
<tr>
<th>Month</th>
<th>Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>50</td>
</tr>
<tr>
<td>October</td>
<td>100</td>
</tr>
<tr>
<td>November</td>
<td>200</td>
</tr>
<tr>
<td>December</td>
<td>200</td>
</tr>
<tr>
<td>May</td>
<td>50</td>
</tr>
<tr>
<td>January</td>
<td>225</td>
</tr>
<tr>
<td>February</td>
<td>225</td>
</tr>
<tr>
<td>March</td>
<td>125</td>
</tr>
<tr>
<td>April</td>
<td>125</td>
</tr>
</tbody>
</table>

When fuel such as wood, coal and/or natural gas are used to heat, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year or 126,000 cubic feet of natural gas per year.

E. PERSONAL CARE AND HOUSEHOLD SUPPLIES - Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and light bulbs.

<table>
<thead>
<tr>
<th>No. in Household</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>$8.20</td>
<td>$35.00</td>
</tr>
<tr>
<td>3-4</td>
<td>9.30</td>
<td>40.00</td>
</tr>
<tr>
<td>5-6</td>
<td>10.50</td>
<td>45.00</td>
</tr>
<tr>
<td>7-8</td>
<td>11.60</td>
<td>50.00</td>
</tr>
</tbody>
</table>

Additional persons in the household will be budgeted at $1.25 per week or $5 a month.

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with young children for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<table>
<thead>
<tr>
<th>No. of Children</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$10.50</td>
<td>$45.00</td>
</tr>
<tr>
<td>2</td>
<td>15.10</td>
<td>65.00</td>
</tr>
<tr>
<td>3</td>
<td>20.90</td>
<td>90.00</td>
</tr>
<tr>
<td>4</td>
<td>25.60</td>
<td>110.00</td>
</tr>
</tbody>
</table>
F. OTHER BASIC NECESSITIES - Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

1. Clothing - The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire or unusual cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or if household member is without adequate clothing.

2. Medical - The municipality will pay for essential medical expenses, other than hospital bills (see below), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devises, treatments, or services that are determined to be medically necessary by a licensed physician. The municipality will grant assistance for medical service only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his/her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies, non-prescription drugs, will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from physician certifying that the telephone is essential.

3. Hospital Bills - In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator the municipality will have no obligation to pay the bill.
Any person who cannot pay his/her hospital bill must apply to the hospital for consideration under the hospital's charity care program as provided in Title 22 M.R.S.A. ss 396-F(1). Anyone who is not eligible for the hospital's charity care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's charity care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found in section 8.6 of this ordinance.

4. Dental - The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary the municipality will pay for dentures if the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

5. Eye Care - In order to be eligible to receive general assistance for eyeglasses, an applicant must have his/her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources.

6. Work-Related Expenses - In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include transportation at the actual costs not to exceed $.28 per mile, child care costs, work clothes and supplies. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.

7. Travel Expenses - In determining need, necessary travel which is not work-related will be budgeted, if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. The rate at which such necessary travel will be budgeted is $.28 per mile, and this rate shall be construed to subsidize all costs associated with automobile ownership.
and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

8. Burial, Cremations - Under the circumstances and in accordance with the procedures and limitations as described below, the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons.

   Funeral Director Must Give Timely Notice: in order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of the next business day following the funeral director's receipt of the body, whichever is earlier (22 M.R.S.A. ss 4313.2). This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or any other persons are unable to pay the expenses and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capability may be accomplished.

   Application For Assistance Shall Be Created On Behalf Of The Deceased - For the purpose of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be created by the administrator on behalf of the deceased.

   With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death.

   Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. That financial responsibility only exists to the extent of legally liable relatives who have the financial capacity to do so. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

   The Financial Responsibility Of Certain Family Members - Family members of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to do so either in a lump sum or by means of a budgeted payment agreement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with
Consideration of the financial responsibility of family members. - Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have a obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of family responsibility will be implemented.

Proration of family responsibility. - A proration of familial financial responsibility will be used when no legally liable relative possesses and obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives. Under these circumstances, each legally liable relative is considered to be responsible for his or her prorata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit to the aggregate of all prorata share or part of a share attributable to a legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

Ten Days To Determine Eligibility: The administrator may take up to 10 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation.

The Municipal Obligation To Pay when Legally Liable Relatives Or Others Can Contribute: The figures provided are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legal liable relatives of the deceased have a financial capability to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of $75.00 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

Burial Expenses - The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. The maximum amount of general assistance granted for the purpose of burial is $1,125.00, with additional payments, where there is an actual cost, for: (1) the wholesale cost of a cement liner if the cemetery by-laws require one; (2) the opening and closing of the

any reasonable request information regarding their income, assets, and basic living expenses.
grave site; and (3) a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipality-owned cemetery or in a cemetery under municipal control, the cost of a cemetery lot in any other cemetery will not be paid by the municipality.

The municipalities obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct cost, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to: removal of a body from a local residence or institution; a secured death certificate or obituary; embalming; a minimum casket; a reasonable cost for necessary transportation; and other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

**Cremation Expenses** - in the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator will issue general assistance for cremation services. The maximum amount of assistance granted for a cremation shall be $785.00, with additional payments, where there is an actual cost, for a cremation lot in the least expensive section of the cemetery, a reasonable cost for a burial urn not to exceed $50.00, and transportation cost borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

**9. Capital Improvements** - The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible by the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when: 1.) the failure to do so would place the applicant(s) in emergency circumstances; 2.) there are no other resources available to effect the capital repair; and 3.) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation. In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. ss 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in sub-section (b), above.

**8.9 Notice Of Decision**

**Written Decision** - The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving an application (22 M.R.S.A. ss 4305.3; See Article VI, Section 6.6).
In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants' right to a fair hearing and the review process in the written notice of decision.

Contents - After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. The notice will state that applicants:

a. Have the right to a fair hearing and the method by which they may obtain a fair hearing;

b. May be represented by legal counsel at their own expense, or other spokesperson, or they may present their own case;

c. Have the right to contact the Department of Human Services if they believe the municipality has violated the law. The decision will state the method for notifying the department.

The written notice shall include the procedures for the conduct of fair hearings, as contained in Section 9.4 of this Article.

Disbursement of General Assistance - Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash. (22 M.R.S.A. ss 4305.6).

ARTICLE IX THE FAIR HEARING

9.1 Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his/her authorized representative has the right to request a fair hearing (22 M.R.S.A. ss 4322). The right to review a decision by the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to review of the decision (Carson v. Oakland, 442 A.2d 170 (Me. 1982); Thibodeau v. Lewiston, Androscoggin Superior Court. (1979), #CV78-388).

9.2 Method of Obtaining a Fair Hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the
adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

Written Request - To obtain a fair hearing, the claimant, or his/her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- The decision on which review is sought;
- The reason(s) for the claimant's dissatisfaction and why he/she believes he/she is eligible to receive assistance; and
- The relief he/she seeks.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn by the claimant.

Scheduling the Fair Hearing - Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. ss 4322). Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given notice early enough to allow preparation and will also be given adequate preliminary information about the hearing procedure to ensure effective preparation of his/her case.

9.3 The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority which will review decisions of the general assistance administrator when requested by any claimant. The authority is charged with the responsibility of assuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the hearing authority, or, if designated, the board of appeals created under Title 30-A M.R.S.A. ss 2691 (22 M.R.S.A. ss 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as fair hearing authority must:

- Not have participated in the decision which is the subject of the appeal;
- Be impartial;
- Be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination;
d. Be capable of evaluating all evidence fairly and realistically, explaining to the
claimant the laws and regulations under which the administrator operated, and
interpreting to the administrator any evidence of unsound, unclear, or inadequate
policies, practices or actions.

9.4 Fair Hearing Procedure

When a claimant requesting a fair hearing is notified of the date, time, and place
for the hearing in writing, he/she will also be given adequate preliminary information
about the hearing procedure to allow for effective preparation of his/her case. The
claimant shall be permitted to review his/her file prior to the hearing. At a minimum, the
claimant will be told the following information, which will govern all fair hearings. All
fair hearings will:

a. Be conducted privately, and will be open only to the claimant, witnesses, legal
counsel, or others whom the claimant wants present, and the general assistance
administrator, his/her agents, counsel and witnesses;

b. Be open with a presentation of the issue by the fair hearing authority;

c. Be conducted informally, without technical rules of evidence, but subject to the
requirements of due process;

d. Allow the claimant and the administrator the option to present their positions
for themselves or with the aid of others, including legal counsel;

e. Give all participants an opportunity to present oral or written testimony or
documentary evidence, offer rebuttal; question witnesses; examine all evidence presented
at the hearing;

f. Result in a decision, based exclusively on evidence or testimony presented at the
hearing; and

g. Be tape recorded, and result in a written decision that is given to the claimant
and filed with evidence introduced at the hearing. The fair hearing authority will allow
the claimant to establish all pertinent facts and circumstances, and to advance any
arguments without undue interference. Information that the claimant does not have an
opportunity to hear or see will not be used in the fair hearing decision or made part of
the hearing record. Any material reviewed by the fair hearing authority must be made
available to the claimant or his/her representative. The claimant will be responsible for
preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon
which reasonable persons are accustomed to rely in the conduct of serious affairs.

9.5 The Fair Hearing Decision

The decision of the fair hearing authority, will be binding on the general assistance
administrator, and will be communicated in writing to the claimant within 5 working
days after completion of the hearing. Written notice of the decision will contain the
following:
A statement of the issue;
Relevant facts brought out at the hearing;
Pertinent provisions in the law or general assistance ordinance related to the decision;
The decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, that assistance will be provided within 24 hours.

ARTICLE X RECOVERY OF EXPENSES

Recipients - The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his/her executors or administrators in a civil action. Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. ss 4318).

Recipients anticipating workers' compensation benefits - The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers' Compensation Act or similar law of any other state (22 M.R.S.A. ss 4318, 39-A M.R.S.A. ss 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Worker's Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division. The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has appealed for or is receiving Workers' Compensation. Any general assistance applicant who has applied for or who is receiving Workers' Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.
Recipients of SSI - All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the Department of Human Services that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied or who may be applying for SSI or who may be required to apply for SSI pursuant to 22 M.R.S.A. s 4317, and who refuses to sign such an authorization will be found ineligible for general assistance until he or she provides the required signature. (22 M.R.S.A. ss 4318).

Relatives - The spouse of an applicant, the parents of an applicant under the age of 21, or the parents of an applicant of any age who is incapacitated from earning a living and without sufficient means, are liable for the support of the applicant (19 M.R.S.A. ss 441-443. In addition, children and grandchildren are liable for the burial costs of their parents and grandparents. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility. (22 M.R.S.A. ss 4319).

ARTICLE XII SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.
## Overall Maximum Levels

### Maximum Levels Of Assistance:

<table>
<thead>
<tr>
<th>No. In Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>83.00</td>
<td>357.00</td>
</tr>
<tr>
<td>2</td>
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<td>427.00</td>
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<tr>
<td>3</td>
<td>128.00</td>
<td>548.00</td>
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<tr>
<td>4</td>
<td>165.00</td>
<td>707.00</td>
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<tr>
<td>5</td>
<td>183.00</td>
<td>784.00</td>
</tr>
<tr>
<td>6</td>
<td>200.00</td>
<td>859.00</td>
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Additional persons $75/per person

### Food:

<table>
<thead>
<tr>
<th>No. In Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>27.90</td>
<td>120.00</td>
</tr>
<tr>
<td>2</td>
<td>51.20</td>
<td>220.00</td>
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<tr>
<td>3</td>
<td>73.30</td>
<td>315.00</td>
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<tr>
<td>4</td>
<td>93.00</td>
<td>400.00</td>
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<tr>
<td>5</td>
<td>110.50</td>
<td>475.00</td>
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<tr>
<td>6</td>
<td>132.60</td>
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<tr>
<td>7</td>
<td>146.50</td>
<td>630.00</td>
</tr>
<tr>
<td>8</td>
<td>167.40</td>
<td>720.00</td>
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</table>

### Housing:

<table>
<thead>
<tr>
<th>No. Of Unheated Heated</th>
<th>Unheated</th>
<th>Heated</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. Of Bedrooms Weekly</td>
<td>Weekly</td>
<td>Monthly</td>
</tr>
<tr>
<td>0</td>
<td>58.00</td>
<td>249.00</td>
</tr>
<tr>
<td>1</td>
<td>70.00</td>
<td>299.00</td>
</tr>
<tr>
<td>2</td>
<td>88.00</td>
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<tr>
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<td>118.00</td>
<td>506.00</td>
</tr>
<tr>
<td>4</td>
<td>119.00</td>
<td>510.00</td>
</tr>
</tbody>
</table>

### Utilities: Without Electric Hot Water

<table>
<thead>
<tr>
<th>No. In Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>14.00</td>
<td>60.00</td>
</tr>
<tr>
<td>2</td>
<td>15.70</td>
<td>67.50</td>
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<tr>
<td>3</td>
<td>17.45</td>
<td>75.00</td>
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<tr>
<td>4</td>
<td>19.20</td>
<td>82.50</td>
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<tr>
<td>5</td>
<td>21.00</td>
<td>90.00</td>
</tr>
<tr>
<td>6</td>
<td>22.70</td>
<td>97.50</td>
</tr>
</tbody>
</table>

additional members, add 7.50/month
### Maximum Levels Cont’d

**Utilities: With Electric Hot Water**

<table>
<thead>
<tr>
<th>No. In Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>16.30</td>
<td>70.00</td>
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<tr>
<td>2</td>
<td>18.60</td>
<td>80.00</td>
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<tr>
<td>3</td>
<td>21.00</td>
<td>90.00</td>
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<tr>
<td>4</td>
<td>23.30</td>
<td>100.00</td>
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<tr>
<td>5</td>
<td>25.60</td>
<td>110.00</td>
</tr>
<tr>
<td>6</td>
<td>27.90</td>
<td>120.00</td>
</tr>
</tbody>
</table>

**Fuel:**

<table>
<thead>
<tr>
<th>Month</th>
<th>Gallons</th>
<th>Month</th>
<th>Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>50</td>
<td>January</td>
<td>225</td>
</tr>
<tr>
<td>October</td>
<td>100</td>
<td>February</td>
<td>225</td>
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<tr>
<td>November</td>
<td>200</td>
<td>March</td>
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<td>December</td>
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<td>125</td>
</tr>
<tr>
<td></td>
<td></td>
<td>May</td>
<td>50</td>
</tr>
</tbody>
</table>

**Personal Care & Household:**

<table>
<thead>
<tr>
<th>No. In Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>8.20</td>
<td>35.00</td>
</tr>
<tr>
<td>3-4</td>
<td>9.30</td>
<td>40.00</td>
</tr>
<tr>
<td>5-6</td>
<td>10.50</td>
<td>45.00</td>
</tr>
<tr>
<td>7-8</td>
<td>11.60</td>
<td>50.00</td>
</tr>
</tbody>
</table>

**Diapers, Child Care, Etc.:**

<table>
<thead>
<tr>
<th>No. Of Children</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10.50</td>
<td>45.00</td>
</tr>
<tr>
<td>2</td>
<td>15.10</td>
<td>65.00</td>
</tr>
<tr>
<td>3</td>
<td>20.90</td>
<td>90.00</td>
</tr>
<tr>
<td>4</td>
<td>25.60</td>
<td>110.00</td>
</tr>
</tbody>
</table>

Revised October 1, 1996
GENERAL ASSISTANCE ORDINANCE
APPENDICES A-D
2017-2018

The Municipality of __________Hampden__________ adopts the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2017—September 30, 2018. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the _18th_ (day) of __September__ (month) _2017_ (year) by the municipal officers:

David Ryder ____________________________
(Print Name) ____________________________
(Signature)

Greg Sirois ____________________________
(Print Name) ____________________________
(Signature)

Ivan McPike ____________________________
(Print Name) ____________________________
(Signature)

Stephen Wilde ____________________________
(Print Name) ____________________________
(Signature)

Dennis Marble ____________________________
(Print Name) ____________________________
(Signature)

Mark Cormier ____________________________
(Print Name) ____________________________
(Signature)

Terry McAvoy ____________________________
(Print Name) ____________________________
(Signature)
## 2017-2018 GA Overall Maximums

### Metropolitan Areas

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>COUNTY</th>
<th>Person in Household</th>
<th>Person in Household</th>
<th>Person in Household</th>
<th>Person in Household</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Penobscot County HMFA:</strong> Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville</td>
<td><strong>Lewiston/Auburn MSA:</strong> Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales</td>
<td>605</td>
<td>682</td>
<td>847</td>
<td>1,095</td>
</tr>
<tr>
<td><strong>Lewiston/Auburn MSA:</strong> Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales</td>
<td><strong>Portland HMFA:</strong> Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach</td>
<td>641</td>
<td>726</td>
<td>915</td>
<td>1,169</td>
</tr>
<tr>
<td><strong>Portland HMFA:</strong> Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach</td>
<td><strong>York/Kittery/S.Berwick HMFA:</strong> Berwick, Eliot, Kittery, South Berwick, York</td>
<td>1,002</td>
<td>1,131</td>
<td>1,431</td>
<td>1,931</td>
</tr>
<tr>
<td><strong>York/Kittery/S.Berwick HMFA:</strong> Berwick, Eliot, Kittery, South Berwick, York</td>
<td><strong>Cumberland County HMFA:</strong> Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago</td>
<td>982</td>
<td>1,025</td>
<td>1,333</td>
<td>1,714</td>
</tr>
<tr>
<td><strong>Cumberland County HMFA:</strong> Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago</td>
<td>Prepared by MMA</td>
<td>761</td>
<td>807</td>
<td>1,072</td>
<td>1,561</td>
</tr>
</tbody>
</table>

Prepared by MMA
8/2017
**Appendix A**  
**Effective: 10/01/17-09/30/18**

### Sagadahoc HMFA:
Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>781</td>
<td>863</td>
<td>999</td>
<td>1,318</td>
<td>1,600</td>
</tr>
</tbody>
</table>

### York County HMFA:
Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>745</td>
<td>872</td>
<td>1,079</td>
<td>1,457</td>
<td>1,477</td>
</tr>
</tbody>
</table>

*Note: Add $75 for each additional person.*

### Non-Metropolitan Areas

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aroostook County</td>
<td>618</td>
<td>642</td>
<td>760</td>
<td>965</td>
<td>1,049</td>
</tr>
<tr>
<td>Franklin County</td>
<td>646</td>
<td>671</td>
<td>793</td>
<td>985</td>
<td>1,400</td>
</tr>
<tr>
<td>Hancock County</td>
<td>693</td>
<td>787</td>
<td>992</td>
<td>1,249</td>
<td>1,367</td>
</tr>
<tr>
<td>Kennebec County</td>
<td>722</td>
<td>746</td>
<td>928</td>
<td>1,216</td>
<td>1,297</td>
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<tr>
<td>Knox County</td>
<td>754</td>
<td>755</td>
<td>928</td>
<td>1,186</td>
<td>1,315</td>
</tr>
<tr>
<td>Lincoln County</td>
<td>783</td>
<td>834</td>
<td>987</td>
<td>1,234</td>
<td>1,470</td>
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<tr>
<td>Oxford County</td>
<td>630</td>
<td>646</td>
<td>771</td>
<td>1,110</td>
<td>1,343</td>
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<tr>
<td>Piscataquis County</td>
<td>595</td>
<td>672</td>
<td>828</td>
<td>1,090</td>
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<tr>
<td>Somerset County</td>
<td>675</td>
<td>704</td>
<td>835</td>
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<td>Waldo County</td>
<td>680</td>
<td>751</td>
<td>887</td>
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<td>Washington County</td>
<td>630</td>
<td>645</td>
<td>763</td>
<td>985</td>
<td>1,173</td>
</tr>
</tbody>
</table>

*Please Note: Add $75 for each additional person.*

Prepared by MMA  
8/2017
Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. As of October 1, 2017, those amounts are:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly Maximum</th>
<th>Monthly Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>44.65</td>
<td>192</td>
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<tr>
<td>2</td>
<td>81.86</td>
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Note: For each additional person add $144 per month.
# 2017-2018 GA Housing Maximums (Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should ONLY **consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. Or, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (See Instruction Memo for further guidance.)

## Non-Metropolitan FMR Areas

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Appendix C
Effective: 10/01/17-09/30/18

Non-Metropolitan FMR Areas

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## Non-Metropolitan FMR Areas

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## Metropolitan FMR Areas

### Bangor HMFA

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## Metropolitan FMR Areas

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</tbody>
</table>
### OVERALL MAXIMUMS

**Persons in Household**

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>714</td>
<td>788</td>
<td>994</td>
<td>1242</td>
<td>1506</td>
</tr>
</tbody>
</table>

Household of 6 = 1581

* Add $75 for each additional person

### FOOD MAXIMUMS

<table>
<thead>
<tr>
<th>Persons</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>44.65</td>
<td>192</td>
</tr>
<tr>
<td>2</td>
<td>81.86</td>
<td>352</td>
</tr>
<tr>
<td>3</td>
<td>117.21</td>
<td>504</td>
</tr>
<tr>
<td>4</td>
<td>148.84</td>
<td>640</td>
</tr>
<tr>
<td>5</td>
<td>176.74</td>
<td>760</td>
</tr>
<tr>
<td>6</td>
<td>212.33</td>
<td>913</td>
</tr>
<tr>
<td>7</td>
<td>234.65</td>
<td>1,009</td>
</tr>
<tr>
<td>8</td>
<td>268.14</td>
<td>1,153</td>
</tr>
</tbody>
</table>

Add $144 per month for each + person

### PERSONAL CARE & HOUSEHOLD SUPPLIES

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>$10.50</td>
<td>$45.00</td>
</tr>
<tr>
<td>3-4</td>
<td>$11.60</td>
<td>$50.00</td>
</tr>
<tr>
<td>5-6</td>
<td>$12.80</td>
<td>$55.00</td>
</tr>
<tr>
<td>7-8</td>
<td>$14.00</td>
<td>$60.00</td>
</tr>
</tbody>
</table>

**NOTE:** For each additional person add $1.25 per week or $5.00 per month.

### SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$12.80</td>
<td>$55.00</td>
</tr>
<tr>
<td>2</td>
<td>$17.40</td>
<td>$75.00</td>
</tr>
<tr>
<td>3</td>
<td>$23.30</td>
<td>$100.00</td>
</tr>
<tr>
<td>4</td>
<td>$27.90</td>
<td>$120.00</td>
</tr>
</tbody>
</table>

**NOTE:** For each additional person add $1.25 per week or $5.00 per month.

### ELECTRIC

**NOTE:** For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is not automatically entitled to the “maximums” established applicants must demonstrate need.

1) **Electricity Maximums for Households Without Electric Hot Water:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses excluding electric hot water and heat:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$14.00</td>
<td>$60.00</td>
</tr>
<tr>
<td>2</td>
<td>$15.70</td>
<td>$67.50</td>
</tr>
<tr>
<td>3</td>
<td>$17.45</td>
<td>$75.00</td>
</tr>
<tr>
<td>4</td>
<td>$19.90</td>
<td>$86.00</td>
</tr>
<tr>
<td>5</td>
<td>$23.10</td>
<td>$99.00</td>
</tr>
<tr>
<td>6</td>
<td>$25.00</td>
<td>$107.00</td>
</tr>
</tbody>
</table>

**NOTE:** For each additional person add $5.00 per month.

2) **Electricity Maximums for Households With Electrically Heated Hot Water:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses excluding heat:

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$20.65</td>
<td>$89.00</td>
</tr>
<tr>
<td>2</td>
<td>$23.75</td>
<td>$102.00</td>
</tr>
<tr>
<td>3</td>
<td>$27.70</td>
<td>$119.00</td>
</tr>
<tr>
<td>4</td>
<td>$32.25</td>
<td>$139.00</td>
</tr>
<tr>
<td>5</td>
<td>$38.75</td>
<td>$167.00</td>
</tr>
<tr>
<td>6</td>
<td>$41.00</td>
<td>$176.00</td>
</tr>
</tbody>
</table>

**NOTE:** For each additional person add $10.00 per month.

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**1-800-442-6003**

**Revised 10-1-17**
# TOWN OF HAMPDEN, MAINE
## HARBOR ORDINANCE

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<td>NUISANCE AND POLLUTION</td>
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**ADOPTED:**
- Hampden Town Council: August 20, 1984
  - Effective date: September 19, 1984

**AMENDED:**
- Hampden Town Council April 20, 1992
  - Effective: May 20, 1992
- Hampden Town Council November 17, 2003
  - Effective: December 17, 2003
- Hampden Town Council October 1, 2018
  - Effective October 31, 2018
ARTICLE I
BOUNDARIES AND JURISDICTION

The rules and regulations contained herein shall govern water recreation, navigation, and all boating activities on the Penobscot River and its estuarine tributaries, extending from the Bangor City Line to the Winterport Town Line, to the thread of the river channel. The Hampden Marina area shall include that area on Turtle Head extending from the property line between land now or formerly owned by the City of Bangor and land now or formerly owned by the Lane Construction Corporation, southwest to a point 100 feet downriver from Turtle Head Point, extending to the thread of the river; also including Turtle Head Cove, from Turtle Head to the head of tide.

ARTICLE II
HARBOR MASTER

The Harbor Master shall be appointed annually by the Town Council and shall have the authority to enforce the rules and regulations of the Statutes of the State of Maine relating to the operation of vessels, as contained in Title 38 M.R.S.A., Chapter 1; and also shall have the authority to enforce applicable land use laws and ordinances as may be applicable, as contained in Title 30-A M.R.S.A., Chapter 187: §4452; other rules and regulations as contained herein. (Amended 10-01-2018)

ARTICLE III
CHANNELS

The main channel at the Hampden Marina shall extend in a southerly direction from the boat launching ramps approximately 400 feet to the main channel of the Penobscot River, to be marked by buoys from May 15th to October 15th of each year. The channel shall be kept clear for the passage of boats to the public landing float and the boat launching ramps. (Amended 10-01-2018)

There shall be no anchoring allowed within 100 feet of the channel lines, and tenders or dinghies shall not be allowed to encroach into the area of the channel outlined by the channel buoys.

ARTICLE IV
LAUNCHING RAMPS

The Harbor Master shall have jurisdiction over the public boat launching ramps. Boats and cradles shall not be left on the ramps at any time. Vehicles, trailers, and boats shall be parked or stored in designated areas only. No vehicles or boats shall be left unattended on the approach to the launch ramps.

No unattended tie-up of boats to the grounding floats will be allowed, nor will boats be allowed to tie up in any manner so as to interfere with the launching or retrieval of boats on the launch ramps. Any violation shall be fined for each violation in the sum of not less than $25.00 nor more than $100.00 to be recovered on complaint by the Harbor Master before District Court. Each day shall be considered a separate violation. (Amended 10-01-2018)
ARTICLE V
MOORINGS

A mooring area shall be established on the upriver side of the entrance channel to the boat launch ramps, extending upriver to an extension of the property line between land now or formerly owned by the City of Bangor and now or formerly owned by the Lane Construction Corporation. The maximum offshore distance for mooring shall be 350 feet from the mean highwater line.

Installation of private moorings will be subject to the approval of the Harbor Master upon payment of an annual fee in accordance with the Town of Hampden Fees Ordinance. (Amended: 11-17-03)

Said moorings shall be placed only in the precise areas designated by the Harbor Master. Residents of the Town of Hampden and the City of Bangor will be given priority with regard to the placement of private moorings. (Amended 4/20/92)

The Harbor Master shall register all moorings with the following information:

1. Name and address of the owner, and number of the vessel.
2. Location of the mooring.
3. Size and type of the mooring and chain.

All moorings shall be registered at the Town Office each year before May 1st. Each private mooring shall be assigned a number, which shall be displayed on the buoy in permanent letters at least 2½ inches high.

The maximum mooring scope from staple to bit shall be forty feet. The minimum mooring weight shall be one ton for stone or other bulk moorings, or the equivalent for swing-around moorings. The minimum bottom chain size shall be 3/8 inch. In addition to the foregoing specifications for moorings, the Harbor Master may enforce additional written specifications, to be conveniently available to the public upon request. (Amended: 4-20-92)

No changes in the location of moorings will be allowed without the approval of the Harbor Master. Moorings not registered by May 1st of each year shall become the property of the Town. Ownership of private moorings are not transferable without the written permission of the Harbor Master. Moorings shall be inspected at least once every five years at the owner’s expense, either by pulling or by underwater investigation. If, upon inspection, the mooring is considered by the Harbor Master to be unsafe, then it shall be repaired or replaced within a period of ten days at the expense of the owner.

Whoever violates any of the above conditions pertaining to moorings shall be liable upon complaint of the Harbor Master in the District Court for a fine of not less than $25.00 nor more than $100.00. Whoever willfully destroys any channel marker or buoy shall be liable upon complaint of the Harbor Master for a fine of not less than $100.00 nor more than $200.00

The anchoring of boats will not be allowed within the limits of the entrance channel or the mooring area. All boats shall be anchored downriver from the mooring area. The lower limit of anchored area shall be 100 feet downriver from Turtle Head. (Amended: 4-20-92)

Whoever anchors a boat in an improper location or manner shall be liable upon complaint of the Harbor Master in District Court for a fine of not less than $25.00 nor more than $100.00. (Amended 10-01-2018)
ARTICLE VI
GENERAL REGULATIONS

Any use of the public facilities mentioned above, i.e., public floats, boat launching ramps, parking areas, moorings and ground floats shall be at the user’s risk, and the Town of Hampden will not be liable for any damage or injury resulting from the use of said facilities. Boats and/or trailers will not be stored on the premises within the parking area for more than twenty-four (24) hours without the permission of the Harbor Master. (Amended: 4-20-92)

Swimming and or wading in or around the boat launch area is not permitted. All children under the age of 12 shall wear a life preserver at all times while on the floating dock. Dogs are allowed on the beach south of the launch ramp provided that they are under the owners control but are not allowed on the boat launch ramp. (Amended 10-01-2018)

The Harbor Master shall be responsible for carrying out the provisions of this Ordinance as well as the provisions of Title 38 M.R.S.A., Chapter 1. He/she shall keep a log of all activities within the harbor area and shall collect all fees as hereinafter established to be turned over daily to the Town Clerk. The Harbor Master shall be subject to the authority and direction of the Town Manager.

ARTICLE VII
NUISANCE AND POLLUTION

No watercraft shall be used or operated within the harbor area so as to cause danger, annoyance, disturbance or inconvenience to the public. Motorboats without suitable mufflers will be prohibited.

All watercraft operating within the Hampden Marina limits shall maintain a speed of not more than five knots.

No person or vessel shall dump or dispose of any refuse or garbage upon the shore of the Penobscot River or its tributaries, or upon the waters of the river. No vessel shall deposit, throw, sweep or cause to be deposited or swept into the waters of the Penobscot River or its tributaries any gasoline, oil, fuel or sewage, or any floating objects which may cause obstruction or danger to navigation.

Any master or owner of any vessel or boat, or any other person who shall violate any of the provisions of any rules or regulation contained herein to which a specific penalty is not annexed or otherwise provided by law, shall forfeit and pay a fine of not less than $25.00 nor more than $100.00, to be recovered upon complaint by the Harbor Master before District Court. (Amended 10-01-2018)
TOWN OF HAMPDEN, MAINE
HISTORIC PRESERVATION ORDINANCE


Amended: (5-7-90)  Amended: (5-21-90)  Amended: (7-02-90)  Amended: (7-20-92)
Effective: (6-6-90)  Effective: (6-20-90)  Effective: (7-31-90)  Effective: (8-19-92)

Amended: (6-4-01)  Amended: (5-20-02)  Amended: (11-17-03)  Amended: (06-19-06)
Effective: (7-4-01)  Effective: (6-19-02)  Effective: (12-17-03)  Effective: (07-19-06)

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk

Title Affix Seal

HISTORIC PRESERVATION ORDINANCE
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TOWN OF HAMPDEN, MAINE
HISTORIC PRESERVATION ORDINANCE

SECTION 1
INTENT AND PURPOSE

This ordinance is adopted pursuant to the legislative authority vested in the Town of Hampden by virtue of Title 30-A, Maine Revised Statutes Annotated § Section 3001, and acts amendatory thereto, for the purposes of preserving, protecting, and enhancing buildings and places or areas within the Town which possess particular historical, cultural, or architectural significance in order to promote the educational, cultural and economic welfare of the residents and visitors to the Town. To achieve these purposes, it is intended that historic districts and related regulations be used to prevent inappropriate alterations of buildings of historic or architectural value; to preserve the essential character of neighborhoods; and to assure that new buildings or structures constructed in neighborhoods and districts of historic, prehistoric or architectural value are designed and built in a manner which is compatible with the character of the neighborhood or district.

(Amended: 5-7-90)

SECTION 2
DEFINITIONS

2.1. Historic District. A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this Ordinance as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by association of history.

(Amended: 5-7-90)

2.2. Historic Site. Any parcel of land of special significance in the history or prehistory of the Town and its inhabitants, or upon which a historic event has occurred, and which has been designated as such in accordance with this Ordinance. The term "historic site" shall also include any improved parcel, or part thereof, on which is situated a historic landmark, and any abutting improved parcel, or part thereof, used as and constituting part of the premises on which the historic landmark is situated as may be designed in accordance with this Ordinance.

(Amended: 5-7-90)

2.3. Historic Landmark. Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history as may be designated in accordance with this Ordinance.

(Amended: 5-7-90)

2.4. Contributing Structure. A structure located within designated historic district and identified as contributing to the historical or architectural significance of said district.

2.5. Archeological Site. A geographic location of any remains of the prior presence of human beings including (without limitations), structure, artifacts, terrain features, graphics (such as paintings or drawings) or remains of plants, or animals associated with human being habitations.

(Amended: 5-7-90)
SECTION 3
HAMPDEN HISTORIC PRESERVATION COMMISSION

3.1. Appointment. - Members of the Hampden Historic Preservation Commission shall be appointed by the Town Council.

3.2. Members. - The Commission shall consist of five (5) members who shall be residents of Hampden. Appointments shall be made on the basis of demonstrated interest, knowledge, ability, experience and desire to promote historic preservation in the Town, with the meaning of Section 1 of this Ordinance. Members of the Commission shall serve without compensation.

3.3. Terms. - The Commissioners who are first appointed shall be designated to serve terms as follows: One for one (1) year, two for two (2) years, and two for three (3) years, from the date of their appointment. Thereafter, said Commissioners shall be appointed for terms of three (3) years, except in those instances in which the appointment is make to fill a vacancy in an unexpired term, in which case the appointment shall be for the remainder of the unexpired term. An attempt will be made to fill vacancies within sixty (60) days. (Amended 5-21-90)

3.4. Associate members. - In addition, there shall be two (2) associate members appointed by the Town Council for a term of three (3) years, who shall be residents of Hampden. The Chairperson of the Commission shall designate which associate member shall vote in the stead of a regular member.

3.5. Eligibility. - Any regular or associate member shall be eligible to continue to serve in said capacity until a successor is duly appointed and qualified.

3.6. Officers. - The Commission shall elect annually a chairperson, vice chairperson and secretary from its own membership, a majority of the number of members or constitute a quorum for the transaction of business before said Commission, but if less than such majority is present at a meeting, a majority of those present may adjourn the meeting from time to time. The secretary shall maintain a permanent record of the activities of the Commission, including but not limited to such items as the number and types of cases reviewed and their disposition; new designations of historic sites, landmarks and districts made; attendance records; correspondence and minutes of all meetings. All records maintained or prepared by the secretary are deemed public and may be inspected at reasonable times.

3.7. Procedure. - The Commission for its purposes shall adopt, and may from time to time amend, rules of procedure.

3.8. Public meetings. - All meetings of the Commission shall be publicly announced, open to the public and have a previously available agenda. Public notice shall be provided prior to any special meetings of the Commission.

3.9. Duties. - The duties of the Commission, at a minimum, shall be to:

3.9.1. Make recommendations for establishing historic districts, historic sites, or historic landmarks to the appropriate local governing body, according to the procedures listed in Sections 4 and 5 of this Ordinance.

3.9.2. Review all proposed additions, reconstruction, alterations, construction, relocations or demolition of the properties designated or the jurisdiction of the Ordinance.

3.9.3. Review all proposed National Register nominations for properties within its jurisdiction.
3.9.4. Serve an advisory role to local government officials regarding local historical and cultural resources, and act as a liaison between local government and those persons and organizations concerned with historic preservation.

3.9.5. Conduct or cause to be conducted a continuing of local historic and cultural resources, in accordance with Maine Historic Preservation Commission guidelines.

3.9.6. Work to provide continuing education on historic issues to local citizens.

3.9.7. Attend Training Workshops.


3.10. Advisory consultants. - In addition to the regular members of the Commission, the Town Council may appoint other persons, not necessarily residents of the Town, who shall serve on an advisory or consultant basis to assist the members of the Commission in the performances of their functions. Persons appointed to serve in an advisory or consulting capacity shall hold office during the pleasure of the Council.

SECTION 4
QUALIFICATIONS

The historic districts, historic sites or historic landmarks established in accordance with this Ordinance shall have one or more or any combination of the following characteristics, without limitations as to cultural or chronological period:

4.1. Historic event. - Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of Hampden and the nation, including sites and buildings at which the public may gain insight or see examples either of particular items or of larger patterns in the North American heritage.

4.2. Historic personage. - Structures or sites importantly associated with historic personages.

4.3. Historic ideal. - Structures or sites importantly associated with historic examples of a great idea or ideal.

4.4. Architectural type. - Structures or structural remains and sites embodying examples of architectural types of specimens valuable for study of a period, style, or method of building construction, of community organization and living, or of landscaping; or a single notable structure or a single site representing the work of a master builder, master designer, architect or landscape architect.

4.5. Visual continuity. - Structures contributing to the visual continuity of the historic district.

4.6. Eligibility for national recognition. - Those sites or areas on or eligible for listing on the National Register of Historic Places or as a National Historic Landmark.
SECTION 5
ESTABLISHMENT OF HISTORIC DISTRICTS, HISTORIC SITES
OR HISTORIC LANDMARKS

5.1. Preliminary Procedures. - Historic districts, historic sites or historic landmarks shall be established by amendment to Section 6 of this Ordinance, and shall overlay the districts created by the Hampden Zoning Ordinance. Such amendments may be initiated by the Town Council, the Planning Board, a petition signed by six (6) or more residents of the Town eighteen (18) years of age or older, or the property owner(s). A form directed to the chairperson of the Commission shall be completed and filed with the Town Manager. The Town Manager shall thereafter call a meeting of the Commission for the purpose of formulating the Commission's recommendation concerning the request. Any application for designation of structures, sites and districts for historic preservation shall be in writing, include an application fee paid in accordance with the Hampden Fees Ordinance and shall include the following as appropriate: (Amended: 11-17-03)

5.1.1. Designation of structures and sites for historic preservation.
   a. A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the structure or site, including a consideration of scale, materials, workmanship and spatial qualities, as relevant.
   b. A concise statement of how the structure or site meets the review criteria of Section 4 above.
   c. Interior and exterior photographs of the structure, or a site map, illustrating significant details described in Section 5.1.1.a above.

5.1.2. Designation of districts for historic preservation.
   a. A concise statement of the remaining physical elements which make this area a historic district and a description of building types and architectural styles and periods represented.
   b. A concise statement of how the district meets the review criteria of Section 4 above.
   c. A justification of the boundaries of the district.
   d. A description of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures.
   e. A map showing all district structures with the identification of contributing structures.

5.1.3. Expansion of existing districts for historic preservation.
   a. A concise statement of the physical elements that justify an expansion of an existing district, an explanation detailing how the expansion is consistent with the character of the district, and a description of building types and architectural styles and periods represented.
   b. A concise statement of how the expansion of an existing district meets the review criteria of Section 4 above.
   c. A justification of the expanded boundaries of the district.
   d. A description of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures in the historic district's proposed expansion.
5.2. Studies, Recommendations. - Before making its recommendation concerning the proposed establishment of a historic district, historic site or historic landmark, the Commission may conduct studies and research on the proposal. The Commission will make a report to the Council on every request received. Drafts of the report shall also be mailed to the Maine Historic Preservation Commission for review and comment.

5.3. Public Hearing, Final Report. - Before a final report is made to the Council, the Hampden Historic Preservation Commission shall hold a public hearing on the request, after due notice published at least seven (7) days prior to the hearing in a newspaper of general circulation in the Town. Written notice of the proposal shall also be given at least seven (7) days prior to the hearing to the applicants, owners of all property abutting or to be included within the proposed designation, and all other persons found by the Commission to have a special interest in the proposal. Failure of any such person to receive notice of the public hearing shall not necessitate another hearing, nor invalidate any action of the Commission. A copy of the proposal shall be sent, at the same time, to the chairperson of the Planning Board for review and recommendation at the next regular meeting of said Board. Not later than sixty (60) days after said public hearing, the Commission shall submit a final report with its recommendations to the Town Council.

5.4. Actions By The Town Council. - After receipt of the Commission's recommendations, as provided above, the Town Council at its next regular meeting shall consider and take all appropriate action on said proposed amendment in accordance with the Town Charter, the Council's rules of procedure adopted pursuant thereto, and the laws of the State of Maine. (Amended 7-2-90)

5.5. Notification. - After designation a notice will be published in the local newspaper and property owners will be notified in writing within thirty (30) days. (Amended: 7-2-90)

SECTION 6
HISTORIC DISTRICTS, HISTORIC SITES AND HISTORIC LANDMARKS DESIGNATED

The following described lands, buildings or structures, or areas of the Town are designated historic districts, historic sites or historic landmarks as follows: (as designated)


The Upper Corners Historic District

6.2. Historic Sites (Reserved).

6.3. Historic Landmarks.

Harmony Hall, 24 Kennebec Road
Thomas Penneman Stetson Homestead, 12 Shaw Hill Road (Amended: 5-20-02)
SECTION 7
USES PERMITTED

Uses permitted in historic districts, historic sites or historic landmarks shall be those set forth in the Town of Hampden Zoning Ordinance provisions for the zone in which such district, site or landmark are located.

SECTION 8
CERTIFICATE OF APPROPRIATENESS

In any historic district and with respect to any historic site or historic landmark, no building permit shall be issued by the Code Enforcement Officer for any construction, alteration, or demolition until a corresponding Certificate of Appropriateness has been issued by the Commission.

8.1. Certificate Of Appropriateness. - A Certificate of Appropriateness issued by the Commission shall be required before a permit is issued for any of the following:

8.1.1. Any change in the exterior appearance of a historic landmark or site, or any building in a historic district by addition, reconstruction or alterations.

8.1.2. New construction or a principal or accessory building or structure visible from a public street where such building or structure will be located in a historic district.

8.1.3. Demolition of a historic landmark or of any building in a historic district.

8.1.4. Moving of a historic landmark or any building in a historic district.

8.2. Applications. - Application for a Certificate of Appropriateness shall be obtained from the Code Enforcement Officer when obtaining a building permit, or when no building permit is required but when such activity must be approved by the Planning Board.

SECTION 9
APPLICATION PROCEDURE

Written application for the Certificate of Appropriateness shall be submitted to the Code Enforcement Officer stating the location, use and nature of the matter or item for which such Certificate is sought. The Code Enforcement Officer shall date it and transmit such application to the Chairperson of the Historic Preservation Commission for action. The Commission shall consider each application and, within forty-five (45) days of the date of submittal, approve, approve with modifications or deny the application. By mutual written consent of the Commission and the applicant, the review period may be extended, to a period not to exceed forty-five (45) days. Failure to approve or deny the application at the end of the review period shall constitute approval of the application. When the Commission acts on the application, it shall be returned to the Code Enforcement Officer, who shall then issue or deny the permits, as appropriate. (Amended: 5-21-90, 7-2-90)

9.1. Application Contents. - The application shall state the location, use and nature of the matter for which such certificate is sought, include an application fee paid in accordance with the Hampden Fees Ordinance and shall contain at least the following information or documentation unless any such information or documentation is expressly waived by the Commission: (Amended: 11-17-03)

9.1.1. The applicant's name, address and interest in the subject property.

9.1.2. The owner's name and address, if different from the applicant's.
9.1.3. The address or location of the subject property.

9.1.4. The present use and zoning classification of the subject property.

9.1.5. A brief description of the construction, reconstruction, remodeling, alteration, maintenance, demolition or moving requiring the issuance of a Certificate of Appropriateness.

9.1.6. A drawing or drawings indicating the design, texture, color and location of any proposed alteration or new construction for which the Certificate is being applied. As used herein, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show as far as they relate to exterior appearances, the architectural design of the buildings, including materials, textures and colors, including samples of materials and colors. Drawings shall not be required to be professionally prepared, but shall be clear, complete and specific.

9.1.7. Photographs of the building involved and of adjacent buildings.

9.1.8. A site plan indicating improvements affecting appearance such as walls, walks, terraces, planting, accessory buildings, signs, lights and other elements. The Commission may waive the requirement for a site plan if the change involved would not affect the improvements shown on such a plan.

SECTION 10
ADMINISTRATIVE PROCEDURES

10.1. Notice To Owners. - Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall take such action as may be reasonably required to inform by U.S. mail the applicant, all persons owning abutting property and/or within 100 feet of the exterior boundaries of the real estate under consideration in the application and all such other persons as the Commission may deem appropriate of the pendency of the application, and shall give such persons an opportunity to be heard. For purposes of the notice required hereunder, the owners of property shall be considered to be those against whom municipal taxes for the real estate are assessed. Failure of any person to receive notice shall not necessitate another hearing, nor invalidate any action by the Commission.

10.2. Hearing. - At the request of the applicant, or any other person receiving notice under Section 10.1 above, or where the Commission deems it necessary, a public hearing on the application shall be conducted by the Commission.

10.3. Approval. - If the Commission determines that the proposed construction, reconstruction, alteration, moving, or demolition is appropriate, it shall approve a Certificate of Appropriateness and return it to the Code Enforcement Officer, who shall notify the applicant of the determination.

10.4. Disapproval. - If the Commission determines that a Certificate of Appropriateness should not be issued, it shall place upon its record the reasons for such determination and shall forthwith return the application to the Code Enforcement Officer who shall notify the applicant of such determination, furnishing him/her an attested copy of the reasons therefor, and the recommendations, if any, as appearing in the records of the Commission.

10.5. Deleted (Amended: 7-20-92)
SECTION 11
STANDARDS OF EVALUATION

The standards and requirements contained in this section and in the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (the most current edition) as the same may be amended from time to time, shall be used in review of applications for Certificates of Appropriateness and specifically as to procedures before demolition can take place. Design considerations and structural factors related to maintaining historic structures in good conditions shall be the Commission's primary areas of focus. (Amended 7-2-90)

11.1. Demolition Or Removal. - A historic landmark, or any building or structure in a historic district, or any appurtenance thereto, shall not be demolished or moved and a Certificate of Appropriateness shall not be approved until either (a) in a historic district such building or structure has been identified by the Commission as incompatible with the historic district in which it is located, or (b) the property owner can demonstrate that it is not capable of earning an economic return on its value in its present location as appraised by a qualified real estate appraiser. If such a demonstration can be made, issuance of a Certificate for movement or demolition shall be delayed for a period of 180 days. Such time period shall commence when an application for a Certificate and the Statement of Sale, as outlined below, have been filed with the Commission.

Notices shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at least three (3) times prior to demolition, the final notice of which shall be not less than fifteen (15) days prior to the date of the permit, and the first notice of which shall be published no more than fifteen (15) days after the application for a permit to demolish is filed.

Prior to the issuance of such Certificate for removal, the owners shall stipulate that the proper notices as required have been posted, that the property was properly offered for sale, that there have been no bona fide offers made, and that no contract for sale has been executed with interested parties. The owner shall for the period of time set forth and at a price reasonably related to its fair market value, make a bona fide offer to sell such building or structure, and the land pertaining thereto, to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto.

Prior to making such offer to sell, an owner shall first file a statement with the Historic Preservation Commission, identifying the property, the offering price and the date the offer to sell shall begin. The time period set forth in this Section shall not commence until such statement has been filed.

The purpose of this Section is to further the purposes of this Ordinance by preserving historic buildings which are important to the education, culture, traditions, and the economic value of the Town, and to afford the Town, interested persons, historical societies or organizations the opportunities to acquire or to arrange for the preservation of such buildings. The Commission may at any time during such stay approve a Certificate of Appropriateness in which event a permit shall be issued without further delay.

11.2. Reconstruction, Alterations And Maintenance. - A building of structure classified as a historic landmark, a historic site, or a building or structure located in a historic district, or any part thereof, or any appurtenance related to such structures or sites, including but not limited to walls, fences, light fixtures, steps, paving, signs and natural features shall not be reconstructed, altered or maintained, and no Certificate of Appropriateness shall be issued for such actions unless they will preserve or enhance its historical and architectural character.
11.3. **Construction Of New Buildings And Structures In Historic Districts.** - The construction of a new building or structure within a historic district shall be generally of such design, form, proportion, mass, configuration, building material, texture, color and location on a lot as will be compatible with other buildings in the historic district and with streets and open spaces to which it is visually related and in keeping with the area.

11.4. **Visual Compatibility Factors For New Construction And Additions.** - Within historic districts, historic sites, or historic landmarks, all new construction and all new additions shall be visually related generally in terms of the following factors:

11.4.1. *Height.* The height of proposed buildings shall be compatible with adjacent buildings.

11.4.2. *Proportion of Building's Front Facade.* The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures, and open spaces where it is visually related.

11.4.3. *Proportion of Opening within the Facade.* The relationship of the width of the windows to height of windows and doors in a building shall be visually compatible with those of windows and doors of buildings to which the building is visually related.

11.4.4. *Rhythm of Solids to Voids in Front Facades.* The relationship of solids to voids in the front facade of a building shall be visually compatible with that of the buildings to which it is visually related.

11.4.5. *Rhythm of Spacing of Buildings on Streets.* The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with those prevailing in the area to which it is visually related.

11.4.6. *Rhythm of Entrance and/or Porch Projection.* The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible with those of buildings to which it is visually related.

11.4.7. *Relationship of Materials and Textures.* The relationship of the materials and textures of the facade of a building shall be visually compatible with that of the predominant materials used in the buildings to which it is visually related.

11.4.8. *Roof Shapes.* The roof shape of a building shall be visually compatible with that of the buildings to which it is visually related.

11.4.9. *Scale of Building.* The size of the building, the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those characteristics of buildings and spaces to which it is visually related.

11.4.10. *Directional Expression of Front Elevation.* A building shall be visually compatible with the building, squares, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or non-directional character.

11.5. **Standards For Renovation, Alterations, And Repairs Of Existing Buildings, Structures, And Appurtenances Thereof.** - Within historic districts, historic sites, and historic landmarks, the Commission shall use the standards listed below in the evaluation of an application for a Certificate of Appropriateness for all renovations, alterations, and repairs of existing buildings, structures, and appurtenances thereof:

11.5.1. Every reasonable effort shall be made to provide compatible use for a property which require
minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose. *(Amended: 7-2-90)*

11.5.2. The distinguishing original qualities or characters of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible. *(Amended: 7-2-90)*

11.5.3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged. *(Amended 7-2-90)*

11.5.4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected. *(Amended 7-2-90)*

11.5.5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity. *(Amended: 7-2-90)*

11.5.6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures. *(Amended: 7-2-90)*

11.5.7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken. *(Amended: 7-2-90)*

11.5.8. Every reasonable effort shall be made to protect preserve archeological resources affected by, or adjacent to any project. *(Amended: 7-2-90)*

11.5.9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment. *(Amended: 7-2-90)*

11.5.10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. *(Amended: 7-2-90)*

SECTION 12
MAINTENANCE

12.1. *Ordinary Maintenance Permitted; Public Safety*

12.1.1. *Ordinary Maintenance Permitted.* - Nothing in the Ordinance shall be construed to prevent the ordinary maintenance of any exterior feature in a historic district or of any historic landmark which does not involve a change in the design, material, or outer appearance thereof. Paint color shall be specifically excluded from the scope of this Ordinance. The replacement and/or removal of the following distinguishing elements: doors, windows, siding, trim and roofing materials are considered as renovations, alterations, and repairs and are subject to 11.5 *Standards For Renovation, Alterations, And*
12.1.2. Safety. - Nothing in this Ordinance shall prevent the construction, reconstruction, alteration, restoration, or demolition of any feature which the Code Enforcement Officer shall certify is required by the public safety because of an unsafe or dangerous condition.

12.2. Maintenance And Repair Required. - Neither the owner of nor the person in charge of a structure within a historic district, or of a historic landmark, shall permit such historic structure or historic landmark to fall into a state of disrepair which may result in the deterioration of any exterior appurtenances or architectural features so as to produce or tend to produce, in the judgment of the Commission, a detrimental effect upon the life and character of the historic landmark or structure in question, or which could lead to a claim that demolition is necessary for public safety, including but not limited to:

12.2.1. The deterioration of exterior walls or other vertical supports.

12.2.2. The deterioration of roofs or other horizontal members.

12.2.3. The deterioration of exterior chimneys.

12.2.4. The deterioration or crumbling of exterior plaster or mortar.

12.2.5. The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.

12.2.6. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

SECTION 13
APPEALS
(Amended: 07-20-92) (Amended: 06-19-06)

Compliance With Board of Appeals Ordinance. All appeals and variances shall be 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. (Amended: 06-19-06)

13.1. Administrative Appeals. - An administrative appeal form any final decision of the Commission may be taken by any party or person aggrieved thereby to the Town of Hampden Board of Appeals within thirty (30) days from the date upon which the decision was rendered. The Board of Appeals shall hear the appeal at a public hearing, and shall affirm, modify or reverse the Commission's decision within thirty (30) days of said hearing, or the appeal shall be deemed denied. The Board of Appeals shall conduct an appellate review Commission’s ruling. The Board's review of the decision shall be limited to a determination of whether the Commission acted arbitrarily, capriciously, or unreasonably, or whether the decision was based on an error of law. The Board shall not substitute its judgment for that of the Commission on issues dealing with a Certificate of Appropriateness. (Amended: 06-19-06)

13.2. Variance Appeals. - A variance appeal may be taken to the Board of Appeals by any person or party claiming that the application of the Ordinance to their property constitutes an undue hardship. After a public hearing on the application, the Board of Appeals may grant a variance from the strict application of the Ordinance if it finds that:
13.2.1. The property in question cannot yield a reasonable return unless a variance is granted;

13.2.2. The need for a variance is due to the unique circumstances of the property and not the general conditions of the neighborhood or historic district; and

13.2.3. The granting of a variance will not alter the essential character of the neighborhood or historic district.

Any vote to grant a variance shall require a vote in favor thereof of at least four (4) members of the Board.

13.3. Economic Appeals. - An economic appeal may be taken to the Board of Appeals by any person or party claiming that the strict application of the Ordinance to their property creates an unreasonable economic or financial burden. Such an appeal shall not be taken until the person or party has exhausted all other applicable remedies before the Commission or the Board of Appeals. After a public hearing, the Board may grant a waiver from the strict application of the Ordinance if it finds that:

13.3.1. The cost of compliance is unreasonable and unduly burdensome in light of the financial capability of the applicant or the cost of compliance far outweighs any increase in the fair market value of the property that would arise from the required improvements (as demonstrated by a professional appraisal);

13.3.2. The alleged burden includes substantially more than inconvenience or inability to attain a higher financial return;

13.3.3. The waiver will not adversely affect the objectives of this Ordinance, nor alter the essential character of the neighborhood or historic district; and

13.3.4. The waiver will not have an undue adverse effect on the property values of adjoining property owners who have complied with the Ordinance.

Any vote to grant a waiver shall require a vote in favor thereof of at least four (4) members of the Board.

13.4. Deleted. (Amended: 06-19-06)

13.5. Deleted. (Amended: 06-19-06)
SECTION 14
VALIDITY AND SEPARABILITY

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

SECTION 15
CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, law, regulation or bylaw. Where this Ordinance imposes higher and/or stricter standards, the provisions of this Ordinance shall prevail.

SECTION 16
ADMINISTRATION AND ENFORCEMENT

16.1. Code Enforcement Officer. - This Ordinance shall be administered and enforced by the Code Enforcement Officer.

16.2. Authority. - The Code Enforcement Officer shall have the authority to inspect properties to ensure compliance with the requirements of this Ordinance, shall keep public records of proceedings and certificates issued under this ordinance, and shall have the authority to institute any and all actions and proceedings, either legal or equitable, that may be necessary or appropriate to enforce the provisions of this Ordinance.

16.3. Certificate of Appropriateness. - A Certificate of Appropriateness secured under the provisions of this Ordinance shall expire if the work authorized thereby is not commenced within one (1) year of the date on which it was granted and if the work is not completed within two (2) years of said date. The Commission may grant an extension for up to one (1) additional year for good cause shown.

16.4. Penalties. - Any person, firm, or corporation, being the owner or having control of, or the use of, any building, structure or land, or part thereof, or any building contractor, who violates any of the provisions of this Ordinance shall be guilty of a civil infraction and upon conviction thereof shall be fined in accordance with the following:

16.4.1. The minimum penalty for starting construction or undertaking any activity without the required Certificate of Appropriateness shall be $100.00 and the maximum penalty shall be $2,500.00.

16.4.2. The minimum penalty for a specific violation shall be $100.00 and the maximum penalty shall be $2,500.00.

16.5. Beneficiary. - All civil penalties shall inure to the benefit of the Town of Hampden. Each day of violation shall constitute a separate offense.
TOWN OF HAMPDEN, MAINE
JUNKED VEHICLE ORDINANCE

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ADOPTED: Hampden Town Council August 15, 1988
Effective: September 13, 1988

AMENDED: Hampden Town Council March 18, 1996
Effective: April 14, 1996
TOWN OF HAMPDEN, MAINE
JUNKED VEHICLE ORDINANCE

Pursuant to the authority vested in the Town of Hampden by virtue of 30 M.R.S.A. § 1917, THE TOWN OF HAMPDEN HEREBY ORDAINS:

Section 1. Short Title. This ordinance is hereby enacted by the Town of Hampden and shall be known as the "Junked Vehicle Ordinance of the Town of Hampden."

Section 2. Definition. For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. All other terms, phrases, and words shall be given their customary meanings such as the context shall imply. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

2.1. Motor Vehicle is any vehicle which is selfpropelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motorscooters, trucks, tractors, campers, all-terrain vehicles, and snowmobiles.

2.2. Person shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

2.3. Private property shall mean any real property within the Town of Hampden which is privately owned.

2.4. Public property shall mean any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

2.5. Structure shall mean a permitted building meeting all building codes associated with its use. (Amended: 3/18/96)

2.6. Unserviceable shall mean a motor vehicle which does not have a current vehicle inspection sticker and/or registration.

Section 3. Prohibited Activity.

3.1. No person shall park, store, leave, or permit the parking, storing, or leaving of more than one motor vehicle of any kind which is in an abandoned, unserviceable, wrecked, dismantled, inoperative, rusted, junked, partially dismantled, stripped, or disrepaired condition upon any public or private property within residential zones A and B within the Town of Hampden. The one motor vehicle permitted must be located at least fifteen feet (15') from any property line. (Amended: 3/18/96)

3.2. No more than one motor vehicle of any type shall at any time undergo major overhaul, including body work, within residential zones A and B within the Town of Hampden, under the Hampden Zoning Ordinance unless such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.
3.3. Sections 3.2 and 3.1 shall not apply to any vehicle enclosed within a structure on private property or to any vehicle present on the property in connection with a business enterprise which is lawfully in existence and properly operated in accordance with all other laws and ordinances applicable thereto.

3.4. The presence of any prohibited motor vehicle left on private or public property in violation of this ordinance is hereby declared to be a public nuisance.

Section 4. Enforcement. This ordinance shall be administered and enforced by the Code Enforcement Officer.

Section 5. Responsibility For Removal. The owner of any motor vehicle parked, stored, or left on private or public property in violation of this ordinance shall remove it from said property within sixty (60) days from receipt of a notice from the Code Enforcement Officer notifying them of the existence of the nuisance. In addition, the owner or occupant of private property shall remove such vehicle from the premises within sixty (60) days from receipt of a notice from the Code Enforcement Officer notifying them of the existence of the nuisance.

Section 6. Legal Actions. The Code Enforcement Officer, and/or the Town Attorney, is hereby authorized and directed to institute any and all actions and proceedings, either in law or in equity, that may be appropriate or necessary to obtain compliance with the provisions of this ordinance.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or other portion of this ordinance is for any reason held invalid, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remainder of this ordinance.

Section 8. Penalties. Any person who violates any of the provisions of the ordinance, or fails to comply with the requirements hereof, shall be guilty of a civil violation and upon conviction thereof shall be subject to a fine of not less than $100.00 nor more than $500.00. Each day any violation continues to exist after notification shall constitute a separate offense. All civil penalties imposed shall inure to the the Town of Hampden.
KENNEBEC ROAD PARKING ORDINANCE

It shall be unlawful and a violation of this ordinance for any person to stop, stand or park or cause to be stopped, stood or parked, any vehicle on the South side of the Kennebec Road from the center of the Back Winterport Road East 150 feet and from the same center of the Back Winterport Road 600 West.

It shall be unlawful and a violation of this ordinance for any person to stop, stand or park or cause to be stopped, stood or parked, any vehicle on the North side of the Kennebec Road from a point opposite the center of the Back Winterport Road 150 feet East and from the same point 600 feet West.

AMENDED: 7-20-87
EFFECTIVE: 8-18-87
TOWN OF HAMPDEN, MAINE
LIFE SAFETY CODE ORDINANCE

ADOPTED: Hampden Town Council, April 5, 1993
Effective Date: May 5, 1993

AMENDED: Hampden Town Council, February 12, 2001
Effective Date: March 14, 2001

AMENDED: Hampden Town Council, October 3, 2005
Effective Date: November 2, 2005

AMENDED: Hampden Town Council, June 19, 2006
Effective Date: July 19, 2006

AMENDED: Hampden Town Council, April 6, 2015
Effective Date: May 6, 2015

CERTIFIED BY: Denise Hodsdon
Town Clerk

Affix Seal

LIFE SAFETY CODE ORDINANCE
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TOWN OF HAMPDEN
LIFE SAFETY CODE


In accordance with 30-A, M.R.S.A., Section 3003, the Town of Hampden hereby ordains that NFPA 101, Life Safety Code, 2009 Edition, published by the National Fire Protection Association, Inc., as adopted and amended by the State of Maine by 16-220 C.M.R. ch 20 (effective 7/27/11), be and is hereby adopted and incorporated by reference for the purpose of establishing minimum requirements to provide a reasonable degree of safety from fire and other emergencies in new and existing buildings and structures.


2.1. The term "authority having jurisdiction" used in the Life Safety Code and this ordinance shall mean the Town of Hampden Building/Fire Inspector, Code Enforcement Officer, Public Safety Director or other person designated by the Public Safety Director or Town Manager.

2.2. The term "legal counsel" used in the Life Safety Code shall mean the Town Attorney.

Section 3. Amendments to the Life Safety Code.

3.1. The NFPA 101, Life Safety Code, 2009 Edition is adopted in its published form, as amended by the State of Maine by 16-220 C.M.R. ch 20 (effective 7/27/11), as if fully set forth herein except as follows:

i. Provisions of the Life Safety Code shall not apply to one- and two-family dwellings existing prior to adoption of this amendment, unless the dwellings are being used for a purpose which requires a State of Maine License.

Section 4. Administration and Enforcement.

4.1 It shall be the duty and responsibility of the authority having jurisdiction to enforce the provisions of the Life Safety Code as herein set forth. The designated enforcement officer of this code is herein referred to as the authority having jurisdiction.

4.2. The authority having jurisdiction shall have the legal authority to inspect all structures and premises, except existing owner occupied single family dwellings, for the purpose of ascertaining and causing to be corrected any conditions that endanger life from fire, smoke, fumes, panic or any violations of the provisions or intent of this Code, or any other ordinance affecting fire and life safety.

4.3. In cases where new construction or change of use of an existing building is proposed, the authority having jurisdiction shall require plans prepared and certified by a registered State of Maine Architect or registered State of Maine Professional Engineer, be submitted to the Office of State Fire Marshal for review. Once reviewed by the Office of State Fire Marshal the
applicant shall submit a copy of said plans bearing the stamp of the Office of State Fire Marshal with application for either a building permit or certificate of compliance. The requirements of this section shall not pertain to one- and two-family dwellings.

4.4. Whenever necessary for the purpose of enforcing the provisions of this Code, or whenever the authority having jurisdiction has reasonable cause to believe that there exists in any structure or premises unsafe conditions, the authority having jurisdiction shall be permitted to enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the authority having jurisdiction by this Code; provided that if such structure or premises be occupied, the authority having jurisdiction shall first present proper credentials and request entry. If such entry is refused, the authority having jurisdiction shall have recourse to every remedy provided by law to secure entry.

4.5. The authority having jurisdiction, duly authorized representative or employee charged with enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally and is hereby relieved from all personal liability for any damages to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any employee because of an act performed in the lawful discharge of duties and under the provisions of this Code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The authority having jurisdiction or any subordinates of the authority having jurisdiction shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code; any employee acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of the official duties in connection therewith.

4.6. The authority having jurisdiction, and the Town of Hampden, shall not be liable under this Code for damage to persons or property, by reason of the inspection or reinspection of buildings, structures or equipment authorized herein, or failure to inspect or reinspect such buildings, structures or equipment by reason of the approval or disapproval of any building, structure or equipment authorized herein.

4.7. The Municipal Officers shall have the authority as necessary in the interest of public safety, health and the general welfare to promulgate rules and regulation, to interpret and implement the provisions of this Code, to secure the intent thereof and to designate requirements applicable because of climatic or other conditions. Such rules shall not have the effect of waiving any life safety requirements specifically provided in this Code, or violating accepted engineering practice involving public safety.

4.8. Whenever the authority having jurisdiction observes an apparent or actual violation of a provision of this Code or other codes or ordinances under the authority having jurisdiction, the authority having jurisdiction shall prepare written notice of violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this Code shall be served upon the owner, a duly authorized agent, or upon the occupant or other party responsible for the conditions under violation. Such notice of violations shall be served
either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivery to a person in charge of the premises, or by posting a copy of the notice in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.

4.9. If the notice of violation is not complied with within the time specified by the authority having jurisdiction, the authority having jurisdiction shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this Code or any of order or direction made pursuant thereto.

Section 5. Civil Penalties.

5.1. Any person, firm or corporation violating any of the provisions of the Code, or failing to comply with any order issued pursuant to any section thereof, shall be guilty of a civil violation and upon conviction thereof shall be subject to a fine. The requirements of 30-A, M.R.S.A., Section 4452 shall apply to the determination of penalties for violations of this Ordinance. The minimum penalty for a specific violation of this Ordinance shall be $100 and a maximum of $2,500; provided, however, the maximum penalty may exceed $2,500, but shall not exceed $25,000, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same ordinance provision. Each day of violation shall constitute a separate offense. All penalties shall inure to the benefit of the Town of Hampden.

5.2. The imposition of the penalties herein described, shall not prevent the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation; or prevent illegal occupancy of a building, structure or premises; or stop an illegal act, conduct of business or use of a building or structure in or about any premises.

Section 6. Appeals.

6.1. Except as expressly provided in this Ordinance, all appeals shall be 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. Any aggrieved person shall have the right to appeal to the Board of Appeals from a decision of the authority having jurisdiction. The right of appeal does not include the right to appeal enforcement decisions. Any appeal shall be commenced on a form provided by the authority having jurisdiction.

6.2. The Board of Appeals may modify or reverse the decision of the authority having jurisdiction upon making a determination that: (1) the true intent of this Code or the rules, regulations, or ordinances adopted by the Town have been incorrectly interpreted, (2) the provisions of this Code do not fully apply, or (3) an equally good or better method of providing for life safety can be used.
Section 7. Effective Date.

In accordance with Section 213 of the Town Charter, this Ordinance shall become effective at the expiration of thirty (30) days after the date of adoption by the Town Council.
The Town of Hampden hereby ordains that the following ordinance be adopted:

**Lura E. Hoit Memorial Pool Endowment Fund Ordinance**

Recitals:

Whereas, the Trustees of the Lura E. Hoit Memorial Pool wish to establish an endowment fund to provide a source of supplemental revenue for the operation of the Pool for the benefit of the pool and its patrons; and

Whereas, donors to the endowment fund shall make their donations based on the representation that the fund will be used solely to provide supplemental funding for operational expenses of the pool, said operational expenses to be over and above those provided by the Town of Hampden as part of its annual municipal budget; and

Whereas, the endowment fund shall be managed and administered by the Trustees; and

Whereas, the Town’s auditor shall include the endowment fund in the annual audit for the Town of Hampden; and

Whereas, it is the intention of the Town Council to create the endowment fund and to protect and enhance the integrity of its purpose.

Now, therefore, the Town of Hampden hereby ordains as follows:

SECTION I – Establishment of the LURA E. HOIT MEMORIAL POOL ENDOWMENT FUND

The Lura E. Hoit Memorial Pool Endowment Fund is hereby established as a dedicated fund of the Town of Hampden, which Fund shall be managed, administered, and governed in accordance with the provisions of this Ordinance. The Fund shall include one half of all principal and income earned thereon remaining from the bequest of Lura E. Hoit as well as all subsequent and future donations thereto or income earned thereon.
SECTION II – Purpose of the Fund

The purpose of the Fund is to provide a source of supplemental funding for operation of the Pool over and above that provided by the Town of Hampden as part of its annual municipal budget. The principal of the fund, including donations thereto, as well as all income earned thereon shall be dedicated to the exclusive purposes set forth in this Ordinance.

SECTION III – Administration of the Fund

The management and administration of the Fund shall be exclusively vested in the Board of Trustees of the Lura E. Hoit Memorial Pool. The authority of the Board shall include, but not be limited to, investment management (including the authority to engage the services of an investment advisor or manager). Acceptance of gifts or donations, establishment of policies and procedures, and the determination of the appropriate utilization of and disbursements from the Fund for the purposed set forth in Section II. The Board shall maintain and keep records of its activities, and shall make the records available to town officials and the public.

SECTION IV – Ratification of Prior Acts

All prior acts of the Board of Trustees concerning management and administration of the Fund are hereby ratified and reaffirmed, including, but not limited to, its engagement of investment advisors or managers.

SECTION V - Miscellaneous

Should any sections or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such determination of invalidity shall not invalidate or affect any other section or provision of this Ordinance.

Effective Date: Pursuant to Section 213(c) of the Town Charter, this Ordinance shall become effective at the expiration of 30 days after adoption by the Town Council.

ADOPTED: 01/07/2002
EFFECTIVE: 02/06/2002
TOWN OF HAMPDEN
LURA HOIT MEMORIAL POOL FACILITY
ORDINANCE

ADOPTED 05/02/94          EFFECTIVE 06/01/94

DRAFT
4/7/94
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LURA HOIT MEMORIAL POOL ORDINANCE

Enactment: Pursuant to the provisions of the charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, THE TOWN OF HAMPDEN HEREBY ORDAINS that there is established a public Pool Facility, to be known as the Lura Hoit Memorial Pool, to be organized, administered and governed in accordance with the following provisions:

SECTION I - ESTABLISHMENT

The Lura Hoit Memorial Pool Facility is established as a department of the town, and shall be administered consistent with its role as such.

SECTION II - ORGANIZATION AND ADMINISTRATION

Section 2.1 - Pool Director

a. Position - There is hereby authorized and established the position of Pool Director. This position shall be included in the Personnel Classification and Compensation Plan for the Town of Hampden.

b. Appointment - The Pool Director shall be appointed by the Town Manager in consultation with the Board of Trustees, subject to confirmation by the Town Council and consistent with the personnel rules and Town Charter.

c. Duties - The Pool Director shall have the responsibility for the daily operation and management of the Pool Facility as a department of the Town and consistent with the personnel rules of the Town and the Town Charter. The Pool Director shall make a periodic report to the town Manager at such frequency as directed as to the business of the Pool Facility for the period since the last report. The Pool Facility shall be operated and managed subject to the directives of the town manager and consistent with the policies and rules and regulations promulgated by the Board of Trustees.

Section 2.2 - Board of Trustees

a. Appointment: Term - The Board of Trustees of the Pool Facility shall consist of nine (9) persons, appointed by the Town Council. The trustees shall serve staggered three (3) year terms, except that the members of the first board shall be appointed to the following terms: four members shall serve one year terms; three members shall serve two year terms; and
two members shall serve three year terms.

b. Duties: Function - The Board of Trustees shall have the responsibility for establishing Pool policies, recommending the expenditures of Pool funds and, consistent with the town position of the Pool Facility as a town department, shall otherwise assume responsibility for operation and administration of the Pool. The Board of Trustees shall have the power to adopt such reasonable rules and regulations for the management and administration of the Pool as it deems appropriate, including the power to establish fines and penalties for violation of said rules and regulations. The Board shall adopt its own by-laws and at an annual meeting shall elect a chairman, vice-chairman, secretary and treasurer. The Board may also create an executive committee, consisting of three members of the Board of Trustees, one of which shall be chairman, to which certain of the responsibilities of the Board may be delegated. Such rules or regulations for management and administration of the Pool Facility as the Board adopts shall be promptly reported to the Town Manager.

The Town Manager and Town Mayor are members ex-officio of the Board of Trustees, and in the event the Board chooses to create an executive committee, the Town Manager shall be an ex-officio member of said committee. The Board of Trustees shall also make recommendations to the Town Manager as to nominations for membership to the board.

The Board of Trustees shall have the authority to name various persons to the Board of Trustees as honorary members of the Board as it deems appropriate, but only by a majority vote of the membership of the entire Board. Honorary trustees may participate in meetings of the full Board of Trustees but may not vote and shall have no authority as to the administration of the Pool which is hereby granted to the Board of Trustees.

At least once a year, or at the request of the Town Manager, the Board of Trustees shall file a report with the Town Council containing an itemized budget statement of the previous year's expenditures and the expenses anticipated for the coming year, together with such other information as the Town Council or the Town Manager may require.
The Board of Trustees may also accept gifts and donations to the Pool Facility either in trust or outright, and may act as trustee of any donations or gifts in trust. In the event the Board accepts any gifts or donations in trust it shall at all times be consistent with the terms of the trust or gift. The responsibility of the Board for gifts or donations in trust may not be delegated to a lesser committee of the Board.

To that end, the Board is authorized to establish a legal entity, such as a non-profit corporation, for the purpose of accepting, managing, and expending any gifts or donations for benefit of the pool.

SECTION III - VALIDITY, REPEALER AND EFFECTIVE DATE

Section 3.1 - Validity; Conflict of Laws; Effective Date

a. Validity - Should any section or provisions of this ordinance be declared by a court of competent jurisdiction to be invalid, such determination of invalidity shall not invalidate or affect any other section or provision of this ordinance, and to that end the provisions of this ordinance are declared to be severable.

b. Repealer - All ordinances, resolutions, orders and votes of the Town of Hampden, by whatever governing body enacted, and which relate to the creation of a public Pool Facility in the Town of Hampden, are hereby repealed to the extent they are inconsistent with this ordinance.

c. Effective Date - The effective date of this ordinance shall be thirty (30) days after adoption by the Town Council.

Introduced by Councilor David Plummer at the regular Council meeting on April 18, 1994.
Published in the Bangor Daily News on April 23, 1994.
Adopted by the Town Council at the regular Council meeting on May 2, 1994.
Effective June 1, 1994 (thirty days after adoption.
TOWN OF HAMPDEN MAINE
MARIJUANA ORDINANCE

ADOPTED: August 20, 2018
EFFECTIVE: September 19, 2018

Certified By: Paula Scott, Town Clerk

Article 1. Purpose & Authority
The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Hampden through regulation of the number of marijuana plants that can be grown for personal adult use (non-medical) on a single property, as permitted under Title 28-B MRSA §1502. The Town of Hampden enacts this Ordinance pursuant to 30-A MRSA §3001, municipal home rule ordinance authority.

Article 2. Home Cultivation for personal Adult Use Marijuana
A maximum of nine mature marijuana plants may be grown on a single property (as defined in this ordinance), with the exception that in addition to this limit, a maximum of three mature marijuana plants plus 12 immature marijuana plants plus an unlimited number of marijuana seedlings may be grown by each person age 21 or older who is domiciled on the property.

Article 3. Enforcement
3.1 It is the duty of the Code Enforcement Officer to enforce the provisions of this ordinance pursuant to 30-A MRSA §4452.
3.2 It is unlawful for any person to violate any provision of this ordinance.
3.3 The penalties contained in 30-A MRSA §4452 will apply to any violation of this ordinance.
Article 4 – Severability.

If any section or provision of this ordinance is declared by the courts to be invalid, such decision will not invalidate any other section or provision of this ordinance.

Article 5 – Definitions

5.1 Construction Language. In this Ordinance, certain terms or words shall be interpreted as follows: The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.

5.2 As used in this ordinance, unless the context indicates otherwise, the following terms have the following meanings. Terms not specifically listed here which are listed in MRSA Title 28-B have the meanings provided in those laws. Terms not defined shall have the customary dictionary meaning in the Merriam-Webster print or online dictionary.

Domicile: A person's fixed, permanent, and principal home.

Property: A parcel or tract of land including all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.
TOWN OF HAMPDEN
EMERGENCY ORDINANCE REGARDING
MEDICAL MARIJUANA RETAIL STORES

WHEREAS, the legislative body of the Municipality of Hampden (the "Municipality") makes the following findings:

(1) The Maine Medical Use of Marijuana Act (the "Act"), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorized registered primary caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and

(2) On July 9, 2018, the Maine Legislature enacted PL 2017, c. 452 (LD 1539), An Act to Amend Maine's Medical Marijuana Law, which revised the term "registered primary caregiver" to "registered caregiver" and which includes express authorization for registered caregivers to operate retail stores for the sale of harvested medical marijuana to qualifying patients; and

(3) On July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), An Act to Amend the Maine Medical Marijuana Law, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and

(4) The unregulated location and operation of medical marijuana retail stores within the Municipality raises legitimate and substantial questions about the impact of such activity on the Municipality, including questions as to compatibility with existing land uses and developments in the Municipality; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

(5) As a result of the foregoing issues, the location and operation of medical marijuana retail stores within the Municipality have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and

(6) The Municipality currently has no regulations governing medical marijuana retail stores, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores; and

(7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of medical marijuana retail stores in the Municipality; and

(8) In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.
Section 1. Prohibition. The Municipality does hereby declare a prohibition on the location, operation, permitting, approval, or licensing of any and all medical marijuana retail stores within the municipality. No person or organization shall develop or operate a medical marijuana retail store within the Municipality on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality will accept, process, approve, deny, or in any other way act upon any application for a license, building permit, conditional use, site plan, or any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana retail store.

Section 2. Definitions. For purposes of this ordinance, the term “medical marijuana retail store” means an establishment having the attributes of a typical retail sales establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, and sales directly to the consumer of the product, that is used by a registered caregiver to offer harvested medical marijuana for sale to qualifying patients, regardless of its location within the Municipality.

Section 3. Pending Proceedings. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance governs any proposed medical marijuana retail store for which an application for a building permit, certificate of occupancy, conditional use, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Section 4. Conflicts/Savings Clause. Any provisions of the Municipality’s ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations. If any medical marijuana retail store is established in violation of this Ordinance, each day of any continuing violation constitutes a separate violation of this Ordinance and the Municipality is entitled to all rights and remedies available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

Section 6. Effective Date. This Ordinance becomes effective immediately upon its adoption and will remain in full force and effect for a period of 60 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever first occurs.
TOWN OF HAMPDEN, MAINE
MOBILE HOME PARK ORDINANCE

ENACTED DATE: October 12, 2004
EFFECTIVE DATE: November 12, 2004

AMENDED: Hampden Town Council, June 19, 2006
Effective Date, July 19, 2006

AMENDED: Hampden Town Council, January 5, 2009
Effective Date, February 4, 2009

AMENDED: Hampden Town Council, August 20, 2018
Effective Date, September 19, 2018

CERTIFIED BY: Paula Scott
Name

Town Clerk
Title Affix Seal

MOBILE HOME PARK ORDINANCE
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ARTICLE 1
GENERAL PROVISIONS

1.1. Title. This Ordinance shall be known as the "Mobile Home Park Ordinance of the Town of Hampden, Maine," and shall be referred to herein as the "Ordinance."

1.2. Authority. This Ordinance is enacted under the authority granted to the Town by the constitution and statutes of the State of Maine.

1.3. Purposes. The purposes of this Ordinance are:

1. To promote the public health, safety and welfare of the residents of the Town;
2. To establish standards for mobile homes located in mobile home parks;
3. To establish standards for the maintenance and operation of mobile home parks;
4. To establish standards for the maintenance and occupancy of mobile homes and mobile home lots located in mobile home parks; and
5. To establish a licensing and enforcement mechanism for mobile home parks.

1.4. Applicability. The provision of this Ordinance shall apply to all mobile home parks, and the mobile homes located within mobile home parks, as defined by this Ordinance and by Title 30-A M.R.S.A. § 4358, located within the Town of Hampden on or after May 1, 2004.

1.5. Conflict With Other Ordinances. Whenever the requirements of this Ordinance are in conflict with the requirements of any other rule, regulation, ordinance, or statute, the more restrictive requirement shall prevail, unless otherwise prohibited by state law or expressly provided for in this Ordinance.

1.6. Definitions. For the purposes of this Ordinance, the following definitions shall apply:

Accessory Structure: A structure of a nature customarily incidental or subordinate to the principal structure.

Code Enforcement Officer: A person or persons appointed by the Town Manager to administer and enforce Town Ordinances. The term shall also include Building Inspector, Fire Inspector, Local Plumbing Inspector and the like, if applicable.

Licensee: The mobile home park owner or the applicant for a mobile home park license.

Mobile Home: Two types of mobile homes are included in this definition:

1. Certified mobile home. Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein. This term shall also include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which
the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Codes 5401, et seq.

2. **Non-certified mobile homes**: Those units constructed prior to June 15, 1976, meaning structures, transportable in one (1) or more sections, which are eight (8) body feet or more in width and are thirty-two (32) body feet or more in length, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

**Mobile Home Owner**: A person having ownership and/or legal control of a mobile home herein after referred to as home owner.

**Mobile Home Park**: A parcel of land under unified ownership approved by the Town for the placement thereon of three or more mobile homes.

**Mobile Home Park Lot**: The area of land on which an individual mobile home is situated within a mobile home park and which is reserved for use by the occupants of that mobile home.

**Mobile Home Park Owner**: A person having ownership and/or legal control of a mobile home park herein after referred to as Park Owner.

**Mobile Home Stand**: The part of an individual mobile home lot which has been constructed and reserved for the placement thereon of a mobile home.

**Person**: An individual, partnership, corporation, limited liability company, limited liability partnership, trust or any other form of legal entity recognized under the laws of the State of Maine.

**Structure**: Anything constructed or erected, the use of which requires a location on the ground or attachment to something located on the ground, including, but not limited to, buildings and mobile homes.

**Utility Structure**: A structure located on a mobile home lot which is designated and used for the storage and use of personal property of the mobile home occupants.

**1.7. Conversion of Mobile Home Park**. No individual mobile home lot in a mobile home park may be sold or conveyed, unless said lot meets all of the minimum requirements for a lot in the zoning district in which it is located.

**1.8. Administration**. It shall be the responsibility of the Code Enforcement Officer to approve, approve conditionally, or disapprove mobile home park licenses, to issue certificates of compliance where warranted, to enforce the provisions of this Ordinance, and to carry out the inspections required by this Ordinance.

**1.9. Transition Provisions**. All mobile home parks that had a mobile home park license under the Zoning Ordinance as of April 30, 2004 may continue to operate under said license. Provided, however, that any such park and the mobile homes contained therein shall be governed by the provisions of this Ordinance. The owner or operator of a mobile home park shall apply for a license under this Ordinance by not later than April 1, 2005, and the Park shall be licensed under this Ordinance by not later than August 1, 2005. Failure to make application within the time specified shall constitute a violation of this Ordinance. In addition, the continued operation or maintenance of a mobile home park without a license and/or in violation of the provisions of this Ordinance after August 1, 2005 shall constitute a violation of
this Ordinance. Any non-certified mobile home located in a mobile home park on the date of adoption of this Ordinance shall be brought into compliance with the requirements of Article 8 by not later than August 1, 2005.

1.10. Separability. In the event that any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, such action shall not be deemed to affect the validity of any other provision of this Ordinance.

ARTICLE 2
ANNUAL MOBILE HOME PARK LICENSE REQUIRED.

2.1. No person shall establish, operate, or maintain a mobile home park in the Town of Hampden without first obtaining an annual license issued in conformity with the provisions of this Ordinance.

2.2. The Code Enforcement Officer shall be responsible for the review of license applications, and shall approve, approve with conditions, or deny any license application. The applicant has the burden to demonstrate that the application complies with the provisions of this Ordinance, as well as all applicable laws, ordinances, statutes, or regulations.

2.3. Each license shall expire on the first day of August next following the date of issuance. Applications for license renewal shall be submitted no later than the first day of June in order to be acted upon by the first day of August.

2.4. The Code Enforcement Officer is hereby authorized and directed to make inspections of mobile home parks and the mobile homes located therein to determine the condition of the parks and mobile homes in order to safeguard the health and safety of the occupants of mobile home parks. The Code Enforcement Officer shall inspect the park and if the Code Enforcement Officer deems it to be necessary or appropriate, the individual mobile homes within the park prior to making a decision on a license application. The Code Enforcement Officer, or a duly authorized representative, shall have the authority to enter upon any private or public property at reasonable times for the purpose of inspecting and investigating conditions relating to the administration or enforcement of this Ordinance. Amended: 01-05-2009

2.5. A license application shall be in writing, and shall contain the following:

1. Name, address, and telephone number of the applicant. If the applicant is not the mobile home Park Owner, the applicant must also provide the name and address of the Park Owner, as well as the legal relationship of the applicant to the Park Owner and documentation evidencing the applicant's legal authority to operate or maintain the mobile home park.

2. A register containing the record of all mobile home owners and occupants located within the park. The register shall contain the following information:

   1. The name of the owner of each mobile home in the park.
   2. The manufacturer's name, model number, year, and serial number of each mobile home.
   3. The lot location by number of each mobile home.
   4. If not owner-occupied, the names of the occupants of each mobile home.

Effective 9-19-2018
5. The Park Owner shall keep the register up to date, and available for inspection at all times by law enforcement officers, emergency services personnel, code enforcement officials, and other officials whose duties necessitate acquisition of the information contained in the register.

3. A mobile home park plan, prepared and / or certified by a professional land surveyor, drawn at a scale of not less than one inch equals 40 feet, depicting the boundaries of the park, the streets within the park, the common areas within the park, the mobile home lots within the park, and the location of each mobile home within the park. For emergency purposes, the lot numbering required by Article 3 shall be shown on the plan.

4. The name of the mobile home park.

5. The license application shall also be accompanied by the application fee established by the Hampden Fees Ordinance.

6. A park management plan, including a 24 hour contact person, rules of the park, schedule for park maintenance, trash removal, and road maintenance for the park.

2.6. The Code Enforcement Officer shall issue a written decision on the application for a mobile home park license. In order to grant a license, the Code Enforcement Officer must find the following:

1. That the mobile home park is in compliance with all applicable laws, ordinances, regulations, and has received all necessary approvals from the Town of Hampden and the State of Maine.


3. That the Park Owner has complied with the requirements of this Ordinance during the term of the prior license. Amended: 01-05-2009

2.7. The Code Enforcement Officer may issue a conditional license if the Park Owner enters into a written agreement with the Town that contains a detailed schedule of compliance setting forth the specific improvements to the park, mobile home lots, or mobile homes that the Park Owner shall make during the term of the license. If the Park Owner fails to comply with the provisions of said agreement, said noncompliance shall be the grounds for revocation, or non-renewal, of the license.

2.8. The Code Enforcement Officer, after notice and a hearing on the matter, may revoke any license to establish, maintain or operate a mobile home park upon making a finding that the park is not being operated or maintained in accordance with the provisions of this Ordinance, or any other applicable law or ordinance.

ARTICLE 3
MOBILE HOME LOT IDENTIFICATION.

3.1. Each mobile home lot shall have a number supplied by the Park Owner, and the lots shall be numbered in an orderly, consecutive fashion. Even numbers shall be on one side of the street and odd numbers shall be on the opposite side of the street.

3.2. Each mobile home shall be numbered in a manner consistent with the number assigned to the lot.
3.3. The mobile home lot number shall be at least three inches high, and the Park Owner shall be responsible for the placement and maintenance of the numbers on each mobile home in a prominent place so that they may be readily observable by emergency services personnel.

3.4. The Park Owner shall be responsible for the placement and maintenance of the lot numbers on the electrical service (i.e., meter junction box) for each mobile home.

ARTICLE 4
MOBILE HOME PARK STREET IDENTIFICATION.

4.1. The Park Owner shall cooperate with the Code Enforcement Officer to establish names for streets within the mobile home park. Said street names shall be substantially different than existing street names within the Town of Hampden so as not to be confused in sound or spelling. In general said streets shall have names not numbers or letters.

4.2. The Park Owner shall erect, and maintain, street name signs at all street intersections, which signs shall contain lettering that is reflectorized.

ARTICLE 5
OBLIGATIONS OF PARK OWNERS.

5.1. The Park Owner shall provide the occupants of the mobile home park with a copy of this Ordinance, and inform the occupants of their duties and responsibilities under this Ordinance.

5.2. The Park Owner shall operate the mobile home park, or cause the same to be operated, in compliance with this Ordinance, and shall provide adequate supervision to maintain the park, its facilities, improvements, and equipment in good repair and in a clean and sanitary condition, as well as in compliance with all state and local laws, regulations, or ordinances.

5.3. The Park Owner shall maintain all streets, roadways and driveways in the mobile home park in good repair, and shall keep the same clear of snow, ice, standing water, and debris. In addition, the streets and roadways in the mobile home park shall be constructed and maintained so as to comply with the "Fire Lane" requirements of the Town of Hampden Fire Prevention Code.

5.4. The Park Owner shall maintain the mobile home park in a clean, orderly, safe and sanitary condition at all times.

5.5. The Park Owner shall remove any abandoned, burned, dilapidated, or abandoned mobile home from the mobile home park within ten business days of a notice from the Code Enforcement Officer.

5.6. The Park Owner shall not permit the presence or any accumulation of any (1) abandoned, unregistered or un-inspected motor vehicles, or parts thereof, or (2) discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment; household appliances; furniture; discarded, scrap or junked lumber; old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste or scrap iron, steel or other scrap ferrous or nonferrous material, or other solid waste or debris in the mobile home park, whether on the streets or other common areas under the control of the Park Owner or on the individual mobile home lots.

5.7. The Park Owner shall be responsible for the proper placement of each mobile home on its mobile home stand, which includes securing its stability and installing all utility connections. Owner shall also be responsible for the disconnection of all utilities prior to the departure of a mobile home from the park.
5.8. The Park Owner shall conspicuously post a copy of the license in Park Owner’s office or on the premises of the mobile home park at all times.

5.9. The Park Owner shall notify the Code Enforcement Officer and Tax Assessor, in writing, of the arrival or impending departure of any mobile home or any change of ownership that occurs within the park.

5.10. The Park Owner shall make adequate provision for the storage, collection, and lawful disposal of all refuse from the mobile home park, and shall take adequate measures to prevent the creation of health hazards, rodent harborage, insect breeding areas, accident hazards, or air, water, or ground pollution. All refuse and garbage shall be bagged in plastic garbage bags by the homeowner or occupant for storage in fully and tightly enclosed, watertight, rodent-proof containers, which shall be provided by Owner in sufficient number and capacity to prevent any refuse or garbage from overflowing. Satisfactory container racks or holders shall be provided by the Owner and shall be located not more than 150 feet from any mobile home lot, or the Park Owner shall cooperate with the Code Enforcement Officer to establish mutually agreed upon locations.

5.11. The Park Owner shall bring all nonconforming non-certified mobile homes into compliance with the safety standards of Article 8. The Code Enforcement Officer may, as part of a conditional license, enter into a schedule of compliance with the Owner.

5.12. The Park Owner shall provide adequate supervision to ensure that the mobile home park, mobile home lot, mobile homes, and the owners or occupants of mobile homes comply with the provisions of this Ordinance. Owner shall include provisions in rental agreements requiring that individual owners or occupants of mobile homes shall comply with the provisions of this Ordinance, and Owner shall be obligated to pursue legal remedies for any breach of those requirements.

5.13. The Park Owner shall cooperate fully with the Code Enforcement Officer in the administration and enforcement of this Ordinance, including providing assistance in gaining access to mobile homes for the required inspections.

5.14. The Park Owner shall not assign or transfer the license without the prior approval of the Code Enforcement Officer. Any assignment or transfer shall be subject to the condition that the transferee agree in writing to abide by the terms and conditions of the license and this Ordinance.

5.15. The owner(s) of the land on which the mobile home park is located shall be ultimately responsible for compliance with this Ordinance, and shall remain responsible therefore regardless of the fact that this Ordinance may also place certain responsibilities on the license holder, or mobile home owners and/or occupants. This shall be so regardless of any agreements between the owners of the land and the license holder or owner/occupants of mobile homes as to which parties shall assume such responsibility.

ARTICLE 6
OBLIGATIONS OF MOBILE HOME OWNERS OR OCCUPANTS.

6.1. It shall be the duty of the owners or occupants of mobile homes in a mobile home park to give the Code Enforcement Officer access to the mobile homes at reasonable times for the purpose of conducting an inspection thereof to determine satisfactory compliance with the requirements of this Ordinance.

6.2. The owners or occupants of mobile homes in a mobile home park shall comply with all applicable requirements of this Ordinance, and shall maintain his/her mobile home, mobile home lot, and any facilities, improvements, or equipment, in good repair and in a clean and sanitary condition. The home
owner or occupant shall not cause or permit the presence or accumulation of the items specified in Article 5.6 on his/her mobile home lot, or at any other location within the mobile home park.

6.3. No home owner or occupant shall allow animals in his/her custody to run at large, or commit any nuisance, within the mobile home park.

6.4. No home owner or occupant shall permit his/her mobile home to be occupied by a greater number of persons than that for which it was designed.

6.5. The space directly beneath each mobile home shall be kept clean and free from refuse, or other combustible materials.

6.6. No home owner or occupant shall permit the parking of vehicles or the storage of personal property so as to interfere with access to the lots or mobile homes in the mobile home park by other owners or occupants, or especially with access by emergency vehicles or personnel.

6.7. No home owner or occupant shall locate or use a utility structure on his/her lot unless it is located no closer than 10 feet to any mobile home or other utility structure, and is made of noncombustible materials. In addition, said structure shall not exceed 150 square feet in area and 10 feet in height.

6.8. No home owner or occupant shall dispose of any garbage or refuse except by first bagging the garbage or refuse into a plastic garbage bag and the placing them into provided facilities in a clean and sanitary manner.

6.9. The individual owner of a non-certified mobile home shall be responsible for bringing the mobile home into compliance with the safety standards set forth in Article 8. The Code Enforcement Officer is authorized to enter into a schedule of compliance with such a home owner.

ARTICLE 7
RESTRICTIONS ON THE SALE, LEASE, TRANSFER, OCCUPANCY OR LOCATION OF MOBILE HOMES IN A MOBILE HOME PARK.

7.1. No person may sell, transfer, or otherwise convey a mobile home in a mobile home park without a prior written determination from the Code Enforcement Officer stating that: (1) the mobile home is a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) is a non-certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations, including the requirements of Article 8 of this Ordinance. The provisions hereof shall not apply to a mobile home that is being removed from the mobile home park.

7.2. No person shall locate, move from one mobile home lot to another mobile home lot, or replace a mobile home in a mobile home park without a prior written determination from the Code Enforcement Officer stating that: (1) the mobile home is a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) is a non-certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations, including the requirements of Article 8 of this Ordinance.

7.3. No person shall permit or allow the occupancy of a mobile home in a mobile home park for dwelling purposes without a prior Certificate of Compliance from the Code Enforcement Officer stating that: (1) the mobile home is a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) is a non-certified mobile home that is in a good
state of repair and is in compliance with all applicable codes, ordinances, laws or regulations, including the requirements of Article 8 of this Ordinance, and that the mobile home is properly placed on a mobile home stand and properly connected to water, sewer, and electrical utilities. The Park Owner shall be responsible for the proper installation of all utility connections, which shall be accomplished by duly qualified and licensed persons.

7.4. The placement of a mobile home that is not (1) a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) a non-certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws, or regulations, including the requirements of Article 8 of this Ordinance in or near the mobile home park is strictly prohibited. The area of the mobile home park and any of Park Owner's land in the vicinity shall not be used as a staging area for the rehabilitation of non-certified mobile homes. The foregoing shall not preclude the rehabilitation of mobile homes that existed in a park as of the date of adoption of this Ordinance.

ARTICLE 8
SAFETY STANDARDS.

8.1. The purpose of this Article is to establish minimum standards to attain a condition of safety that will allow a non-certified mobile home to perform in a manner that will greatly reduce hazards that present an imminent and unreasonable risk of death or serious personal injury.

8.2. These standards shall apply to all non-certified mobile homes located in mobile home parks. These standards shall also apply to any non-certified mobile homes being brought into parks.

8.3. Standards.

8.3.1. Light and Ventilation

1. Each habitable room shall be provided with exterior windows and/or doors having a total glazed area of not less than 8 percent of the gross floor area.

2. Each bathroom and toilet compartment shall be provided with artificial light and, in addition, be provided with external windows or doors having not less than 1½ square feet of fully operable glazed area, except where a mechanical ventilation system is provided capable of producing a change of air every 12 minutes. Any mechanical ventilation system shall exhaust directly to the outside of the home.

8.3.2. Ceiling Height. Every habitable room shall have a minimum ceiling height of 6 feet and 6 inches.

8.3.3. Exit Facilities – Exterior Doors

1. Homes shall have a minimum of two exterior doors located remote from each other.

2. Required egress doors shall not be located where a lockable interior door must be used in order to exit.

3. Doors may not be less than 12 feet from each other as measured in any straight line direction regardless of the length of the travel between doors.
4. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.

5. All exterior swinging doors in mobile homes shall provide a minimum door leaf dimension of 28 inches wide by 74 inches high. Notwithstanding this regulation replacement swinging doors that were installed prior to adoption of this ordinance measuring at least 28 inches in width by 72 inches in height shall not require replacement. All exterior sliding glass doors shall provide a clear opening of at least 28 inches wide by 72 inches high. Locks shall not require the use of a key for operation from the inside.

8.3.4. Exit Facilities – Egress Windows and Devices. Every room designed expressly for sleeping purposes, unless it has an exterior exit door, shall have at least one outside window operable from the inside without the use of tools and providing a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of the opening shall not be more than 44 inches off the floor.

1. Exception. In lieu of this regulation, an approved automatic sprinkler system may be installed in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes.

8.3.5. Interior – Doors. Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

8.3.6. Room Requirements

1. Every home shall have sufficient space and functional arrangements to accommodate the normal activities of living in a manufactured home.

2. Every home shall have at least one common area with no less than 150 square feet of gross floor area.

3. All bedrooms shall have at least 50 square feet of floor area.

4. Bedrooms designed for two or more people shall have 70 square feet of floor area plus 50 square feet for each person in excess of two.


6. Bedrooms shall have an operable door with a latch to separate the room from the common area.

7. Each toilet compartment shall have a minimum of 21 inches of clear space in front of each toilet.

8. Hallways shall have a minimum horizontal dimension of 28 inches measured from interior finished surface to the opposite finished surface. Minor protrusions by doorknobs, trim, smoke detectors or light fixtures are permitted.

8.3.7. Fire Detection Equipment All homes, regardless of the date of manufacture, shall meet the following requirements. At least one smoke detector (which may be a single station alarm device) shall be installed in the home in the following locations:
1. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.

2. When located in hallways, the detector shall be between the return air intake and the living area.

3. The smoke detector shall not be placed in a location which impairs its effectiveness.

4. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.

5. Each smoke detector shall be installed in accordance with its listing on a wall or ceiling. If installed on a wall, the top of the detector shall be located 4 inches to 12 inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 4 inches to 12 inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connector by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the overcurrent protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on any circuit protected by a ground fault circuit interrupter.

8.3.8. Cooking Unit Separation. No burner of a surface cooking unit shall be closer than 12 horizontal inches to a window or an exterior door.

8.3.9. Kitchen Cabinet Protectors All homes, regardless of the date of manufacture, shall meet the following requirements.

1. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of 6 inches from the outside edge of the cooking range shall be protected with at least 5/16 inch thick gypsum board or equivalent limited combustible material. One inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood with not less than a 3 inch eyebrow projecting horizontally from the front cabinet face. The 5/16 inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8 inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.

2. The metal hood will not be required if there is an oven installed between the cabinet and the range.

3. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

8.3.10. Carpeting. Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be used in other areas where a furnace or water heater is installed, provided that it is not located under the furnace or water heater.
8.3.11. **Roof Loads.** Prior to construction of an addition or alteration of the roof of a mobile home, design plans bearing the seal of a State of Maine registered professional engineer shall be submitted. Said plans shall demonstrate that the roof design can withstand any snow loads or wind uplifts that may occur. Building Inspector shall inspect the roof framing and supporting members prior to sheathing.

8.3.12. **Floors.** All floors shall be of a solid construction to protect users of the mobile home from the hazard of an unsafe floor.

8.3.13. **Exterior Coverings.** Exterior coverings shall be of moisture and weather resistant materials to resist wind, snow, sleet, or rain.

8.3.14. **Deleted Amended: 01-05-2009**

8.3.15. **Plumbing Systems.** A person holding a master license issued by the State of Maine Plumbers Examining Board shall inspect and certify that the plumbing system is in conformance with the requirements of the Maine State Plumbing Code, is safe and verify that the following conditions are met.

1. The plumbing is of a durable material, free from defective workmanship that would cause a safety hazard.

2. Water closets are adjusted to use a minimum quantity of water consistent with proper performance and cleaning.

3. All plumbing, fixtures, drains, appurtenances, and appliances designed or used to receive or discharge liquid waste or sewage are connected to the drain system in a manner that is consistent with the State Plumbing Code.

4. All piping and fixtures subject to freezing temperatures shall be insulated or protected to prevent freezing under normal occupancy. To prevent freezing, a modern technological designed heat cable should be used.

5. All dishwashing machines shall not be directly connected to any waste piping, but shall discharge its waste through a fixed air gap installed above the machine.

6. Clothes washing machines shall drain either into a properly vented trap, into a laundry tub tailpiece with watertight connections, into an open standpipe receptor, or over the rim of a laundry tub.

7. Toilets shall be designed and manufactured according to approved or listed standards and shall be equipped with a water flushing device capable of adequately flushing and cleaning the bowl.

8. Each shower stall shall be provided with an approved watertight receptor with sides and back at least 1 inch above the finished dam or threshold.

9. Water supply plumbing systems shall be sized to provide an adequate amount of water to each plumbing fixture at a flow rate sufficient to keep the fixture in a clean and sanitary condition without any danger of backflow or siphonage.
10. Each home shall be equipped with a kitchen sink and bathtub and/or shower and be provided with a hot water supply system including a listed water heater.

11. No part of a water system shall be connected to any drainage or vent piping.

12. All new plumbing after the effective date of these standards shall be lead free with solders and flux containing not more than 0.2 percent lead and pipes and pipe fittings containing not more than 8.0 percent lead.

8.3.16. Heating and Fuel Burning Systems

1. A person holding a master license issued by the State of Maine Oil and Solid Fuel Technicians, Board of Licensure and/or a person holding a master license issued by the State of Maine Propane and Natural Gas Technicians, Board of Licensure shall inspect and certify that the heating and fuel system is in a safe condition and meets all State of Maine laws and rules as adopted by said boards. Amended: January 5, 2009

2. Heat-producing appliances and vents, roof jacks and chimneys necessary for installation in mobile homes shall be listed or certified by a nationally recognized testing agency for use in mobile homes.

8.3.17. Electrical System. A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify that the electrical system that is accessible, including the wiring of the smoke detector, is safe and meets the National Electrical Code in effect at the time the mobile home was constructed.

1. Homes wired with aluminum conductors shall meet the current Underwriter Laboratory (UL) requirements for connecting to branch circuits of 30 amps or less. (Note: The intent of this is not to require the mobile home to be rewired, but only to require that U. L. Listed conductors be affixed to receptacle switches and light fixtures. There are several methods of doing this. The most preferred is the "pig tail" method.)

8.3.18. Separation Requirements. (Amended 1-5-2009, 8-20-2018)

1. The distance between mobile homes must be a minimum of ten feet from side to side and eight feet from end to end (excluding the hitch) or end to end. The distance between any mobile home and any utility structure must be a minimum of ten feet. Any addition to a mobile home, including carports, decks, porches, living spaces, sunrooms, etc. (but excluding steps) is considered to be part of the mobile home, and is subject to these minimum separation requirements.

2. Any mobile home that was not in compliance with the prescribed separation requirements as of the date of adoption of this Ordinance may remain at that location.

3. A mobile home may be replaced with a certified or non-certified mobile home if the following conditions are met:
   (a) the separation requirements are met,
   (b) the replacement mobile home is no wider than fourteen (14) feet, and
(c) the dimensional requirements of Section 4.13.3.3.1. of the Zoning Ordinance are not made more nonconforming by the placement of a larger mobile home on the lot.

ARTICLE 9
VIOLATIONS AND ENFORCEMENT.

9.1. Any condition existing in violation of this Ordinance is deemed to be a nuisance.

9.2. The Code Enforcement Officer shall provide written notice of any violation to the Park Owner and/or operator of the mobile home park. In addition, if the violation involves a violation by the home owner or occupant of a mobile home, written notice shall also be given to the home owner or occupant. The notice shall be mailed to the last known address according to records maintained by the Town. The notice shall describe the violations, and shall state the corrective action necessary. The giving of notice hereunder shall not be a prerequisite to the commencement of an enforcement action.

9.3. The Code Enforcement Officer, with the advice and consent of the Town Manager, is authorized to institute, or cause to be instituted by the Town Attorney, in the name of the Town of Hampden, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this Ordinance.

9.4. Any person, firm or corporation, being the owner or operator of, or having control or use of any mobile home, mobile home lot or mobile home park, who violates any provision of this Ordinance shall be subject to the penalties set forth in 30-A M.R.S.A. § 4452. Each violation, and each day of each violation, shall constitute a separate offense.

ARTICLE 10
APPEALS.
Amended 06-19-2006

10.1. Appeals. All appeals shall be 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. Any appeal from the Code Enforcement Officer's approval, approval with conditions, or denial of a license application, or the revocation of a license, shall be made to the Board of Appeals within 30 days of the rendering of such a decision. Amended 06-19-2006

10.2 Appellate Review The review by the Board of Appeals shall be limited to an appellate review of the Code Enforcement Officer's decision, and said decision may be overturned only if the officer committed an error of law, abused his/her discretion, or made findings that are not supported by substantial evidence on the record. No appeal may be taken from a violation determination or enforcement action taken by the Code Enforcement Officer, except to the extent that said determination or action forms the basis of a revocation of a license by the Code Enforcement Officer. Amended 06-19-2006

10.3 Basis of the Appeal. The appellant must demonstrate that the decision of the Code Enforcement Officer: (1) committed an error of law, (2) abused his/her discretion, or (3) made findings that are not supported by substantial evidence on the record. Amended 06-19-2006

10.4 Modification or Reversal of the Decision. The Board of Appeals may modify or reverse the decision of the Code Enforcement Officer if they determine that he: (1) committed an error of law, (2) abused his/her discretion, or (3) made findings that are not supported by substantial evidence on the record. Amended 06-19-2006
TOWN OF HAMPDEN, MAINE
MAINE UNIFORM BUILDING AND ENERGY CODE ORDINANCE

ADOPTED: Hampden Town Council, March 16, 2015
Effective Date: April 15, 2015

CERTIFIED BY: Denise Hodsdo
Denise Hodsdo
Town Clerk

Affix Seal

LIFE SAFETY CODE ORDINANCE
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TOWN OF HAMPDEN, MAINE
MAINE UNIFORM BUILDING AND ENERGY CODE ORDINANCE


Effective December 1, 2010, the Town of Hampden applies and enforces the Maine Uniform Building and Energy Code ("MUBEC") as required by 10 M.R.S. §9724. MUBEC contains the minimum standards for the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment, both existing and proposed, located within the Town of Hampden. The purpose of this Ordinance is to establish administration and enforcement provisions in relation to MUBEC. The Town has the authority to enact this Ordinance under 10 M.R.S. §9724(5).

Section 2. Administration.

2.1 The Code Enforcement Officer and/or the Building/Fire Inspector of the Town of Hampden shall serve as the building official as defined in 25 M.R.S. § 2371 and shall be responsible for issuing building permits and certificates of compliance.

2.2 The Code Enforcement Officer and/or the Building/Fire Inspector shall be responsible for inspecting all permitted construction for compliance with all components of MUBEC, as such components may be revised from time to time by the Technical Building Codes and Standards Board.

2.3 The property owner, at the owner's sole expense, may elect to comply with MUBEC through inspections and reports by third-party inspectors certified pursuant to 10 M.R.S. § 9723. The owner shall be responsible for contractual arrangements with a duly certified third-party inspector. The Code Enforcement Officer and/or the Building/Fire Inspector may issue the certificate of compliance for a building or structure upon receipt of a copy of the Construction File and an original inspection report from the certified third-party inspector. The Town of Hampden and the Code Enforcement Officer and/or the Building/Fire Inspector have no obligation to review a report from a third-party inspector for accuracy prior to issuing the certificate of compliance.

2.4 The administration and enforcement of MUBEC, including permits, certificates of compliance, fees, and violations, shall be in accordance with Article 5 of the Town of Hampden, Maine Zoning Ordinance and the Town of Hampden, Maine Fees Ordinance. For the purposes of MUBEC, a certificate of compliance under the Zoning Ordinance shall constitute a certificate of occupancy.
Section 3. Climatic and Geographic Design Criteria for the Town of Hampden

3.1. As referenced in MUBEC, the following climatic and geographic design criteria are established for the Town of Hampden:

3.1.1. Ground Snow Load: 70 lb./ft
3.1.2. Wind Design
   Speed: 90 miles per hour
   Topographical effects: None
3.1.3. Seismic Design Category: B
3.1.4. Subject to Damage From
   Weathering: Severe
   Frost Line Depth: 5 ft.
   Termite: None to Slight
3.1.5. Winter Design Temp: -5°F
3.1.6. Ice Barrier Underlayment Required: Yes
3.1.7. Flood Hazards: 9/4/1987
3.1.8. Air Freezing Index: 1750
3.1.9. Mean Annual Temp: 45°F

Section 4. Knox Box Program

4.1. The Knox Box Program for the Town of Hampden shall be used for access to buildings for emergency purposes only.

4.2. The Public Safety Director or designee shall serve as the administrator for the Knox Box Program, as defined by the Knox Company.

4.3. The number, make, model and location of the box(s) shall be determined by the Code Enforcement Officer, Building/Fire Inspector, or Public Safety Director or designee.

4.4. All keys required to operate the building’s life safety signaling and fire suppression systems, electrical rooms and panels, and a master building key shall be placed within the Knox Box.

4.5. All new buildings constructed or additions to current buildings performed after the adoption of this amendment shall conform to this provision.

4.5.1. One- and two-family dwellings and townhouses are excluded from this requirement.
Section 5. Administrative Appeals.

5.1 The owner of a building or structure may appeal to the Town of Hampden Board of Appeals from a decision of the Code Enforcement Officer and/or the Building/Fire Inspector refusing to grant a building permit or to issue a certificate of compliance. Any other aggrieved person may appeal the issuance of a building permit or a certificate of compliance. Any appeal must be commenced within 30 days of the decision. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, and appeal procedures.

5.2 The Board of Appeals may conduct an appellate review of the matter that is the subject of the appeal. The appellant shall have the burden to demonstrate that the decision of the Code Enforcement Officer and/or the Building/Fire Inspector was contrary to the provisions of MUBEC.

5.3 The Board of Appeals may modify or reverse the decision of the Building Official upon making a determination that the decision of the Code Enforcement Officer and/or the Building/Fire Inspector was contrary to the provisions of MUBEC. The decision of the Board shall be final.

Section 6. Civil Penalties.

The provisions of 30-A M.R.S. §4452 shall apply to the determination of penalties for violations of MUBEC or this Ordinance. The minimum penalty for starting work without a permit required by MUBEC or this Ordinance shall be $100.00, and the maximum penalty shall be $2,500.00. The minimum penalty for any specific violation of this code shall be $100.00, and the maximum penalty shall be $2,500.00. The maximum penalty may exceed $2,500.00, but shall not exceed $25,000.00, when it can be shown that there has been a previous conviction of the same party within the past two (2) years for violation of the same provision. If the economic benefit resulting from the violation exceeds the applicable penalties set forth herein, the maximum civil penalties may be increased to an amount not to exceed twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or the enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. Each day of violation shall constitute a separate violation. All civil penalties shall inure to the benefit of the Town of Hampden.

Section 7. Savings Clause.

If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, that finding shall not affect the remaining provisions of the Ordinance.
Section 8. Effective Date.

In accordance with Section 213 of the Town Charter, this Ordinance shall become effective at the expiration of thirty (30) days after the date of adoption by the Town Council.
NON-STORM WATER DISCHARGE ORDINANCE

ARTICLE 1
PURPOSE and OBJECTIVES

1.1. **Purpose.** The purpose of this Non-Storm Water Discharge Ordinance (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Hampden, Maine through the regulation of Non-Storm Water Discharges to the Municipality’s Storm Drainage System as required by federal and State law. This Ordinance establishes methods for controlling the introduction of Pollutants...
into the Town’s Storm Drainage System in order to comply with requirements of the federal Clean Water Act and State law.

1.2. Objectives. The objectives of this Ordinance are:

1.2.1. To prohibit unpermitted or unallowed Non-Storm Water Discharges to the Storm Drainage System; and

1.2.2. To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this Ordinance.

ARTICLE 2
DEFINITIONS

For the purposes of this Ordinance, the terms listed below are defined as follows:


Discharge. “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

Enforcement Authority. “Enforcement Authority” means the person(s) or department authorized under Article 4 of this Ordinance to administer and enforce this Ordinance.

Exempt Person or Discharge. “Exempt Person or Discharge” means any Person who is subject to a Multi-Sector General Permit for Industrial Activities, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (“EPA”) or the Maine Department of Environmental Protection (“DEP”).

Industrial Activity. “Industrial Activity” means activity or activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipality. “Municipality” means the Town of Hampden, Maine.

Municipal Separate Storm Sewer System, or MS4. “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued
by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-Storm Water Discharge.** “Non-Storm Water Discharge” means any Discharge to an MS4 that is not composed entirely of Storm Water.

**Person.** “Person” means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity which creates, initiates, originates or maintains a Discharge of Storm Water or a Non-Storm Water Discharge.

**Pollutant.** “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Premises.** “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

**Regulated Small MS4.** “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” dated June 3, 2003 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

**Small Municipal Separate Storm Sewer System,** or Small MS4. “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

**Storm Drainage System.** “Storm Drainage System” means the Municipality’s Regulated Small MS4.

**Storm Water.** “Storm Water” means any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

**Urbanized Area ("UA").** “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

### ARTICLE 3
### APPLICABILITY

This Ordinance shall apply to all Persons discharging Storm Water and/or Non-Storm Water Discharges from any Premises into the Storm Drainage System.
ARTICLE 4
RESPONSIBILITY FOR ADMINISTRATION

The Building Inspector is the Enforcement Authority who shall administer, implement, and enforce the provisions of this Ordinance.

ARTICLE 5
PROHIBITION OF NON-STORM WATER DISCHARGES

5.1. General Prohibition. Except as allowed or exempted herein, no Person shall create, initiate, originate or maintain a Non-Storm Water Discharge to the Storm Drainage System. Such Non-Storm Water Discharges are prohibited notwithstanding the fact that the Municipality may have approved the connections, drains or conveyances by which a Person Discharges unallowed Non-Storm Water Discharges to the Storm Drainage System.

5.2. Allowed Non-Storm Water Discharges. The creation, initiation, origination and maintenance of the following Non-Storm Water Discharges to the Storm Drainage System is allowed:

5.2.1. Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)); uncontaminated pumped ground water; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; and individual residential car washing;

5.2.2. Discharges specified in writing by the Enforcement Authority as being necessary to protect public health and safety; and

5.2.3. Dye testing, with verbal notification to the Enforcement Authority prior to the time of the test.

5.3. Exempt Person or Discharge. This Ordinance shall not apply to an Exempt Person or Discharge, except that the Enforcement Authority may request from Exempt Persons and Persons with Exempt Discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the Discharge(s).

ARTICLE 6.
SUSPENSION OF ACCESS TO THE MUNICIPALITY’S SMALL MS4.

The Enforcement Authority may, without prior notice, physically suspend Discharge access to the Storm Drainage System to a Person when such suspension is necessary to stop an actual or threatened Non-Storm Water Discharge to the Storm Drainage System which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drainage System, or which may cause the Municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the Discharge to prevent or minimize a Non-Storm Water Discharges to the Storm Drainage System. If the Person fails to comply with a suspension order issued in an emergency, the Enforcement Authority may take such steps as deemed necessary to prevent
or minimize damage to the Storm Drainage System, or to minimize danger to persons, provided, however, that in taking such steps the Enforcement Authority may enter upon the Premises that are the source of the actual or threatened Non-Storm Water Discharge to the Storm Drainage System only with the consent of the Premises’ owner, occupant or agent.

**ARTICLE 7.**
**MONITORING OF DISCHARGES.**

In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon and inspect Premises subject to this Ordinance at reasonable hours with the consent of the Premises’ owner, occupant or agent: to inspect the Premises and connections thereon to the Storm Drainage System; and to conduct monitoring, sampling and testing of the Discharge to the Storm Drainage System.

**ARTICLE 8.**
**ENFORCEMENT.**

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

8.1. **Notice of Violation.** Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

8.1.1. The elimination of Non-Storm Water Discharges to the Storm Drainage System, including, but not limited to, disconnection of the Premises from the MS4;

8.1.2. The cessation of discharges, practices, or operations in violation of this Ordinance;

8.1.3. At the Person’s expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of Non-Storm Water Discharges to the Storm Drainage System and the restoration of any affected property; and/or

8.1.4. The payment of fines, of the Municipality’s remediation costs and of the Municipality’s reasonable administrative costs and attorneys’ fees and costs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

8.2. **Penalties/Fines/Injunctive Relief.** Any Person who violates this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality’s attorney’s fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys’ fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person’s violation of this Ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Article.
8.3. Consent Agreement. The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs and fees without court action.

8.4. Appeal of Notice of Violation. Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Board of Appeals in accordance with the Board of Appeals Ordinance. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a de novo hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A suspension under Article 6 of this Ordinance remains in place unless or until lifted by the Board of Appeals or by a reviewing court. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

8.5. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the Enforcement Authority’s decision, then the Enforcement Authority may recommend to the municipal officers that the municipality’s attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

8.6. Ultimate Responsibility of Discharger. The standards set forth herein are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants into waters of the U.S. caused by said Person. This Ordinance shall not create liability on the part of the Municipality, or any officer agent or employee thereof for any damages that result from any Person's reliance on this Ordinance or any administrative decision lawfully made hereunder.

ARTICLE 9.
SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

ARTICLE 10.
BASIS.

The Town of Hampden, Maine enacts this Non-Storm Water Discharge Ordinance (the “Ordinance”) pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the “Wastewater Discharge Law”), 33 U.S.C. § 1251 et seq. (the “Clean Water Act”), and 40 CFR Part 122 (U.S. Environmental Protection Agency’s regulations governing the National Pollutant Discharge Elimination System (“NPDES”)). The Maine Department of Environmental Protection, through its promulgation of the “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” dated June 3, 2003, has listed the Town as having a Regulated Small Municipal Separate Storm Sewer System (“Small MS4”); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality’s Storm Water Management Program.
TOWN OF HAMPDEN, MAINE
OUTDOOR FACILITIES ORDINANCE

ADOPTED DATE: Hampden Town Council, August 6, 2012
EFFECTIVE DATE: September 5, 2012

AMENDED: Hampden Town Council, November 14, 2016
EFFECTIVE DATE: December 13, 2016

CERTIFIED BY: Paula Scott, Town Clerk

TOWN OF HAMPDEN, MAINE
OUTDOOR FACILITIES ORDINANCE
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ARTICLE I.
PURPOSE

1.1 Purpose. The purpose of this Ordinance is to provide rules and regulations for the use of and conduct in outdoor facilities situated in Hampden. This Ordinance hereby repeals the Dorothea Dix Park Ordinance (adopted 10/16/89) and Papermill Road Recreation Area Ordinance (last amended 5/18/09).

ARTICLE II.
AUTHORITY

2.1 Authority. Pursuant to the provisions of Title 30-A M.R.S. Sections 3001 and 3281-3284 and the Charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, there is hereby established an Outdoor Facilities Ordinance to be organized, administered and governed in accordance with the following provisions.

ARTICLE III.
APPLICABILITY

3.1 Applicability. This Ordinance provides full power and authority over all outdoor facilities within the Town.

ARTICLE IV.
DEFINITIONS

4.1 Definitions. Unless specifically defined below, words and phrases used in this Ordinance shall have the customary dictionary definitions that give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

Alcoholic Beverage: any beverage containing any amount of alcohol as regulated under state law.

Controlled Substance: any legal or illegal drug, narcotic, hallucinogen, opiate, prescription drug, or any other such substance regulated by state or federal law.

Electronic Smoking Device: a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so called vape pen.

Motorized Vehicle: any vehicle that is propelled by an engine, including but not limited to: cars, trucks, motorcycles, snowmobiles, ATVs, OHVs, dune buggies, dirt bikes, three-wheelers, go-karts, and golf carts.
Outdoor Facility: any park, sports field, forest, wooded area, field, playground, or other property for which the Town of Hampden is the deeded owner.

Parks: Includes the following outdoor facilities: Dorothea Dix Park, Papermill Road Recreation Area, Western Avenue Recreation Area, or other areas designated as such.

Public Safety Department: Includes Police, Fire, and Emergency Medical Services (EMS) Departments.

Sports Fields: Includes the following outdoor facilities: Ball Field Road Ball Field, VFW Recreation Area, Western Avenue Recreation Area, or other areas formally designated as such by the Town Council.

Tobacco Products: cigars, cigarettes, chewing tobacco, snuff, or any other product containing tobacco as regulated under state law.

ARTICLE V. PROHIBITIONS

5.1 Camping. No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping in outdoor facilities, nor shall any person leave in outdoor facilities after closing hours, any movable structures or special vehicle that could be used for such purposes. Upon prior approval of a law enforcement officer of the Town of Hampden, overnight camping may be permitted in situations involving unique circumstances.

5.2 Discharge of Firearms. No person shall discharge a firearm within parks or sports fields as defined herein.

5.2.1 Exceptions - The foregoing prohibition on the discharge of firearms shall not apply to the firing or discharge of firearms at any military exercise or review; nor to any military personnel or law enforcement officers in the performance of their duties or authorized training; nor to any person in the lawful defense of his or her person, family, or property. This Section shall also not prohibit discharges as part of sporting events, or ceremonial or historical events, with prior notice to the Police Chief.

5.3 Fires. No person shall kindle, build, maintain or use a fire except in areas designated for such purposes. All fires shall be properly extinguished before the person utilizing the same leaves the outdoor facility. Any fires shall be continuously under the care and supervision of a competent person from the time it is kindled until it is extinguished. Fires may be prohibited by the Recreation Director, Town Forester, and or employees of the Public Safety Department when, in his or her judgment, the conditions are such that any fire would represent a safety hazard.

5.4 Wood. No person shall cut any wood on any outdoor facility without a prior permit from the Town Forester, who shall have the discretion to deny any application for such a permit if he or
she determines that the proposed activity is inconsistent with the goals of the forest management plan for the property.

5.5 **Alcoholic Beverages.** No person shall consume or be under the influence of alcoholic beverages in any outdoor facility.

5.6 **Tobacco Products.** No person shall consume or use tobacco products within any outdoor facility.

5.7 **Controlled Substances.** No person shall consume or use any controlled substance legal or illegal while within any outdoor facility, unless the person has a labeled container and proof of prescription.

5.8 **Trash.** No person shall scatter, drop or leave any debris trash or other rubbish within any outdoor facility except in receptacles provided for that purpose.

5.9 **Animals.** All animals brought into any outdoor facility shall be under the owner’s control at all times so as to not interfere with the enjoyment of the outdoor facility by other members of the public, if present. No animal shall be off a leash at any time at any sports field as defined herein, or at any part of the Western Avenue Recreation Area. Owners shall pick up after their animals.

5.10 **Motor Vehicle Access.** Access to outdoor facilities by motor vehicles shall be governed by the rules for that facility contained in the Recreation Department policy document “Outdoor Facilities Rules and Regulations.” Upon prior approval of a law enforcement officer of the Town of Hampden, motor vehicle access may be permitted in situations involving unique circumstances. For specific restrictions for each outdoor facility, please refer to the Recreation Department policy document “Outdoor Facilities Rules and Regulations.” Motor vehicle access to a facility’s parking area is allowed, as this section is meant to address access to parts of facilities that are not meant for motor vehicles.

5.11 **Other Vehicles Prohibited.** No person shall operate a trail bike, all terrain vehicle, snowmobile, or any other motorized recreational vehicle within any outdoor facility except for on designated trails or areas, or for purposes of maintenance or rescue.

5.12 **Smoking.** No person shall smoke within any outdoor facility, park, or sports field. “Smoking” includes carrying or having in one’s possession a lighted or heated cigarette, cigar, or pipe, or a lighted or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or in any form. “Smoking” includes the use of an electronic smoking device.

**ARTICLE VI.**

**OPERATION**

6.1 **Hours & Dates of Operation.** Outdoor facilities shall be open to the public from a half hour before dawn to an hour after sunset. Outdoor facilities are open 365 days a year as weather allows. For information on reservations, which facilities are plowed during the winter, and
closing times for areas with artificial lighting, please see the Recreation Department policy
document “Outdoor Facilities Rules and Regulations.” Snowmobiles are permitted after dark on
designated trails.

ARTICLE VII.
ENFORCEMENT

7.1 Law Enforcement. Any law enforcement officer of the Town of Hampden shall have the
authority to enforce the provisions of this Ordinance and revoke the permission of any individual
to use an outdoor facility when the officer observes, or has probable cause to believe, that such
individual has violated any provisions of this Ordinance, committed a civil infraction within the
facility, or has violated any provision of the laws and Ordinances of the State of Maine or the
Town of Hampden within the facility. The Recreation Department, Town Forester and Code
Enforcement Officer also have the authority to revoke the permission of any individual to use an
outdoor facility if they are found to have violated the provisions of this Ordinance.

7.2 Enforcement Mechanism. This Ordinance may be enforced by the institution of legal or
equitable proceedings in court, including proceedings pursuant to 30-A M.R.S. §4452.

ARTICLE VIII.
PENALTIES

8.1 Penalties. Any person, firm or corporation violating any provisions of this Ordinance shall
be fined not less than Twenty-Five Dollars ($25.00) nor more than One Hundred Fifty Dollars
($150.00) for each violation. Each day that such violation is committed or permitted to continue
shall constitute a separate offense and shall be punishable as such. Any fines recovered shall
inure to the benefit of the Town of Hampden.

ARTICLE IX.
SEVERABILITY

9.1 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance
is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such
provision shall be deemed as a separate, distinct and independent provision and such holding
shall not affect the validity of the remaining portions hereof.

ARTICLE X.
EFFECTIVE DATE

10.1 Effective Date. Pursuant to Section 213(c) of the Town Charter, this Ordinance shall
become effective at the expiration of 30 days after its adoption by the Town Council.
TOWN OF HAMPDEN, MAINE
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

The Town of Hampden Hereby Ordains that the following Ordinance be adopted:
Property Assessed Clean Energy (PACE) Ordinance

Adopted: Hampden Town Council, August 16, 2010
Effective: September 15, 2010

CERTIFIED BY:

__________________________
Denise Hodsdon, Town Clerk

Town Clerk
Affix Seal
ARTICLE I – GENERAL
  1.1. Title
  1.2. Purpose
  1.3. Enabling Legislation
  1.4. Reserved

ARTICLE II – DEFINITIONS
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TOWN OF HAMPDEN

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

ARTICLE I
GENERAL

1.1 Title - This Chapter shall be known and may be cited as “Town of Hampden Property Assessed Clean Energy (PACE) Ordinance.”

1.2 Purpose - By and through this Ordinance, the Town of Hampden ("Town" or “Hampden”) declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that property owners can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and state laws.

1.3 Enabling Legislation - The Town enacts this Ordinance pursuant to State law. Specific enabling legislation is found in Public Law 2009, Chapter 591, 124th Maine State Legislature—“An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses.”

1.4 Reserved

ARTICLE II
DEFINITIONS

2.1 Definitions - Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have meanings indicated.

2.1.1. Energy saving improvement - “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

1. Will result in increased energy efficiency and substantially reduced energy use and:
   a. Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
   b. Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

2. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

2.1.2. Municipality - “Municipality” shall mean the Town of Hampden.
2.1.3. **PACE agreement** - “Pace agreement” means an agreement entered into by an owner or owners of a qualifying property and the Trust, or an agent authorized by the Trust, that authorizes a PACE loan and the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

2.1.4. **PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

2.1.5. **PACE district.** “PACE district” means the district in which the PACE program may operate and which is defined geographically to include the entire municipality as determined by municipal boundary lines.

2.1.6. **PACE loan.** “PACE loan” means a loan made to the owner(s) of a qualified property for an energy saving improvement.

2.1.7. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

2.1.8. **PACE program.** “PACE program” means a program established under State statute by the Trust and a municipality under which property owners can finance energy savings improvements on qualifying property.

2.1.9. **Qualifying property.** “Qualifying property” means real property located in the Town of Hampden.

2.1.10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

2.1.11. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103.

**ARTICLE III**

**PACE PROGRAM**

3.1 **Establishment; funding** - The Town of Hampden hereby establishes a PACE program allowing property owners in the Town of Hampden who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust, or its agent. The PACE loan funds are available from the Trust through grant money awarded to the State of Maine under the federal Energy Efficiency and Conservation Block Grant Program. These loan funds are available to citizens who reside in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, and 3) require that participants in the program conform to the requirements of the Home Energy Savings Program administered by the Efficiency Trust or any successor or corollary program adopted by the Trust for the purpose of administration of PACE loan funds. The Town may, from time to time, use...
any other funding sources made available to it, or appropriated by it, for the express purpose of its PACE program. The Town shall be entitled to, and shall avail itself of, recoupment of administrative or other costs incurred by the Town in conjunction with its PACE program to the fullest extent permissible by the Trust or governing law.

3.2 PACE District - The Town hereby establishes a PACE district in which the PACE program may operate and which is defined geographically as being the entire municipality as determined by municipal boundary lines.

3.3 Reserved -

ARTICLE IV
CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

4.1. Property Owners; Home Energy Savings Program - In order to access PACE loans for home energy savings improvements, participating property owners must conform to the requirements of the Home Energy Savings Program administered by the Trust or any successor or corollary program adopted by the Trust for the purpose of administration of PACE loan funds.

4.2. Standards adopted; Rules promulgated; model documents - If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to Town's adoption of this Property Assessed Clean Energy ("PACE") Ordinance and those standards, rules or model documents substantially conflict with Town's PACE Ordinance, the Town, should it desire to remain eligible to participate with the Trust in this program, will be required to take necessary steps to conform this PACE Ordinance and its PACE program to those standards, rules, or model documents.

4.3. Rights to carbon emissions reductions - PACE agreements entered into pursuant to this PACE Ordinance shall specify that all rights of participating property owners related to carbon emissions reductions from energy saving improvements are deemed to be assigned by the property owner(s) to the Trust and are held by the Trust for the purpose of quantifying, monetizing and/or marketing aggregated carbon emission reductions in the State of Maine.

4.4. Reserved -

ARTICLE V
PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

5.1. Program Administration

5.1.1. Pursuant to §10154(2)(A)(2) and (B) of the State enabling legislation, the Town will enter into a contract with the Trust to administer the functions of the PACE program for the municipality. The contract with the Trust will establish the administration of the PACE program including, without limitation, that:

1. the Trust, or its agent, will be the entity to enter into PACE agreements with property owners;

2. the Trust, or its agent, will create and record a Notice of the PACE agreement in the Penobscot County Registry of Deeds;
3. the Trust, or its agent, will disburse the PACE loan to the property owner;

4. the Trust, or its agent, will send assessment statements with payment deadlines to the property owner;

5. the Trust, or its agent, will be responsible for collection of the PACE assessments;

6. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment; and

7. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support energy savings improvements; and

5.2. Adoption of Education and Outreach Program - In conjunction with adopting this PACE Ordinance, the Town shall adopt and implement an education and outreach program so that citizens of the Town are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

5.3. PACE Assessments - PACE assessments do not constitute a municipal tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

5.4. Liability of Municipal Officials; Liability of Municipality

5.4.1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

5.4.2. Other than the fulfillment of its obligations specified in a contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.
The Town of Hampden Hereby Ordains that the following Ordinance be adopted:
Post-Construction Stormwater Management Ordinance

ADOPTED: Hampden Town Council, July 6, 2009
Effective Date: July 1, 2009

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

Post-Construction Stormwater Management Ordinance

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Section 1. Purpose.

The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Hampden through review and approval of Post-Construction Stormwater Management Plans and monitoring and enforcement of compliance with such plans as required by federal and State law. This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act, of federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

Section 2. Objectives

This Ordinance seeks to meet the above purpose through the following objectives:

A. Reduce the impact of post-construction discharge of stormwater on receiving waters; and

B. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through use of Best Management Practices as promulgated by the Maine Department of Environmental Protection pursuant to its Chapters 500 and 502 Rules, and ensure that these management controls are properly maintained and pose no threat to public safety.

Section 3. Definitions. (Note: Defined terms appear in italics throughout this ordinance).

For the purposes of this Ordinance, the terms listed below are defined as follows:

A. Applicant. "Applicant" means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.

B. Best Management Practices (“BMP”). “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.


D. Construction Activity. “Construction Activity” means work or activity undertaken on the Premises that results in one acre or more of Disturbed Area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.

E. Discharge. “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point
source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

F. Disturbed Area. “Disturbed Area” means all land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project.

"Disturbed area" does not include routine maintenance, but does include re-development and new impervious areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered routine maintenance. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area".

G. Enforcement Authority. “Enforcement Authority” means the Code Enforcement Officer and or the Public Works Director who are both authorized by the Municipality to administer and enforce this Ordinance.


I. Municipal Permitting Authority. “Municipal Permitting Authority” means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

J. Municipal Separate Storm Sewer System, or MS4. “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

K. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.


M. Person. “Person” means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity.

N. Pollutant. “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological
materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

O. Post-Construction Stormwater Management Plan. “Post-Construction Stormwater Management Plan” means BMPs and Stormwater Management Facilities employed by a New Development or Redevelopment to meet the standards of this Ordinance and approved by the Municipal Permitting Authority.

P. Premises. “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges to the Storm Drainage System are or may be created, initiated, originated or maintained.

Q. Qualified Post-construction Stormwater Inspector. “Qualified Post-construction Stormwater Inspector” means a Professional Engineer who conducts post-construction Stormwater Management Facilities inspections for compensation and has a practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for stormwater management facilities, and the ability to determine if stormwater management facilities are performing as intended.

R. Redevelopment. “Redevelopment” means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling.

S. Regulated Small MS4. “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” effective July 1, 2008 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

T. Small Municipal Separate Storm Sewer System, or Small MS4. “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems and State or federally-owned systems, such as Maine Department of Transportation Maine Turnpike Authority road systems and facilities.


V. Stormwater. “Stormwater” means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

W. Stormwater Management Facilities. “Stormwater Management Facilities” means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.
X. Urbanized Area ("UA"). "Urbanized Area" or "UA" means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Section 4. Applicability.

A. In General. This Ordinance shall apply to any application for a building permit, subdivision approval, site plan approval or other zoning, planning or land use approval that is filed on or after July 1, 2009 (or if filed before July 1, 2009, has not become a pending application within the meaning of 1 M.R.S.A. § 302) for any New Development or Redevelopment within the Urbanized Area that Discharges Stormwater to the Municipality’s MS4 and to associated Stormwater Management Facilities, and to any New Development or Redevelopment that receives any such permits or approvals from the Town of Hampden on or after July 1, 2009.

B. Exception. This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance; said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the Post-Construction Stormwater Management Plan requirements for that approved subdivision.

Section 5. Post-Construction Stormwater Management Plan Approval

A. General Requirement. Except as provided in Section 4.B. above, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable shall receive such permit or approval for that New Development or Redevelopment unless the Municipal Permitting Authority for that New Development or Redevelopment also determines that the Applicant’s Post-Construction Stormwater Management Plan meets the requirements of this Ordinance.

B. Performance Standards

1. Stormwater Treatment Required. The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the New Development or Redevelopment through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan shall be designed by a Professional Engineer to meet the standards contained in the Maine Department of Environmental Protection’s Chapters 500 and 502 Rules and shall comply with the practices described in the manual Stormwater Management for Maine, published by the Maine Department of Environmental Protection, January 2006, which hereby are incorporated by reference pursuant to 30-A M.R.S.A. § 3003.

2. Location of Facilities. The Applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the Applicant must submit to the Municipality documentation, approved as to legal sufficiency by the Municipality’s attorney, that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction stormwater management for the New.
Development or Redevelopment and that the property will not be altered in a way that interferes with the off-site facilities.

3. **Maintenance Agreement Required.** Where the Applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Post-Construction Stormwater Management Plan, the Applicant shall submit to the Municipality documentation, approved as to legal sufficiency by the Municipality’s attorney that the Applicant, its successors, heirs and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the stormwater management facilities. Applications for New Development or Redevelopment requiring Stormwater Management Facilities that will not be dedicated to the Municipality shall enter into a Maintenance Agreement with the Municipality. A sample of this Maintenance Agreement is attached as Appendix 1 to this Ordinance.

4. **Easements and Dedications.** Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the Municipality for acceptance as public facilities, the Municipal Permitting Authority may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the Municipality’s attorney, shall be provided to the Municipality allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities. When an offer of dedication is required by the Municipal Permitting Authority, the Applicant shall be responsible for the maintenance of these Stormwater Management Facilities under this Ordinance until such time (if ever) as they are accepted by the Municipality.

5. **Conflict with State Laws or Rules.** In addition to any other applicable requirements of this Ordinance and the Municipality’s land use ordinances, any New Development or Redevelopment which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.A. 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. 420-D(1), as the same may be amended from time to time, and the Applicant shall document such compliance to the Municipal Permitting Authority. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

6. **Engineering and administrative fees.** At the time of application, the Applicant shall pay to the Municipality the amount estimated by the Municipal Reviewing Authority to be sufficient to pay the engineering, legal review, and administrative costs incurred by the Municipality in review of the Post-Construction Stormwater Management Plan. The Municipality shall deduct from this amount the actual engineering, legal and administrative costs incurred by the Municipality. Any remaining engineering, legal and administrative review costs owed by the Applicant shall be paid in full by the Applicant prior to the issuance of any temporary or permanent certificate of compliance for the New Development or Redevelopment, and any unused balance remaining at that time shall be refunded to the Applicant.

In addition, any persons required to file an annual certification under Section 6 of this Ordinance shall pay, prior to the issuance of any temporary or permanent certificate of compliance for the New Development or Redevelopment, an amount estimated to equal the Municipality’s administrative and technical costs of review of the annual certification.
7. **Notice of BMP Discharge to Municipality’s MS4.** At the time of application, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Municipality’s MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

8. **As-Built Certification.** Prior to the issuance of a Certificate of Compliance for a project requiring a Post-Construction Stormwater Management Plan under this ordinance, the Applicant shall submit evidence in the form of a letter or plan prepared and stamped by a Professional Engineer who either prepared the Post-Construction Stormwater Management Plan and its associated Facilities or supervised the Plan and Facilities construction and implementation. The letter or plan shall certify that the Stormwater Management Facilities have been installed in accordance with the approved Post-Construction Stormwater Management Plan and that they will function as intended by said Plan.

**Section 6. Post-Construction Stormwater Management Plan Compliance**

A. **General Requirements.** Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan approved under this Ordinance, and the Facilities are located in the Urbanized Area and Discharge Stormwater to the Municipality’s MS4, shall at their own expense demonstrate compliance with that Plan as follows.

1. **Scope of Inspection.** A Qualified Post-construction Stormwater Inspector shall, at least annually, inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.

2. **Deficiencies Identified.** If the Stormwater Management Facilities require maintenance or repair to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take or cause to be taken corrective action(s) to address the deficiency or deficiencies.

3. **Submission of Inspection Form.** A Qualified Post-construction Stormwater Inspector shall, on or by July 1 of each year, provide a completed and signed certification to the Enforcement Authority in a form identical to that attached as Appendix 2 to this Ordinance, certifying that he/she has inspected the Stormwater Management Facilities and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities and, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken.
B. Right of Entry. In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the Stormwater Management Facilities.

C. Annual Report. Beginning September 1, 2009 and September 1 each year thereafter, the Municipality shall include the following in its Annual Report to the Maine Department of Environmental Protection:

1. The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;

2. A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Municipality;

3. The number of sites with documented functioning Stormwater Management Facilities; and;

4. The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

Section 7. Enforcement.

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

A. Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;

2. At the Person’s expense, compliance with BMPs required as a condition of approval of the New Development or Redevelopment, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or

3. The payment of fines, of the Municipality’s remediation costs and of the Municipality’s reasonable administrative costs and attorneys’ fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.
B. Penalties/Fines/Injunctive Relief. Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality’s attorney’s fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys’ fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person’s violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

C. Consent Agreement. The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

D. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the Enforcement Authority may recommend to the municipal officers that the Municipality’s attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 8. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

Section 9. Basis.

The Town of Hampden enacts this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the “Wastewater Discharge Law”), 33 U.S.C. § 1251 et seq. (the “Clean Water Act”), and 40 CFR Part 122 (U.S. Environmental Protection Agency’s regulations governing the National Pollutant Discharge Elimination System (“NPDES”)). The Maine Department of Environmental Protection, through its promulgation of the “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems,” has listed the Town of Hampden as having a Regulated Small Municipal Separate Storm Sewer System (“Small MS4”); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality’s Storm Water Management Program in order to satisfy the minimum control measures required by Part IV H 5 (“Post-construction stormwater management in new development and redevelopment”).
APPENDIX 1

Maintenance Agreement for
Stormwater Management Facilities

This Maintenance Agreement is made this day of ______________________20 ___ by and between ___________________________ and the Town of Hampden, Maine.

The project name is __________________________________________________________.

The location is: ________________________________________________________________, Hampden, Maine.

The project’s Tax Map and Lot Numbers are Tax Map _________, Lot______________.

The project is shown on a plan entitled "________________________" dated _______________ and most recently revised on _______________, approved by the ______________ [Municipal Permitting Board] on __________________ and recorded in the Penobscot County Registry of Deeds in Plan Book ______________ Page _____________ (the “Project”).

WHEREAS, the approval of the Project includes Stormwater Management Facilities which requires periodic maintenance; and

WHEREAS, in consideration of the approval of the Project the Town of Hampden requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town and the agreement of ______________________________ to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. _________________________, for herself/himself/itself, and her/his/its successors and assigns, agrees to the following:

   (a) To inspect, clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, as required by Section 6 of the Town’s Post-Construction Stormwater Management Ordinance, to prevent the build up and storage of sediment and debris in the system;

   (b) To repair any deficiencies in the Stormwater Management Facilities noted during the required inspection;

   (c) To provide a summary report on the inspection, maintenance, and repair activities performed, as required by Section 6 of the Town’s Post-Construction Stormwater Management Ordinance, on the Stormwater Management Facilities to the Town Enforcement Authority;
(d) To allow access by Town personnel or the Town’s designee for inspecting the Stormwater Management Facilities for conformance with these requirements.

(e) To create a homeowners' association for the purpose of maintaining the Stormwater Management Facilities.

2. Upon creation of the homeowners’ association, the homeowners’ association shall become responsible for compliance with the terms of this Agreement.

3. This Agreement shall constitute a covenant running with the land, and ____________ shall reference this Agreement in all deeds to lots and/or units within the Project.

________________________________________
Witness

By: ________________________________
Its:

TOWN OF HAMPDEN

By: ________________________________
Printed Name: ________________________________
Its: ________________________________

STATE OF MAINE

, ss.

, 20

Personally appeared the above-named ________________________________, the ____________ of ________________________________, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Printed Name: ________________________________
STATE OF MAINE
Penobscot, ss.

__________________________, 20__

Personally appeared the above-named ________________________________, the __________________________ of the Town of Hampden, and acknowledged the foregoing Agreement to be said his/her free act and deed in said capacity.

Before me,

___________________________________________

Notary Public / Attorney at Law

Print Name: ________________________________
APPENDIX 2

Stormwater Management Facilities Certification
(to be sent to Municipality)

I, __________________________________(print or type name), certify the following:

1. I am making this Stormwater Management Facilities Certification for the following property:
   (print or type name of subdivision, condominium or other development) located at
   __________________________________________ (print or type address), (the “Property”);

2. The owner, operator, tenant, lessee or homeowners’ association of the Property is:
   __________________________________________ (name(s) of owner, operator,
tenant, lessee, homeowners’ association or other party having control over the Property);

3. I am a Qualified Post-construction Stormwater Inspector hired by the person/entity named in Paragraph 2;

4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

5. On ______________, 20__, I inspected the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

6. At the time of my inspection of the Stormwater Management Facilities on the Property, I identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities:

   __________________________________________
   __________________________________________
   __________________________________________

7. On ______________, 20__, the owner, operator, tenant, lessee or president of the homeowners’ association took or had taken the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities stated in 6 above:

   __________________________________________
   __________________________________________
   __________________________________________
As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: ______________________, 20__.  By: ________________________________

Signature

_______________________________
Print Name

STATE OF MAINE
________________________, ss.  ______________________, 20__

Personally appeared the above-named ______________________, the
of ______________________, and acknowledged the foregoing Certification to be said person’s free act and deed in said capacity.

Before me,

______________________________
Notary Public/Attorney at Law

Print Name: ______________________

Mail or hand deliver this certification to the Municipality at the following address:

Public Works Director
Town of Hampden
106 Western Avenue
Hampden, ME 04444
TOWN OF HAMPDEN

PUBLIC WORKS ORDINANCE

ADOPTED: 3/16/87  EFFECTIVE: 4/15/87
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ARTICLE I - GENERAL

Section 1.1 - Public Works Department Created - In accordance with Article II, Sections 212 and 302 of the Town Charter, there is hereby established a Public Works Department.

Section 1.2 - Statement of Policy - It shall be the policy of the Town of Hampden that the basic purpose of the Hampden Public Works Department is to provide a full-time Public Service Department to the citizens of Hampden. This Department shall perform the functions described herein and such other functions as may be designated by the Town Manager.

Section 1.3 - Functions of the Public Works Department - It shall be the responsibility of the Public Works Department to operate and maintain the following municipal functions:

a. Highways, streets, sidewalks and appurtenances;

b. Snow removal/ice control;

c. Gravel pits;

d. Wood lots;

e. Sanitary sewers;

f. Storm sewers and drainage;

g. Recreation areas, parks and public lands;

h. Marina and wharves;

i. Cemeteries; and

j. Solid waste disposal.

ARTICLE II - Director of Public Works

Section 2.1 - Director of Public Works - There is hereby authorized and established the position of Public
Works Director. This position and duties shall be included in the personnel classification and compensation plan for the Town of Hampden. The Director of Public Works shall be appointed by the Town Manager, subject to confirmation by the Town Council, for an indefinite term and consistent with the personnel rules of the Town Charter.

Section 2.2 - Duties of the Director of Public Works - The Public Works Director shall supervise the entire operation of the Public Works Department and:

a. Be responsible for care and maintenance of all departmental equipment and buildings;
b. Direct and supervise all staff activities;
c. Enforce all Town personnel rules and regulations within the Department;
d. Prepare an annual departmental budget for the Town Manager;
e. Submit monthly reports to the Town Manager;
f. Serve as Road Commissioner;
g. Serve as Town Engineer; and
h. Perform such other duties as may be prescribed by the Town Manager or any state or local laws.

ARTICLE III - Divisions of Public Works

Section 3.1 - Divisions - The Department of Public Works shall be divided, under the direction of the Public Works Director, into the following divisions:

a. Division of Highways - Which shall coordinate and control the activities related to the operation, maintenance and construction of roads, streets and public ways, sidewalks, storm drainage and bridges, including snow and ice removal.
b. Division of Solid Waste Management - Which shall coordinate and control the activities related to the operation and maintenance of waste collection, processing and disposal.

c. Division of Sanitary Sewers - Which shall coordinate and control the activities related to the operation and maintenance, repair and construction of sanitary sewer utilities.

J. Division of Cemeteries & Parks - Which shall coordinate and control the activities related to the operation and maintenance of:

1. All cemeteries under the jurisdiction of the Town; and

2. Public parks and buildings, excluding those under the jurisdiction of other departments.

Under the direction of the Public Works Director, any employee of the Public Works Department will be required to perform duties in all separate divisions of the Department.

Section 3.2 - Division Heads - There are hereby authorized and established the following Division Heads. These positions will be appointed by the Town Manager on the recommendation of the Public Works Director.

a. Highway Foreman - To supervise and direct the operation of men and equipment in the Divisions of Highways, Solid Waste Management and Sanitary Sewers.

b. Assistant Highway Foreman - Shall serve as Highway Foreman in the absence of the Highway Foreman.

c. Cemetery Foreman - To supervise and direct the operation of men and equipment in the Division of Cemeteries and Parks.
ARTICLE I - SALE OF TOWN OWNED REAL ESTATE

1.1 AUTHORITY

In accordance with ARTICLE II, Section 212 (b) of the Town Charter the Town Council shall be authorized to convey or lease any lands of the Town within the limitations fixed by the Constitution and statutes of the State of Maine as they now or may hereafter apply to said Town of Hampden.

1.1.1 SALE BY TOWN

Real estate shall be sold by the Town only after the adoption by affirmative vote of a majority of all the members of the Town Council of a Resolution calling for the sale of real estate owned by the Town; the resolution shall contain a reasonably accurate description of the property which is proposed to be sold.

1.2 DISPOSAL

After the Town Council has voted to sell real estate, notices shall be sent to each landowner abutting the proposed parcel to be sold as well as to each landowner within three (300) feet of any property line of said parcel. Landowners shall be considered to be those to whom property taxes are assessed. Failure of any landowner to receive a notice of public sale shall not necessitate another sale or invalidate any action of the Town Council. Notices shall be sent to the previous owner in the case of tax acquired property. In addition, notice of the proposed sale shall be published as specified in Article II, Section 213 (d) of the Charter, such publication to be not less than seven (7) days before the Council’s final action on such sale. The notice shall contain a reasonably accurate description of the property to be sold and shall provide for a day and place when and where bids for said property shall be submitted to the Town Office.

1.3 BID PROCEDURE

All bids shall be submitted in writing and shall clearly identify the purchaser and the price bid for the property. Bids shall be placed in sealed envelopes and given to the Town Clerk who shall hold all such bids until the date and time designated in the notice, when the bids shall be opened by the Town Clerk. The results of
the bidding shall then be submitted to the Town Council at its next regular meeting; after proponents and opponents if any, to said proposed sale have been heard, the Council may by the affirmative vote of a majority of all the members of the Council vote to convey the property to the highest bidder. The Council may reject any bid which does not comply with Town's bid procedure guidelines; furthermore, the Council may reject all bids and withdraw the offer to sell the property.

1.3.1. DEED EXECUTION

The Town Treasurer is hereby authorized for and on behalf of the Town of Hampden to make, execute and deliver a Quitclaim Deed to convey title to the purchaser.

1.4 FORECLOSURE ACQUIRED PROPERTY

The Town Treasurer shall give written notice to the prior owner of record of real estate acquired by the Town by way of foreclosure of tax lien or sewer lien of the Town's intent to sell said real estate at public sale. Said notice shall be given in writing and sent via U.S. mail to the property owner's last known address at least 30 days before notice of public sale is given in the manner specified in Section 1.2 above. Failure of any prior owner to receive such notice shall not necessitate another sale or invalidate any action of the Town Council.

If the prior owner of record makes full payment of all sums due the Town, including but not limited to the amount of tax and/or sewer liens, real estate taxes, personal property taxes, sewer charges, recording fees, interest and costs, before notice of public sale is given, the Town Treasurer shall release title to said real estate to its record owner.

ADOPTED BY THE HAMPDEN TOWN COUNCIL: November 19, 1979
EFFECTIVE: December 19, 1979

AMENDED: July 6, 1987
EFFECTIVE: August 4, 1987
AMENDED: April 21, 2015
Sec. 1. Authority. This Ordinance is enacted pursuant to 30-A M.R.S.A. § 3001 and 36 M.R.S.A. § 652(1)(L).

Sec. 2. Purpose. The purpose of this Ordinance is to establish an annual service charge to recover the cost of providing municipal services, other than education and general assistance, to owners and/or occupants of certain institutional and organizational real property which is otherwise exempt from state or municipal taxation.

Sec. 3. Creation of Service Charge. An annual service charge is hereby established, effective with the municipal fiscal year commencing on July 1, 1992. The service charge shall be levied by the municipal officers against all residential property owned by an organization or institution if the property is otherwise totally exempt from property taxation and is used to provide rental income. The service charge shall not apply to student housing or parsonages.

Sec. 4. Calculation of Service Charge. The service charge shall be calculated according to the actual cost of providing municipal services to the property in question and the persons who use that property. Municipal services shall include, without limitation, the following: fire protection, police protection, road maintenance and construction, traffic control, snow and ice removal, sewer service, sanitation services, and any other services. For the purpose of this Ordinance, municipal services shall not include education and general assistance. The service charge for each property shall be determined in accordance with the following formula:

\[
\frac{B}{V} \times JV = SC
\]

where:

\(B\) = Budget for the current fiscal year for municipal services, except education and general assistance

\(V\) = Total taxable valuation of municipality for the current fiscal year

\(JV\) = Just Value of property in question

\(SC\) = Service Charge of property in question.
The Assessor shall provide the municipal officers with the following information at the time of the annual tax commitment: (1) list of property to which a service charge is applicable under this ordinance, (2) total taxable valuation of the municipality for the current fiscal year, and (3) the just value of the properties in question. The Town Manager shall provide the municipal officers with the amount of the budget for municipal services for the current fiscal year, along with a proposed service charge for each property based on the foregoing formula.

Sec. 5. Levy of Service Charge. The municipal officers shall levy the annual service charge on the tax exempt property subject to a service charge under this Ordinance, and shall establish a due date for payment of the same. The Treasurer shall send a statement to every affected property owner setting forth the amount of the service charge levied on the subject property.

Sec. 6. Limitation on Service Charges. The total service charges levied by the municipal officers under this Ordinance against any institution or organization shall not exceed 2% of the gross annual revenues of that institution or organization. Provided, however, that in order to qualify for the foregoing limitation, the institution or organization shall file with the municipal officers an audit of the revenues of the institution or organization for its last fiscal year which ended immediately prior to the municipal fiscal year for which the service charge was levied. The municipal officers shall abate the service charge amount that is in excess of 2% of the gross annual revenues.

Sec. 7. Collection. Unpaid service charges shall be collected in any manner available to the municipality, including, without limitation, the procedure provided in 38 M.R.S.A. § 1208, as may be amended from time to time.

Sec. 8. Use of Revenues. Revenues accrued from service charges shall be used, as much as possible, to fund the cost of providing the municipal services which were considered in calculating the service charges.

Sec. 9. Appeals. Any institution or organization may challenge the decision of the municipal officers to levy a particular service charge or the amount of a particular service charge by filing an appeal with the Board of Assessment Review. Such appeals shall be filed in writing with the Town Clerk within 60 days of the date on which notice is provided to the institution or organization by the Treasurer under Sec. 5 above indicating the amount of the service charge levied by the municipal officers. The Board of Assessment Review shall conduct a public hearing on the appeal and shall issue a written decision thereon within 60 days of the date that the appeal was filed with the Town Clerk. Failure to issue a decision on an appeal within 60 days of the date the application was filed shall be deemed to
be a denial thereof. The appeal shall be processed in accordance with all applicable laws or ordinances, and such rules of procedure as may be established by or for the Board of Assessment Review. Any decision by the Board may be appealed to Superior Court by an aggrieved party pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Sec. 10. Severability. Should any provisions of this Ordinance be declared invalid by the Courts, such decision shall not invalidate any other provision of this Ordinance.

Adopted by Hampden Town Council: 5/18/92
TOWN OF HAMPDEN, MAINE
SEWER ORDINANCE

ADOPTED by Hampden Town Council, December 5, 2011
Effective Date: January 4, 2012

AMENDED: Hampden Town Council April 19, 2016
Effective: May 19, 2016

AMENDED: Hampden Town Council January 17, 2017
Effective: February 17, 2017

CERTIFIED BY: ______________________
Paula Scott, Town Clerk

Affix Seal
# TOWN OF HAMPDEN, MAINE
## SEWER ORDINANCE

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Preamble
An Ordinance to promote the general welfare, to prevent disease and to promote health, and to provide for the public safety by regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer systems, and providing penalties for violations thereof in the Town of Hampden, County of Penobscot, State of Maine.

ARTICLE 1
GENERAL ADMINISTRATION

Section 1.1. Definitions. As used in this Ordinance, “shall” is mandatory and “may” is permissive. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance will be as follows:

ACT OR THE ACT: The Federal Water Pollution Control Act, also known as the “Clean Water Act,” 33 U.S.C. § 1251 et seq.

APPROVAL AUTHORITY: The Maine Department of Environmental Protection.


AUTHORIZED REPRESENTATIVE OF THE USER:
(1) If the user is a corporation:
   (a) The president, secretary, treasurer or a vice president of the corporation in charge of a principal business function or any other person who performs similar policymaking or decision making functions for the corporation; or
   (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.

(3) If the user is a federal, state or local government facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or his/her designee.

(4) The individuals described in Subsections (1) through (3) above may designate another authorized representative if the authorization is in writing; the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company; and the written authorization is submitted to the Town.

BEST MANAGEMENT PRACTICES (BMPs): Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 6.3. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter, (mg/l).
**BUILDER:** Any person, persons, or corporation who undertake to construct, either under contract or for resale, any habitable building.

**BUILDING DRAIN:** The part of the lowest horizontal piping of a drainage system which receives the discharge from sewerage and other non-storm or ground water drainage pipes inside a building and conveys it to the building sewer beginning two (2) feet outside of the building wall.

**BUILDING SEWER:** The extension from the building drain to the point of connection to the public sewer or other place of disposal.

**CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD:** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in Title 40 of the Code of Federal Regulations, Chapter 1, Subchapter N, Parts 405 through 471.

**CATEGORICAL USER:** Any user of the Town's wastewater treatment system whose discharges are regulated under 40 CFR 403 and 40 CFR 405 through 471 or who is otherwise subject to United States Environmental Protection Agency pretreatment requirements as a categorical user.

**CITY:** The City of Bangor, Maine.

**CITY ENGINEER:** The City official appointed and designated by the Bangor City Manager as the City Engineer for the City of Bangor.

**CODE ENFORCEMENT OFFICER:** The individual(s) retained or designated by the Manager to enforce provisions of this ordinance. For purposes of this Ordinance, the Local Plumbing Inspector shall act under the authority and direction of the Code Enforcement Officer.

**COLOR:** The optical density at the visual wavelength of maximum absorption, relative to distilled water. One-hundred-percent transmittance is equivalent to zero optical density.

**COMBINED SEWER:** A sewer receiving both surface runoff and sewage.

**COMPOSITE SAMPLE:** The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

**CONTRACTOR:** Any person, firm, or corporation approved by the Town Council to do work in the Town of Hampden.

**DAILY MAXIMUM LIMIT:** The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

**DEP:** Maine Department of Environmental Protection.

**DEVELOPER:** Any person, persons or corporation who undertake to construct simultaneously more than one housing unit on a given tract or land subdivision.

**DISCHARGE:** Any substance knowingly put or allowed to flow into any part of the Town's POTW.

**DISCHARGER:** All industrial users, including categorical users and significant industrial users as defined in this section. "Discharger" also refers to any nonindustrial user of the Town's POTW which discharges wastewater into the POTW.

**DOMESTIC SEWAGE:** Water and water-carried wastes and sewage normally discharged into the sanitary sewers from dwellings, including single-family homes, multifamily homes and hotels, and from
office buildings, factories and institutions, but not including stormwater drainage or surface water drainage and not including industrial wastes as defined in this section.

ENVIRONMENTAL PROTECTION AGENCY: The United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director or other duly authorized official of said agency.

EXCESSIVE LOADING: Any discharge resulting in a BOD or TSS loading in excess of 350 mg/l or a loading of fats, oils or greases of animal or vegetable origin or oil and grease or other petroleum or mineral oil products in excess of 140 mg/l. Where a correlation is established between BOD and COD or TOC, a discharge in excess of the equivalent COD or TOC loading shall constitute excessive loading.

EXISTING SOURCE: Any source of discharge the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

FOUNDATION OR PERIMETER DRAIN: The part of the lowest horizontal piping of a drainage system which receives the discharge from the soil, foundation or perimeter drain inside and outside of the building foundation or foundation footer.

GARBAGE: Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

GRAB SAMPLE: A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

HAZARDOUS WASTE: A hazardous waste as that term is defined in 40 CFR 261 or Maine Department of Environmental Protection regulations Chapter 850.

HIGH-STRENGTH CONVENTIONAL WASTE: Any nonindustrial waste of a substantially greater density, toxicity or acidity than normal domestic sewage, including all wastes likely to cause excessive loading as defined in this section.

INDIRECT DISCHARGE or DISCHARGE: The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL USER or USER: A source of indirect discharge. This term covers discharges from any source, including agriculture, forestry, fishing, mining, manufacturing, transportation, communication, electrical, gas and sanitary services and other industrial services discharging into the POTW any industrial waste or discharging into the POTW any waste other than domestic sewage as defined in this section. This term may also apply to any other source of pollutant which adversely affects the POTW.

INDUSTRIAL WASTES: All water, water-carried solids, liquid and gas wastes resulting from any industrial, manufacturing or food processing operation or process or form the development of any natural resource or any mixture of these fluids and domestic sewage or any mixture of these fluids with any other water or with any other liquid.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT: The maximum concentration or loading of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE: A discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

1) Inhibits or disrupts the Town’s POTW, treatment processes or operations or its sludge processes, use or disposal; and
(2) Which thus contributes to cause a violation of any requirement of the Town's MEPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sludge use or disposal in compliance with statutory provisions and regulations or permits issued under Section 405 of the Clean Water Act, RCRA, the Clean Air Act, SWDA, the Toxic Substances Control Act, the Marine Protection, Research and Sanctuaries Act and any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of RCRA.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM (MEPDES): Permit program of the Maine Department of Environmental Protection.

MANAGER: The term Manager shall have the same meaning as Town Manager.

MASS-BASED LIMITATIONS: Users implementing process changes, including best management practices, may request permit discharge limitations be based on mass limitations in lieu of concentration-based limitations. The intent of mass-based limitations is to encourage and allow best management practices, pollution prevention and/or water conservation measures that may result in increased pollutant concentrations while not increasing actual mass of pollutant discharged. Mass-based limitations shall be calculated from current, pollutant-specific concentration and user discharge flow. Mass-based limitations shall not exceed the previous mass of specific pollutant discharged (prior to the implementation of process changes or best management practices) based on the historic performance of that user. Decisions on granting requests for mass-based limitations will be based on user-specific information and current operating conditions of the POTW and will be at the discretion of the Town. Implementation of mass-based limitations shall not contravene any requirements or limitations of federal or state law and/or regulations implemented thereunder and may not waive applicable categorical pretreatment standards.

MEDICAL WASTE: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

MILLIGRAMS PER LITER: A weight to volume ratio. The figure appearing before the symbol "mg/l" shall be the number of milligrams to be found in one liter of the substance being tested. This figure can be transposed to pounds per million gallons of water by multiplying said figure by 8.34.

NATURAL OUTLET: Any outlet into a watercourse, ditch, pond, lake, or other body of surface or ground water.

NEW SOURCE:
(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section of the Act, provided that:

   (a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
   (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
   (c) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether the sources are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection 1.1(1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this section has commenced if the owner or operator
has:

(a) Begun, or caused to begin, as part of a continuous on-site construction program, any placement, assembly or installation of facilities or equipment or significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in his or her operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

NONCONTACT COOLING WATER: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

NORMAL DOMESTIC SEWAGE: Sewage in which the average concentration of TSS does not exceed 250 mg/l and in which the five-day BOD does not exceed 250 mg/l and fats, oils or greases of animal or vegetable origin or oil and grease and other petroleum or mineral oil products do not exceed 100 mg/l.

NPDES: The National Pollutant Discharge Elimination System permit program of the EPA.

OWNER: Any individual, firm, company, association, society, or group having title to real property.

PASS-THROUGH: Any discharge from the Town's POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, cause a violation of any requirement of the Town's MEPDES permit, including an increase in the magnitude or duration of a violation.

PERSON: Any individual, partnership, firm, company, association, society, corporation, group, joint-stock company, trust, estate, governmental entity or any other legal entity of whatever relationship or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

pH: The logarithm (base 10) of the reciprocal of the hydrogen ions concentration expressed in moles per liter. pH shall be determined by standard methods as defined in this section.

POLLUTANT: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sludge, pretreatment by-products, munitions, wastewater, medical wastes, chemical wastes, biological materials, metals, oil and grease, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes and other waste or material that alters or adversely affects the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, TTO, TOC or odor).

PREMISES: Any building or lot under individual ownership or individual use where water service is metered independently or that discharges wastewater to the POTW.

PRETREATMENT: The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes or by other means, except by diluting the concentration of the pollutants, unless allowed by an applicable pretreatment standard.

PRETREATMENT PROGRAM COORDINATOR: The Town's designated individual responsible for supervision of the Town's wastewater pretreatment program.

PRETREATMENT REQUIREMENTS: Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

PRETREATMENT STANDARD or STANDARDS: Prohibited discharge standards, categorical
pretreatment standards and local limits.

PRIVATELY OWNED SEWER EXTENSION: An extension of the public sewer where ownership and maintenance is retained by the developer or property owner.

PRIVATE SUBSURFACE DISPOSAL SYSTEM: A disposal system generally consisting of a subsurface storage tank and leaching field most commonly used in residential housing.

PROHIBITED DISCHARGE STANDARD or PROHIBITED DISCHARGES: Absolute prohibitions against the discharge of certain substances. These prohibitions appear in Article 6 of this Ordinance.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking, and dispensing of food or produce that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

PROPERTY LINE: The property boundary line if the building sewer is to connect with the public sewer in a public street, or the edge of a sewer right-of-way in those instances where the building sewers connect to the public sewer in a right-of-way.

PUBLICLY OWNED TREATMENT WORKS (POTW): A treatment works, as defined by Section 212 of the Act (33 U.S.C. § 1292), which is owned by the City/Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of wastewater of a liquid nature and any conveyances which convey wastewater to a treatment plant. Depending on the context, POTW may include the collection, transport and treatment facilities of the City of Bangor that handle wastewater from the Town's POTW.

PUBLIC SEWER: A sewer in which all owners of abutting property have equal rights and which is controlled by public authority.

PUBLIC WORKS DIRECTOR: The individual retained or designated by the Manager to supervise and oversee the operation and maintenance of the municipal sewer system and treatment facilities.

SANITARY SEWER: A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEPTIC TANK WASTE: Any wastewater from holding tanks, such as vessels, chemical toilets, campers, trailers and septic tanks.

SEWAGE: A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such incidental ground, surface, and storm water that may be present.

SEWER: A pipe or conduit for carrying sewage.

SEWER EXTENSION: The connection of any public or private sewer to the existing sewer system, except as required under Section 5.1 of this Ordinance.

SIGNIFICANT INDUSTRIAL USER:
(1) A user subject to categorical pretreatment standards; or
(2) A user that:
   (a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater; or
   (b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW; or
   (c) Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
(3) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

SIGNIFICANT NONCOMPLIANCE: Includes the following:

(1) Chronic violations of wastewater discharge limits, defined here as those violations in which 66% or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in Section 1.1;

(2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limit, as defined in Section 1.1, multiplied by the applicable criteria 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH;

(3) Any other violation of a pretreatment standard or requirement as defined by Section 1.1 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Town or Pretreatment Program Coordinator determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public as defined in this section;

(4) Any discharge of a pollutant that has caused an imminent danger to human health, including the health of the Town's or City's POTW personnel, or to the environment or has required an exercise of the Town's or City's emergency authority to halt the discharge under 40 CFR 403.8(f)(2)(vi)(B);

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report any noncompliance with permit requirements; or

(8) Any other violation or group of violations, which may include a violation of best management practices, which the Town determines will adversely affect the operation or implementation of the Town's pretreatment program.

SLUDGE: A by-product of the primary and secondary treatment processes of the POTW, also known as "biosolids." This term does not include by-products resulting from the pretreatment of industrial wastes.

SLUG or SLUG LOAD: Any discharge at a flow rate or concentration which could cause a violation of the general prohibitions of Section 6.3.1 and the specific prohibitions of Section 6.3.2 of this Ordinance. A "slug discharge" is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through or in any other way violate the POTW's regulations, local limits or permit conditions.

STANDARD INDUSTRIAL CLASSIFICATION CODE: A classification pursuant to the Standard Industrial Classification Manual issued from time to time by the United States Office of Management and Budget.

STANDARD METHODS: Testing methods and techniques prescribed in 40 CFR Part 136 or, if not found therein, other appropriate procedures approved by the EPA.

STORM SEWER OR STORM DITCH: A pipe or conduit which carries storm, surface waters and drainage but excludes sewage and industrial wastes.

STORMWATER: Any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

SUPERINTENDENT: The Wastewater Treatment Plant Superintendent of the City of Bangor POTW or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS: Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering in accordance with Standard Methods.

TOTAL TOXIC ORGANICS: The summation of all quantifiable values greater than 0.01 mg/l for the toxic organics listed at 40 CFR 413.02(i).

TOWN: The Town of Hampden, Maine.

TOWN MANAGER: The Town Manager of Hampden or the individual designated by the Town Council to perform this function, or the authorized deputy, agent, or representative of this individual which shall include but not be limited to the Code Enforcement Officer, Public Works Director, POTW Superintendent, City Engineer, etc.

TOWN COUNCIL: The duly elected Town Council of the Town of Hampden, Maine, or its authorized representative.

TOXIC POLLUTANT: One of 126 pollutants or a combination of those pollutants listed as toxic in regulations promulgated by the EPA pursuant to Section 307 (33 U.S.C. § 1317) of the Act. This term also includes any pollutants that may be added to this promulgated list by amendment.

TREATMENT PLANT EFFLUENT: The discharge from the POTW into waters of the United States.

TREATMENT PLANT INFUENT: The wastewater in the POTW which is presented for treatment at the City's wastewater plant.

UPSET: An exceptional incident in which a discharger is in a state of noncompliance with the categorical pretreatment standards due to factors beyond the reasonable control of the discharger. This term excludes noncompliance due to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, careless or improper operation of the treatment facilities or other similar reason.

WASTEWATER: Liquid and water-carried industrial wastes and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER PLANT: Any facility owned by the City and used for receiving and treating wastewater.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently.
### Subsection 1.1.1 Abbreviations

The following abbreviations shall have the designated meanings:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASTM</td>
<td>American Society for Testing and Materials</td>
</tr>
<tr>
<td>BOD</td>
<td>Biochemical oxygen demand</td>
</tr>
<tr>
<td>BMP</td>
<td>Best management practices</td>
</tr>
<tr>
<td>CCTV</td>
<td>Closed Circuit Television</td>
</tr>
<tr>
<td>CFR</td>
<td>Code of Federal Regulations</td>
</tr>
<tr>
<td>COD</td>
<td>Chemical oxygen demand</td>
</tr>
<tr>
<td>DEP</td>
<td>Maine Department of Environmental Protection</td>
</tr>
<tr>
<td>EPA</td>
<td>United States Environmental Protection Agency</td>
</tr>
<tr>
<td>Gpd</td>
<td>Gallons per day</td>
</tr>
<tr>
<td>L</td>
<td>Liter</td>
</tr>
<tr>
<td>MEPDES</td>
<td>Maine Pollutant Discharge Elimination System</td>
</tr>
<tr>
<td>Mg</td>
<td>Milligrams</td>
</tr>
<tr>
<td>mg/l</td>
<td>Milligrams per liter</td>
</tr>
<tr>
<td>NPDES</td>
<td>National Pollutant Discharge Elimination System</td>
</tr>
<tr>
<td>O&amp;M</td>
<td>Operation(s) and maintenance</td>
</tr>
<tr>
<td>POTW</td>
<td>Publicly owned treatment works</td>
</tr>
<tr>
<td>RCRA</td>
<td>Resource Conservation and Recovery Act</td>
</tr>
<tr>
<td>SIC</td>
<td>Standard Industrial Classification Code</td>
</tr>
<tr>
<td>SWDA</td>
<td>Solid Waste Disposal Act</td>
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<tr>
<td>TOC</td>
<td>Total organic carbon</td>
</tr>
<tr>
<td>TSS</td>
<td>Total suspended solids</td>
</tr>
<tr>
<td>TTO</td>
<td>Total toxic organics</td>
</tr>
<tr>
<td>WEF</td>
<td>Water Environment Federation</td>
</tr>
</tbody>
</table>
Section 1.2. Powers and Authority of Inspectors: The Town Manager or his/her designee, shall administer, implement and enforce the provisions of this Ordinance. The appointed designee, including but not limited to Hampden Code Enforcement Officer, Public Works Director, and Superintendent of the POTW or their designee, shall be permitted to enter upon all properties for the purpose of inspection, observation, enforcement and measurement sampling and testing in accordance with the provisions of this Ordinance.

Section 1.3. Repeal of Prior Ordinances: The Sewer Ordinance enacted on June 19, 1978, as amended, shall stand repealed as of the effective date of this Ordinance. The enactment of this Ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any violation of the Ordinance repealed hereby.

Section 1.4. Conflict with Other Ordinances: Whenever the requirements of this Ordinance are in conflict with any other rule, regulation, or ordinance, that imposing the most restrictive or higher standard shall govern.

Section 1.5. Severability: In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 1.6. Effective Date: Pursuant to Section 213(c) of the Town Charter, this Ordinance shall become effective at the expiration of thirty (30) days after its adoption by the Town Council.

ARTICLE 2
USE OF PUBLIC SEWERS REQUIRED

Section 2.1. Discharges: It shall be unlawful to discharge to any watercourse, either directly or through any storm sewer, within the Town or to any area under the jurisdiction of the Town, any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with federal, state or local laws.

Section 2.2. Discharges to Land: It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner on public or private property within the Town or to any area under the jurisdiction of the Town, any human or animal excrement, garbage, or other objectionable waste. This section shall exclude normal agricultural practices.

Section 2.3. Private Sewers: Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, leaching pit, or other facility intended or used for the disposal of sewage.

Section 2.4. Connection of Plumbing Facilities to Public Sewers: The owner of any house, structure, building or property used for human occupancy, employment, recreation, or other purpose, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the Town, is hereby required, at owner’s expense, to install suitable plumbing facilities therein, including but not limited to toilets, and to connect such facilities to the public sewer, in accordance with the provisions of this Ordinance, within ninety (90) days after the date of official notice to do so, provided that said public sewer is located opposite any portion of the frontage of the property to be served by said sewer.

Section 2.5. Waivers from Connecting to Public Sewer: The Town Council may waive the requirement to connect to the public sewer under certain circumstances. Waivers may be obtained where 1) unusual circumstances exist due to the presence of ledge, incompatible elevations, and financial hardship. 2) excavation of a public highway is prohibited by State law or regulation. 3) a new subsurface wastewater disposal system had been installed within the previous five (5) year period. Private subsurface sewer systems installed more than five (5) years earlier shall be grandfathered until such time
as the system is in disrepair or is no longer operable. At that time, the owner shall connect to the public sewer system at the owner’s cost. The Town Council may impose conditions on waivers as they see necessary to carry out the intent of this ordinance. All waivers granted by the Town Council shall be recorded at the Penobscot Registry of Deeds.

ARTICLE 3
PRIVATE SEWAGE DISPOSAL

Section 3.1. Unavailability of Public Sewers: Where a public sanitary sewer is not available under the provisions of Section 2.4, the building sewer shall be connected to a private subsurface disposal system complying with the provisions of this Article and the State Plumbing Code.

Section 3.2. Construction of Private Subsurface Disposal Systems: Construction of private subsurface disposal systems shall comply in all respects with requirements of the State Plumbing Code. Before commencement of construction of a private subsurface disposal system, the owner shall first obtain a permit from the Town. The application for such permit shall be made on a form furnished by the Division of Environmental Health, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Town.

A use permit for a private subsurface disposal system shall not become effective until the installation is completed to the satisfaction of the Town. The Town shall be allowed to inspect the work at any stage of construction. The applicant for the permit shall notify the Town before any underground portions are covered and when the work is ready for final inspection.

No additional private subsurface disposal system serving more than one private residence or commercial establishment shall be connected to, nor in any way discharge to, any portion of the Town’s POTW, except as provided in Article 5.

Whereas maintenance of the POTW in compliance with Federal and State pollution abatement legislation is essential to the public good; no existing private sewers discharge to the POTW shall be increased in extent or flow, and upon issuance of written notice by the Town Manager, all existing private sewers shall be maintained in full compliance with construction and infiltration standards of this Ordinance, at no expense to the Town.

Failure to maintain an existing private sewer in compliance with this Ordinance within 90 days of issuance of written notice shall be adequate cause for the Town to seek penalties from the owner/resident to rectify the issue and to notify the State of Maine of the infraction.

Section 3.3. Division of Environmental Health Recommendations: The type, capacities, location, and layout of a private subsurface disposal system shall comply with all requirements of the Division of Environmental Health, State of Maine.

Section 3.4. Conversion to Public Sewer: At such time as a public sewer system becomes available to a property served by a private sewer system, as provided in Section 2.4, connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools or similar private sewage disposal facilities shall be abandoned and filled with suitable material. Septic tanks, cesspools or similar private sewage disposal facilities shall be suitably cleaned and septage disposed of in accordance with current State and Federal regulations. Tanks and similar structures shall be removed or broken and filled with 4” minus compacted well-graded granular material.

Section 3.5. Additional Requirements: No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Town.

Section 3.6. Septage Disposal: Septic tank waste and private pump station waste originating from or generated in the Town of Hampden may be introduced into the POTW only at the designated receiving
structure of the Bangor POTW and at such times as are established by the Town of Hampden and the City of Bangor. Such wastes shall not violate Section 6.3 of this Ordinance or any other requirements established or adopted by the Town of Hampden or the City of Bangor. In no circumstance will wastes be accepted without prior approval from the City of Bangor, Director of Water Quality (hereafter “Director”) or his/her designee.

The Town and/or City may collect samples of each hauled load to ensure compliance with this Ordinance and the City of Bangor’s Chapter 252: Sewers and Drains Ordinance. The Town and/or City may require the hauler to provide a waste analysis of any load prior to discharge.

Waste haulers must provide the POTW with a copy of a waste-tracking form for every load prior to discharge. This form shall include, at a minimum, the name and address of the waste hauler, truck identification, sources of waste and volume and characteristics of waste.

Waste haulers using trucks having a volume gauge or sight glass will be charged at the applicable rate per 1,000 gallons of wastewater discharged. Trucks lacking such a volumetric measuring device or other means satisfactory to the Town to measure the volume of wastewater discharged will be presumed full and will be charged accordingly.

Any person who discharges hauled wastewater at any other location in the Town or at the designated receiving structure at other than the times allowed shall be subject to applicable civil and criminal penalties, including those prescribed at 30-A M.R.S.A. § 4452 and 38 M.R.S.A. §§ 349 and 1319-T.

A suitable odor-control chemical approved by the Town and the Director or his/her designee, shall be introduced to the hauled wastewater prior to its transportation to the designated receiving structure. Sufficient quantities of such chemical shall be used by the waste hauler to adequately control odors emanating from the hauled wastewater.

If at any time, in the opinion of the Town Manager or his/her designee, the discharge of hauled wastewater is placing an excessive burden on the POTW's treatment process or is otherwise causing a nuisance, the Town or City can refuse to accept such wastewater for treatment in the POTW.

ARTICLE 4
BUILDING SEWERS AND CONNECTIONS TO PUBLIC SEWERS

Section 4.1. State Plumbing Code: The provisions of this article shall be deemed to supplement provisions of the State Plumbing Code with respect to building sewers and connections thereof to public sewers. In event of conflicts between this article and the state plumbing code, the most restrictive or higher standard shall be deemed to apply. Permits and fees stipulated hereunder are additional to any permits or fees, or both, required under the State Plumbing Code.

Section 4.2. Connection to Public Sewers: No person shall uncover, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written Street Opening/Utility Connection permit from the Town. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Town at least 45 days prior to the proposed change or connection and pay applicable sewer connection fees.

4.2.1. Street Opening/Utility Connection Permit: Said Permit shall specify whether the connection is for residential or commercial service or for service to establishments producing or handling industrial wastes. In either case, the owner or his or her agent shall make application on a special form furnished by the Town. The permit application shall be accompanied by any plans, specifications, or other information required in accordance with the provisions in the Street Opening/Utility Connection Ordinance. The fee for the Street Opening/Utility connection permit is established in the Town of Hampden Fees Ordinance.
4.2.2. Except on an emergency basis to serve existing structures only (e.g. following a failure of an existing private septic system), no street opening/utility connection permit shall be issued authorizing connection to any public or private sewer line or sewer extension which is found by the Town to be inadequate, by reason of its design, condition or lack of hydraulic capacity, to accommodate the additional volume or flow or types of wastes to be discharged from the premises concerned; or which by reason of its design, condition or hydraulic capacity, causes or materially contributes to upsets, surcharges, slug loads or untreated outfalls at any downstream or other location. All permits issued on an emergency basis under this subsection shall bear the designation of “emergency permit” and shall be subject to annual review by the Public Works Director and/or the Town Manager. Any emergency permit shall be deemed terminated upon correction of the condition that led to its issuance.

4.2.3. Except for the purpose of correcting the violation concerned, no new street opening/utility connection permit shall be issued to any person who has been cited by the Public Works Director or the Town Manager for violations of this ordinance if such violation remains uncorrected at the time of application.

4.2.4. Backwater Valves Required: To protect from the possibility of backflow of sewage, backwater valves shall be required for all new connections to public sewers and shall also be required when existing sewer services are excavated.

1. Material. All bearing parts of backwater valves shall be of corrosion-resistant material. Backwater valves shall comply with ASME A112.14.1, CSA B181.1 or CSA B181.2.

2. Seal. Backwater valves shall be so constructed as to provide a mechanical seal against backflow.

3. Diameter. Backwater valves, when fully opened, shall have a capacity not less than that of the pipes in which they are installed.

4. Access. Backwater valves shall be installed so that access is provided to the working parts for service and repair.

Section 4.3. Permits and Connection Fees: There shall be two (2) classes of building sewer connection permits/fees:

1. residential service, and
2. commercial, industrial, and other nonresidential service.

In either case, the owner or owner’s agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent to the judgment of the Town. A permit and inspection fee at the rate prevailing at the date of application shall be paid to the Town at the time an application is filed. The Town Manager, with recommendation from the Public Works Director, shall establish a permit and inspection fee for each commercial, industrial, or other non-residential building, based on the size and nature of the operation proposed in such commercial, industrial, or other non-residential building as compared to the demands of a residential structure. The permit (or sewer connection fee) is calculated based on a form (Sewer Connection Fee Worksheet) provided by the Town. Final approval or revision of all commercial, industrial and other non-residential permit and inspection fees shall reside with the Town Council. No sewer connection fee will be required for repair of an existing sewer service, although a Street Opening/Utility Connection Permit will be required as applicable.

Section 4.4. Shared Building Sewers: A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, in which case the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Separate clean outs shall be provided for both buildings. Existing building sewers may be used in connection with new buildings only when they are
demonstrated by examination to be in full conformance with all requirements of this ordinance.

Section 4.5. Quality and Weight of Materials: The building sewer shall be cast iron pipe, PVC pipe or other suitable materials approved by the Town and meeting current State Plumbing Code. The quality and weight of materials shall conform to the specifications of the State Plumbing Code. All joints shall be gastight and watertight. Where the building sewer is exposed to damage by tree roots or is installed in filled or unstable ground, the Town shall have the authority to stipulate such special pipe materials or installation provisions as it deems necessary for the circumstances. Testing of the building sewer installation shall be done at no cost to the Town, in the presence of the Town Representative and using a Town approved method.

Section 4.6. Size and Slope of Sewer: The size and slope of the building sewer shall be regulated by the State Plumbing Code, but in no event shall the diameter be less than 4 inches. The slope of a 4 inch pipe shall not be less than one-quarter inch per foot. The slope of a six-inch pipe shall not be less than one-eighth inch per foot.

Section 4.7. Elevation and Location of Sewer: Whenever possible, the building sewer service shall exit the building below the basement finish floor elevation. No sewer service shall be installed parallel, less than (3) three feet from a foundation wall. The sewer service shall exit the building perpendicular to the foundation wall and be laid at a uniform slope draining away from the building in straight alignment where possible. Changes in direction shall be made only with approved pipe and fittings. The sewer service shall be a minimum of (5) five feet deep for frost protection or shall require rigid styrofoam insulation at a rate of (2) two inches per foot of soil depth. Meaning, a sewer service with only 4 feet of cover would require 2 inches of insulation, 3 feet of cover would require 4 inches of insulation, etc.

Section 4.8. Building Drains: In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. Foundation or perimeter drains shall not be connected to the building sewer system.

Section 4.9. Excavations and Backfilling: All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Town. Pipe laying and backfill shall be performed in accordance with ASTM Specification C12 except that no backfill shall be placed until the work has been inspected by the Town. Refer to Section VI of the Street Opening/Utility Connection Ordinance for additional requirements.

Section 4.10. Joints and Connections:

4.10.1. Cast Iron Pipe: Cast iron pipe joints shall be of the push-on type and conform to ASTM 0564-70 (Rubber Gaskets) and ANSI (A21.11). Fittings shall be of the type specifically manufactured for the cast iron pipe used. Cast iron pipe, joints, and fittings shall be cement lined and double asphalt coated inside and bituminous coated outside. Lubricants shall be suitable for lubricating the gasket to facilitate assembly of the pipe joint. The lubricant shall be non-toxic, shall not support the growth of bacteria and shall have no deteriorating affects on the gasket material.

4.10.2. Plastic Pipe:
4.10.2.1. ABS pipe fittings and connection shall conform to ASTM (D1527) for Schedule 40, 80, 120 or ASTM (2661) for DMV Schedule 40.

4.10.2.2. Schedule 40 PVC fittings and connections shall conform to ASTM (D2665) for DMV Schedule 40 or ASTM (D1785) for Schedule 40, 80, 120 PVC. Fittings and connections shall be installed in accordance with the manufacturer's written instructions.

4.10.2.3. SDR 35 pipe fittings and accessories shall be as manufactured and furnished by the pipe supplier or approved equal and have a bell and/or spigot configuration compatible with SDR 35 PVC. Joints shall meet the requirements of ASTM (D3212) "Joints for Drain and Sewer Plastic
Pipe Using Elastomeric Seals”.

4.10.3. Joints: All Joints shall be sealed with gaskets of rubber, or other approved elastomeric material, as provided by the manufacturer of the pipe being installed. Joints shall be made up in conformance with the manufacturer’s written installation instructions. Copies of the installation instructions shall be submitted to the Town a minimum of one week prior to the construction.

4.10.4. Alternate Materials and Methods: Alternate jointing materials and methods may be used only if of standard manufacture for the pipe and fittings being installed and submitted for approval to the Town.

Section 4.11. Connections: Connections of a building sewer into a public sewer shall be made, at a location determined by the Town.

4.11.1. Connections at Manholes: Where connection to the sewer main is not possible, connections to a manhole are permitted. Tapping of pre-cast manholes shall be done with core drill or other approved method. A flexible rubber pipe to manhole connector shall be employed in the connection of service lines to pre-cast manholes. The connector shall be the sole element relied on to assure a flexible watertight seal of the pipe to the manhole. No adhesives or lubricants shall be employed in the installation of the connector into the manhole. The rubber for the connector shall comply with ASTM C443 and ASTM C923 and consist of EPDM and elastomer designed to be resistant to ozone, weather elements, chemicals, including acids, alkalis, animal and vegetable fats, oils and petroleum products from spills.

All stainless steel elements of the connector shall be totally non-magnetic Series 304 Stainless, excluding the worm screw for tightening the steel band around the pipe which shall be Series 305 Stainless. The worm screw for tightening the steel band shall be torqued by a break-away torque wrench available from the pre-cast manhole supplier, and set 60 - 70 inch/lbs.

The connector shall be installed in the manhole wall by activating the expanding mechanism in strict accordance with the recommendation of the connector manufacturer.

The connector shall be of a size specifically designed for the pipe material and size being utilized on the project.

The contractor shall furnish evidence that materials meet or exceed the requirements given in ASTM Specification C923-84, which covers rubber seals used in concrete sewer pipe and culvert Joints.

<table>
<thead>
<tr>
<th>PHYSICAL PROPERTIES</th>
<th>ASTM C-023</th>
<th>ACTUAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Chemical Resistance</td>
<td>No weight loss</td>
<td>No weight loss</td>
</tr>
<tr>
<td>1 N Sulfuric Acid</td>
<td>No weight loss</td>
<td>No weight loss</td>
</tr>
<tr>
<td>1 N Hydrochloric Acid</td>
<td>No weight loss</td>
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</tr>
<tr>
<td>Tensile, psi, min</td>
<td>1,200 psi</td>
<td>1,550 psi</td>
</tr>
<tr>
<td>Elongation at break</td>
<td>350% min</td>
<td>450% min</td>
</tr>
<tr>
<td>Hardness</td>
<td>+ 5 from the manufacturer’s specified hardness</td>
<td>44 + 5</td>
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<tr>
<td>III. Accelerated Oven Aging: 96 hrs @ 158°F</td>
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<td>Tensile Change, % max</td>
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<td>Elongation Change, % max</td>
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<tr>
<td>IV. Comp.Set, % max</td>
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<tr>
<td>V. Water Absorption: 48 hrs @158°F</td>
<td>10</td>
<td>3.5</td>
</tr>
<tr>
<td>Weight increase, % max</td>
<td></td>
<td></td>
</tr>
<tr>
<td>VI. Ozone Resistance</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>120 Hrs @ 100° + 02°F</td>
<td></td>
<td></td>
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</table>
On completion of the installation, the Contractor shall patch all cracks, gaps or other damage to the manhole with non-shrink epoxy grout or other approved material. Following installation the contractor shall pneumatically test the service per Article 5 - Section 5.4.2 of this Ordinance.

4.11.2. Connections at Wye Branches: When connecting a 4 or 6 inch building sewer to a public sewer, an inline wye branch fitting or tapped gasketed saddle connection shall be used. The fitting shall be of the proper design for the public sewer pipe materials. Any building sewer greater than 6 inch diameter shall be connected to the public sewer at a manhole. If a manhole is not available within the project limits, the developer and/or owner shall install one at a location determined by the Town. The manhole invert shall be reconfigured to accept the new pipe and direct flow downstream.

The tap shall be made with a hole saw and all rough edges sanded smooth. The tap location shall be centered horizontally on the pipe spring line or above. The service shall extend horizontally from the public sewer a distance not less than 2 feet.

The wye-saddle gasket shall be rubber or elastomeric material of section designed to provide a water tight seal without transfer of significant stress to the sewer pipe. The wye-saddle shall be securely clamped in place with a minimum of two each 3/4 inch wide, Type 304 stainless steel bonds.

4.11.3. Service Marker: Electronic markers shall be provided at the terminus points of all new services or point of reconnection for all existing services. Marker disks shall be placed directly over the point of termination at least 6 inches above the pipe. Depth of marker burial shall not be less than 4 feet or more than 6 feet. Markers shall be laid in a level position and hand backfilled to 1 foot above the disk to prevent movement or damage.

Markers disks shall consist of a passive waterproof device capable of reflecting a specifically designated repulse frequency turned to the utility being installed. Marker disks shall be color coded green (for Sanitary) in accordance with AWPA Utility Location and Coordinating Council Standards. Markers shall be of the brand and style specified by the Town.

4.11.4. Swing Ties: Swing ties locating the terminus points of all new services or point of reconnection for all existing services shall be provided to the Town. Ties shall consist of measurements to permanent structures tabulated on reproducible record drawings submitted to the Town at completion of construction.

Section 4.12. Inspection and Connection to Public Sewers: The applicant for the building sewer permit shall notify the Town when the building sewer is ready for inspection and prior to connection to the public sewer. No public sewer shall be disturbed except under the supervision of the Town. The Town shall be available to supervise and inspect the connection within 48 hours of notification of readiness.

4.12.1. Guarding of Excavations: All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard.

4.12.2. Restoration of Public Property: Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

Section 4.13. Building Sewers Requiring Frequent Maintenance: Maintenance of the building sewer, as defined in section 1.0 of this Ordinance, shall be the responsibility of the property owner. Any building sewer serving a school, hospital, or similar institution or public building, or serving a complex of commercial or industrial buildings, or which, in the opinion of the Town, will receive sewage or industrial wastes of such volume or character that frequent maintenance of said building sewer is anticipated, then
such building sewer shall be connected to the public sewer through a manhole. If required, a new manhole shall be installed in the public sewer and the location of this manhole and the building sewer connection to it or to any existing manhole shall be as specified by the Town.

4.13.1 Interceptors and Traps: Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; (except that such interceptors shall not be required for private living quarters or dwelling units). All interceptors shall be of a type and capacity approved by the Town and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors or traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

Section 4.14. Infiltration: The maximum acceptable infiltration rate for all sewers constructed after enactment of this amendment shall be 100 gpd/in-mile of extent including service connection to the building foundation.

The maximum acceptable infiltration rate for all existing private sewers shall be 1,000 gpd/in-mile of extent, including service connection to the building foundation.

Infiltration rate measurements shall be made using manufacturer calibrated insert weirs and sound engineering practices. Infiltration measurements shall be reported in tabular form, showing all reaches monitored, antecedent precipitation, and groundwater conditions, and signed by a professional engineer registered in the State of Maine. A current manufacturer’s calibration certificate for the weirs used to take the infiltration measurements shall be included with the report.

Section 4.15. Costs and Expenses Borne by the Owner: All costs and expense incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The costs for verification of existing pipe condition for reuse shall also be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation, maintenance, or failure of the building sewer service.

ARTICLE 5
SEWER EXTENSIONS

Section 5.1. Sewer Extensions Constructed by the Town: Public sewer extensions may be constructed by the Town under public contract if, in the opinion of the Town Council, the number of properties to be served by such extension warrants its cost. Property owners may propose such sewer extensions within the Town by drafting a written petition signed by a majority of the benefited property owners, and filing it with the Town Council. The cost of such extensions may be assessed to the benefited property owners in any lawful manner determined by the town council. Under this arrangement the property owner shall pay for and install the building sewer from the public sewer to the property to be served in accordance with the requirements of Article 4.

Section 5.2. Sewer Extensions Constructed by Private Developer: If the Town does not elect to construct a sewer extension under public contract, the property owner, builder, or developer may construct the necessary sewer extension, if such extension is approved by the Town Council and constructed in accordance with the requirements of Section 5.3. The cost of sewer extensions thus made, including all building sewers, shall be absorbed by the developers or property owners. Each building sewer must be installed and inspected as previously required and the inspection fees shall be paid therefore. Design of sewers shall be as specified in Section 5.3. and Section 5.3.1. The installation of the sewer extension shall be subject to inspection by the Town and the expenses for this inspection shall be paid for by the owner, builder or developer. The Town’s decision shall be final in matters of quality and methods of construction. Before it may be used, the sewer as-constructed must pass the inspection test(s) specified under Section 5.4.
To the maximum extent practicable all sewerage extensions shall be constructed within approved street right-of-ways. Otherwise, sewerage extensions shall be constructed centered in a 20 foot (minimum) wide right-of-way deeded to the Town.

**Section 5.3. Requirements for Extending Sanitary Sewer Systems:** All extensions to the sanitary sewer system shall be properly designed in accordance with this Ordinance and the most recent edition of the Recommended Standards for for Wastewater Facilities, as adopted by the Great Lakes Upper Mississippi River Board of State Sanitary Engineers. All design computations, plans and specifications shall be stamped and signed by a professional engineer, currently registered in the State of Maine. Plans and specifications and computations for sewer extension shall be submitted to and approval obtained from the Town before construction may proceed. Plans and profiles of proposed sewer line construction shall be a scale of not more than 100 feet to the inch (1200:1) and a vertical scale of not more than 10 feet to the inch (120:1). Topographic base mapping shall be controlled with minimum 2 foot contour intervals. All mapping shall be based on MSL (Mean Sea Level) and Digital Data of GEO referenced plans as described below: Submission of digital data/preparation of geo-referenced plans: The digital submission should include all applicable sewer features (pipes, junctions, pumps, etc), topography, property lines, streams with flow direction, wetlands, or any other applicable features as would be shown on a printed plan. Features are to be GPS located using at least sub-meter accuracy GPS units. Plans are to be geographically referenced using no less than four non-linear (dispersed across the area) projected control points of at least sub-meter accuracy and shall be submitted in one of two acceptable formats: 1) Universal Transverse Mercator (UTM) Zone 19 meters, or 2) US State Plan Coordinate System Maine Zone East 1983 feet. Accepted file types are ESRI .shp and associated files, AutoCAD .dwg files. AutoCAD files must be purged of all empty layers and presented with model space objects only. All files are to be submitted with clear layer names, such as “Sewer-Line-8inch”, that obviously describe each layer (for example, “gp-pl-0” is not acceptable). Metadata should be included if available. If not available, a text file should be included with the following: surveyor or engineer name and license number, phone number, mailing address, email address, projection and datum used, date of preparation of data, description of equipment used to collect data (make, model, manufacturer's reported accuracy level), any disclaimers, limitations, or other notes. Electronic files should be submitted on a CD, DVD or flash drive. Submission of physical plan copies: No less than two physical copies in ARCH D or ARCH E format will be provided on clear and legible media (suitable for microfilming).

**5.3.1. All extensions of the sanitary sewer system constructed under Section 5.2 shall be designed to provide gravity collection and flow from the development to the point of connection with the existing public sewer system.** Pump stations shall not be incorporated in the design of sewer systems in any proposed development within the Town of Hampden, Maine except under the following conditions:

**5.3.1.1 Lift stations serving individual single-family homes are exempt from the foregoing requirements of Section 5.3.1, unless said homes are part of a common scheme of development, such as a subdivision or group development.**

**5.3.1.2 The parcel of land on which the development is to be located shall be no more than 500 feet from an existing public gravity sewer line.**

**5.3.1.3 No force main shall exceed 2,000 feet in length unless prior approval has been obtained from the Town Council upon their finding that such increased length is the only practicable option to service the subject property, and upon their finding that any increased operations and maintenance costs that would result from such increased length over the life of the infrastructure will be offset by sewer fees to be paid by the user or users of the force main.**

**5.3.1.4 A force main sewer may only be constructed if determination is reached and agreed to by all parties that a gravity sewer would not be feasible.**

For example: Although a 2" force main
sewer might be less expensive to install than an 8" gravity sewer, the gravity sewer must be not feasible, not simply more expensive.

5.3.1.5 The private pump stations and sewer extensions must be maintained in perpetuity by either a single private entity or a maintenance association.

5.3.1.6 Any private pump stations and sewer extension must be designed and stamped by a duly licensed and qualified professional engineer, registered in the State of Maine.

5.3.1.7 The private pump station design, and the construction thereof, must include a redundant sewage lift pump, backup electrical generator and approved alarm system to provide warning in case of mechanical failure.

The Planning Board shall not approve any development or subdivision that includes private pump stations or private sewer extensions unless the design thereof and the legal documents showing evidence of their perpetual maintenance have been reviewed by the Public Works Director, Town Manager, Town Attorney and Town engineering consultant with written recommendation to the Town Council for final approval.

5.3.2. Materials, Joints and Connection to Building Sewers: Gravity sewer pipe and fittings shall be Ductile Iron (DI) or Polyvinyl Chloride (PVC) unless otherwise approved by the Town.

Minimum internal pipe diameter shall be 8 inches. DI pipe shall be a minimum of Class 51 conforming to the requirements of ANSI A21.5 and ANSI A21.11 push on joints. Pipe shall be cement lined and double asphalt seal coated inside and bituminous coated outside. PVC sewer pipe and fittings 15 inches or less in diameter shall conform to the requirements of ASTM D3034 or ASTM F789, sizes 18 inches through 27 inches shall conform to ASTM P679. Pipe wall thickness shall be sized in accordance with ASTM D2412.

Pipe joining shall be bell and spigot with elastomeric gaskets. Pipe will be furnished in standard lengths. PVC to be installed at a depth greater than 14 feet shall meet the requirements of AWWA C900 (PVC Pressure Pipe). All Class 100 pipe shall meet the requirements or DR 25, Class 150 pipe shall meet the requirements of DR 18 and Class 200 shall meet the requirements of DR 14.

Wye branch fittings shall be installed for connections to building sewers in accordance with Section 4.10.

5.3.3. Excavation: Excavation for pipe lines shall be true to line and grade and shall be carried to a minimum of 6 inches below the bottom of the pipe. The Town may require additional excavation and backfill with granular material if unstable soil conditions are encountered.

For pipe diameters 12 inches and less the trench width - two pipe diameters above the pipe invert - shall be 36 inches. The trench width for diameters in excess of 12 inches - two pipe diameters above the pipe invert - shall be the pipe outside diameter “0” plus 2 feet. The trench width for parallel pipes in the same trench shall be 4 feet 6 inches, two pipe diameters above the highest pipe invert. The trench width shall not exceed the above limits unless authorized by the Town.

All Excavated areas shall be properly shored and braced so that earth will not slide or settle and so that all surrounding property and structures of any kind will be duly protected from damage. Work shall be performed in accordance with all existing State and Federal safety requirements. If in the opinion of the Town the work area and procedures are unsafe, the Town representative shall have the right to notify the proper authorities. (i.e. OSHA)

5.3.4. Bedding Material: Pipe bedding shall consist of a foundation (6" minimum depth) and side-fill to the top of the pipe embedment zone (12" min. over top of pipe) and accessories extending for the full width between the undisturbed trench walls. The bedding material required beneath the pipe shall be placed, graded and compacted to the pipe sub-grade profile over the entire width between
undisturbed trench walls. The pipe shall be placed and adjusted to proper grade on this prepared
bedding, then jointed, braced and blocked, as required. After pipe is graded into place, bedding
material shall be placed simultaneously on both sides of the pipe and worked carefully into place
without disturbing the pipe alignment or grade, to an elevation of 12" over the pipe.

PVC pipe shall be placed in accordance with latest Uni-Bell PVC Pipe Association Design and
Construction Standards.

Backfill in the embedment zone for PVC pipe shall be machine placed bedding material, placed in 6
inch layers and compacted to 90% of relative density as determined by ASTM-D2049. Bedding
material shall be crushed stone or gravel similar to MDOT Specification 703.06A Aggregate Base,
conforming to following gradation:

<table>
<thead>
<tr>
<th>Sieve Size</th>
<th>Percent Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 1/2&quot;</td>
<td>100</td>
</tr>
<tr>
<td>1/2</td>
<td>45-70</td>
</tr>
<tr>
<td>1/4&quot;</td>
<td>30-55</td>
</tr>
<tr>
<td>No. 4</td>
<td>5-20</td>
</tr>
<tr>
<td>No. 200</td>
<td>0-5</td>
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</table>

Crushed stone without fine grained material will be allowed. Bedding Material – If crushed stone
material is used for pipe bedding in roadway areas, filter fabric shall be placed over the full trench
width and length just above the stone cover prior to placing backfill material.

Samples and a sieve analysis of the bedding material may be requested by the Town for approval
prior to use.

Additionally, sieve analyses of randomly drawn samples of placed bedding material at a frequency of
1 per 2000 LF of pipe shall be provided if in the judgment of the Town, there is an apparent change in
consistency of bedding material. All sampling and analyses specified herein shall be performed at no
cost to the Town.

5.3.5. Pipe Thickness and Field Strength: Pipe thickness and field strength shall be calculated on the
following criteria:

1. Safety factor: 1.9,
2. Load factor: 1.7,
3. Weight of soil: 120/cubic foot,
4. Wheel loading: 6,000 pounds.

Utilizing the above information, design shall then be made as outlined in Chapter IX of the Water
Pollution Control Federation Manual of Practice No. 9, "Design and Construction of Sanitary and

5.3.6. Manholes: Manholes shall be constructed at all changes in slope or alignment or at intervals
not exceeding 400 LF.

Components: Manhole components consist of: a pre-cast reinforced concrete base section with pre-
cast invert channel and steps in either 2 foot or 4 foot lengths, 4 foot lengths will be required
whenever the pipe diameter is greater than 18 inches; pre-cast concrete transition rings from one
barrel diameter to another; a pre-cast reinforced concrete eccentric top section, with steps, in 4 foot
lengths; pre-cast concrete transition rings from one barrel diameter to another; pre-cast reinforced
concrete barrel sections, with steps, in 1 foot, 2 foot, 3 foot or 4 foot lengths; a boot type pipe to
manhole seal; concrete riser rings in 2 inch, 3 inch or 6 inch thickness; and a metal frame and cover.
No exterior face of the finished manhole above the base shall be inclined away from the vertical
manhole centerline.
Concrete work shall be in accordance with applicable requirements of ACI 318 except as modified herein. Concrete shall be normal weight (i.e., produced using normal weight aggregate) having a minimum ultimate strength of 4,000 psi at 28 days. Maximum size of coarse aggregate shall be 3/4 inch. Cement shall be Type 1 conforming to ASTM C150. Reinforcement shall be Grade 40. The finished concrete shall be durable, dense and water-resistant, free from honeycombs, voids, cracks, pop-outs, scaling and dusting. All components shall be designed to accept H-20 loading. Four concrete compression test specimens shall be made from the working mix and broken for each 100 vertical feet of manhole sections. All testing shall be done in conformance with applicable ASTM requirements for sampling and testing concrete. Certified copies of the test results shall be submitted to the Town.

Each section of the pre-cast manholes shall have cast in place pins for the purpose of lifting, handling and setting.

The boot type pipe to manhole seal shall be of molded neoprene compound conforming to ASTM C443, with 3/8 inch wall thickness throughout. A series of beads shall be molded into the boot surfaces that contact the manhole part and pipe barrel to fill surface irregularities when clamped in place. Boot attachment bands and draw bolts shall be corrosion resistant non-magnetic stainless steel.

Manhole steps shall be copolymer polypropylene type designed for a minimum concentrated live load of 300 pounds and meeting ASTM 2146 Polypropylene, BOWCO step and socket system or approved equal, spaced vertically 12 inches on center. Irregular or non-vertical spacing of steps shall be cause for rejection.

Pre-cast concrete manhole sections shall be of lapped joint construction. All joints shall be triple sealed with:

1. Flexible butyl resin sealant on the inner lap conforming to Federal Specification SS-S-210A and AASHTO M-1983. Minimum acceptable product application range shall be 10°F to 130°F.

2. Flexible strip consisting of butyl rubber-hydrocarbon (24+/-1%) and sodium bentonite (75+/-1%) sealant on the outer lap. Minimum acceptable product application range shall be 5°F to 125°F.

3. Flexible 9 inch wide wrap consisting of 0.045 inch EPDM rubber backing supporting a 0.035 inch thick self-bonding butyl compound applied to the exterior face of the manhole and centered on the joint.

All sealing compounds shall be applied to clean, dry, primed surfaces in accordance with manufacturer's instructions. All joint sealants shall be fully applied prior to vacuum testing.

Precast concrete grade rings will not be accepted. Brick and mortar (containing sand, portland cement and lime, no pre-mixed mortar) will be used for final finish grade adjustment. Finish grade adjustment with bricks and mortar shall not exceed 14 inches (not including frame height). If more than 14 inches is needed to adjust to finish grade, an additional manhole barrel section shall be used. Cast iron manhole frames and covers shall be cast of material conforming to the requirements of ASTM A48 and be of uniform quality, free from blow-holes, porosity, hard spots, shrinkage distortion or other defects. They shall be smooth and well-cleaned by shot-blasting or other approved method. They shall be of heavy duty construction weighing not less than 300 pounds and machined on both vertical and horizontal seating surfaces. Covers shall be of checkered top design embossed with the word “SEWER” in 2 inch letters. Frames shall have a minimum clear opening of 23 3/4 inches.

Locking or watertight frames and covers shall conform to the above. In addition, covers shall be gasketed and attached with four brass or stainless steel bolts.

Brick for manhole inverts shall meet Standard Specifications for Sewer Brick, AASHTO Designation M91-42, Grade SA, Size No. 1, wire cut. Mortar shall be a mixture of sand, cement and lime.
consisting of one part lime, three parts cement and six parts clean, well-graded hard, durable sand, and water. The amount of water shall be held to the minimum that yields a workable mortar.

5.3.7. Shop Drawings: Prior to issuance of the construction permit, shop drawings for all materials and components to be incorporated in the work shall be submitted for review and approval of the Town. No portion of the work shall be commenced unless and until shop drawings for materials and components to be incorporated in the work have been approved.

Shop drawings shall consist of manufacturer’s standard product literature and technical data sheets which clearly demonstrate the proposed materials and components to be in full compliance with the requirements of this Ordinance.

Five sets of shop drawings shall be submitted to the Town for review and approval. Upon completion of review two copies will be retained by the Town and the remaining three sets shall be returned to the developer. The developer shall maintain one complete set of approved shop drawings at the job site throughout the construction.

All shop drawings must be reviewed and approved or disapproved by the Town within four weeks of receipt of same. Shop drawings held longer than four weeks shall be considered approved as submitted.

5.3.8. Flushing: All completed sewer lines, manholes and appurtenances shall be flushed and cleaned to remove grit and other debris. Care shall be taken to ensure that grit and debris are contained and removed from the line. Under no circumstances shall grit and debris from installation be permitted to enter Town sewers. Flushing shall be performed at no expense to the Town. Mandrel or CCTV shall be used immediately following flushing as specified below.

Section 5.4. Testing: All public sewers shall conform to the requirement of the following tests before they will be approved and sewage flow accepted from them by the Town. Final testing and retesting as stipulated below shall be performed in the presence of the Town and at no expense to the Town. Results of tests performed in the absence of the Town will not be accepted.

5.4.1. Vacuum Testing of Manholes: Each manhole shall be tested immediately after assembly or modification, and prior to backfilling. All lift holes shall be plugged with an approved non-shrink epoxy grout. All pipes entering the manhole shall be plugged, taking care to securely brace the plug from being drawn into the manhole. The test head shall be placed at the inside of the top of the cone section and the seal inflated in accordance with the manufacturer’s recommendations. A vacuum of 10 inches of mercury shall be drawn and the vacuum pump shut off. With the valves closed, the time shall be measured for the vacuum to drop to 9 inches. The manhole shall pass if the time is greater than 60 seconds for 48 inch diameter, 75 seconds for 60 inch diameter and 90 seconds for 72 inch diameter manholes. If the manhole fails the initial test it shall be repaired and retested until it passes.

5.4.2. Pneumatic Pipe Test: All newly installed, repaired or modified sewers shall pass a pneumatic test prior to acceptance by the Town. Pneumatic testing shall be administered after installation and capping of house service fittings and leads at their upper termination, and after completing backfill of the gravity sewer trench.

Pneumatic testing shall be performed using equipment and procedures outlined herein.

Equipment used shall meet the following minimum requirements:

1. Pneumatic plugs shall have a sealing length equal to or greater than the diameter of the pipe to be inspected.

2. Pneumatic plugs shall resist internal test pressures without requiring external bracing or blocking.

3. All air used shall pass through a single control panel.
4. Three individual hoses shall be used for the following connections:
   a. From control panel to pneumatic plugs for inflation.
   b. From control panel to sealed line for introducing the low pressure air.
   c. From sealed line to control panel for continually monitoring the air pressure rise in the sealed line.

5. Internal pipe pressure gauge shall have a psi range from 0 to 25 max.

All pneumatic plugs shall be seal tested before being used in the actual test installation. One length of pipe shall be laid on the ground and sealed at both ends with pneumatic plugs to be checked. Air shall be introduced into the plugs to 25 psig. The sealed pipe shall be pressurized to 5 psig. The plugs shall hold against this pressure without bracing and without movement of the plugs out of the pipe.

After a manhole to manhole reach of pipe has been backfilled and cleaned, and the pneumatic plugs are checked by the above procedure, the plugs shall be placed in the line at each manhole and inflated to 25 psig. Low pressure air shall be introduced into this sealed line until the internal air pressure reaches 4 psig greater than the average back pressure of any groundwater that may be over the pipe. At least two minutes shall be allowed for the air pressure to stabilize.

After the stabilization period (3.5 psig minimum pressure in the pipe), the air hose from the control panel to the air supply shall be disconnected. The portion of line being tested shall he termed “acceptable” if the time required in minutes for the pressure to decrease from 3.5 to 2.5 psig (greater than the average back pressure of any groundwater that may be over the pipe) shall not be less than the time shown for the given diameters in the following table:

<table>
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<tr>
<th>Pipe Diameter in Inches</th>
<th>Minutes</th>
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<tr>
<td>4</td>
<td>2.0</td>
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<tr>
<td>6</td>
<td>3.0</td>
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<tr>
<td>8</td>
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<td>8.5</td>
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<tr>
<td>21</td>
<td>10.0</td>
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<tr>
<td>24</td>
<td>11.5</td>
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In areas where groundwater is known to exist, a 1/2 inch diameter capped pipe nipple, approximately 10 inches long, shall be installed through the manhole wall on top of one of the sewer lines entering the manhole. This shall be done at the time the sewer line is installed. Immediately prior to the performance of the Line Acceptance Test, the groundwater shall be determined by removing the pipe cap, blowing air through the pipe nipple into the ground so as to clear it, and then connecting a clear plastic tube to the nipple. The hose shall be held vertically and a measurement of the height in feet shall be divided by 2.3 to establish the pounds of pressure that will be added to all readings. (For example, if the height of water is 11 1/2 feet, then the added pressure will be 5 psig, and the 2.5 psig increased to 7.5 psig. The allowable drop of one pound and the timing remain the same).

If the installation fails the pneumatic test, the source of leakage shall be determined and eliminated by repair or replacement at no expense to the Town.

5.4.3. Deflection Test: An in-place deflection test shall be performed on all PVC gravity pipe by drawing a gauge plug (mandrel) through each section of sewer. Equipment used shall meet the following minimum requirements.

1. The gauge plug shall be constructed of durable, abrasion resistant material in a cylindrical shape. The full diameter barrel length to pipe diameter ratio shall not be less than 1.5 and the minimum barrel diameter shall be 5% less than the un-deflected base inside diameter of the pipe being tested. Each end of the cylinder shall be radiused at not less than one-fourth of
the pipe diameter being tested. Each gauge shall have a 1/4 inch tie rod drilled through the 
entire unit. Tie rod terminations shall be closed eyes. Upon prior approval of the Public Works 
Director and under certain conditions only, (pipe grade 1% min. more than minimum slope, 
pipe installation was inspected and properly installed, etc), if the 5% mandrel does not pass, 
the 7-1/2% mandrel may be used. In no condition shall the 7-1/2% mandrel be acceptable 
unless prior authorization by the Public Works Director is given.

2. Pull cord shall be attached to the gauge eyes with safety snaps. This cord shall be high 
quality material with a minimum test strength of 250 pounds. Cord on each side of the gauge 
shall be of sufficient length to span the maximum distance between any two adjacent 
manholes at the project site. This cord shall be marked in such a way that the user can 
determine the location of any constrictions found in the line as the test is being performed. 
The gauge plug and pull cord shall be submitted to the Town Manager for approval prior to 
use.

The deflection test shall be performed after the trench has been completely backfilled and 
compacted, and adequate settlement of the area around the trench has occurred (not less 
than 30 days following installation of the pipe).

To perform this test, the gauge is inserted into the pipe at the upstream manhole and slowly 
drawn through the line to the downstream manhole. When a constriction is encountered the 
cord shall be pulled with a force not to exceed 100 pounds, until it can go no further. Location 
of the constriction shall be noted, the spindle shall be withdrawn to the upstream manhole, 
and the section of pipe shall be excavated to correct the problem. When the area around the 
ew pipe section has adequately settled, the deflection test shall be performed again along 
the entire section where the constriction occurred.

5.4.4 Video Testing: Video Testing may be acceptable to the Town in Lieu of pressure testing if the 
newly installed sewer has active house services connected to the public sewer. This option is at the 
discretion of the Town.

Testing shall consist of passing a video camera completely through the interior of the new sewer 
from the upstream manhole to the downstream manhole, while recording and viewing the results. 
The video camera shall be self powered and capable of rotating its lens to look into service 
connections. A Written report noting any deficient area will be given to the Town upon completion of 
the test with (2) electronic copies of the video. Video testing shall be done by a competent firm 
approved by the Town.

A Town representative shall be present at the time of testing.

Section 5.5. Transfer of Ownership to the Town: All extensions of public sewerage shall become the 
property of the Town through the following procedures initiated by the Developer:

The developer shall:
1. Request written approval from the Town indicating that all sewer improvements have been 
completed as specified herein to their satisfaction.

2. Indicate in writing to the Manager that said improvements will be guaranteed against defects in 
materials or workmanship for a period of 12 months from the time of acceptance by the Town.

3. Indicate in writing to the Manager that said sewer improvements are free and clear of any liens, 
all right-of-ways have been deeded to the Town as shown on the approved subdivision plans.

4. Petition the Manager in writing to go before the Council to request acceptance of the sewer line.

After all the above items have been completed by the developer, the manager may then schedule the 
item for review by the Town Council. The Town Council shall be the ruling authority on acceptance.
Section 5.6. Privately Owned Sewer Extension: Privately owned sewer extensions of the public sewer will be permitted with the following additional conditions:

5.6.1 Privately owned sewer extensions (associated with subdivisions or site plans) of the public sewer may be permitted with prior approval by the Hampden Planning Board. All other privately owned sewer extensions shall be approved by the Director of Public Works. If peer review is needed, the Director of Public Works can solicit third party review at the expense of the applicant. Said sewer shall be constructed in strict compliance with this ordinance and be inspected by the Hampden Public Works Director or his/her designee during construction. All compliance with State, local and federal regulations, maintenance and repair shall be the responsibility of the owner.

Section 5.7. Requirements for Building Permits: No builder or developer shall be issued a building permit for new dwelling or structure requiring sanitary facilities within the Town, unless a suitable and approved method of waste disposal has been constructed and is available for service.

ARTICLE 6
USE OF PUBLIC SEWERS

Section 6.1. Unlawful Deposits and Discharges; Use of Public Sewers Required:
A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town, or in any area under the jurisdiction of the Town, any human or animal excrement, garbage or other objectionable waste.
B. It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of the Town, any wastewaters, except where suitable treatment has been provided in accordance with this Ordinance.
C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of domestic sewage.
D. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Town is hereby required, at the owner’s expense, to install suitable plumbing facilities therein, including but not limited to toilets, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line.

Section 6.2. Storm Sewers: Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet, as approved in writing by the Town Manager or his/her designee. All other discharges may be granted only with written approval of the Town Manager or his/her designee.

Section 6.3. General Sewer Use Requirements:

6.3.1 General prohibitions. No discharger or user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements. The provisions of this section shall apply to wastewater originating in the Town of Hampden, which is introduced to the Town’s POTW.

6.3.2. Specific prohibitions. No discharger or user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140° F. (60°C). using the test methods specified in 40 CFR 261.21
(2) Wastewater having a pH less than 5.0 or more than 12.0 or otherwise causing corrosive structural damage to the POTW or equipment. Any pH above 12.5 is considered hazardous under 40 CFR 261.22.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case shall solids greater than three inches or 7.6 centimeters in any dimension be introduced to the POTW.

(4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

(5) Wastewater having a temperature greater than 150° F. (65° C.) or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater which causes the temperature of the treatment plant influent of the POTW to exceed 104° F. (40° C.).

(6) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass-through.

(7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Trucked or hauled pollutants, except at discharge points designated by the Town pursuant to Section 3.6 of this ordinance.

(9) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, is sufficient to create a public nuisance or a hazard to life or prevent entry into the sewers for maintenance or repair.

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's MEPDES permit.

(11) Stormwater, groundwater, roof runoff, subsurface drainage or any water from downspouts, yard drains, fountains and ponds, swimming pool drainage, sump pumps, septic tanks, lawn sprays or geothermal-type heating or cooling systems, unless such drainage from such sources is discharged into drains specifically designated for such purposes by the Town. Industrial cooling water may be discharged only after written approval and to a receptor site designated by the Town. Such industrial cooling water discharges shall comply with the requirements of 38 M.R.S.A. § 413 and be approved by the Pretreatment Coordinator.

(12) Sludges, screenings or other residues or by-products from the pretreatment of industrial wastes.

(13) Wastewater containing any radioactive wastes or isotopes, except as specifically approved by the Town. Such approval shall only be given upon certification by the discharger or user that applicable federal and state regulations concerning such wastewater have been complied with before such a discharge. Radioactive waste includes, but is not limited to, any substance required by the United States Department of Transportation to have Type A or B packaging, pursuant to 49 CFR 173.426.

(14) Medical wastes, except as specifically authorized by the Town in a wastewater discharge permit.

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(16) Fats, oil or greases of animal or vegetable origin or oil and grease and other petroleum or mineral oil products in concentrations greater than 200 mg/l.
(17) Toxic pollutants or any other toxic substances hereinafter determined by the Town not to be amenable to treatment or reduction by the wastewater treatment processes of the Town or which might interfere with the effectiveness of the POTW's processes or which might limit the potential end uses of the POTW's sludges.

(18) Any substance or material prohibited under 40 CFR 403, in particular 403.5(a) and (b). Also any other substance or material the discharge of which results in a violation by the Town of the regulations, now or herein after existing, of any public entity, including the EPA, or results in a violation of the City's MEPDES permit.

(19) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases.

(20) Any garbage except properly shredded garbage.

(21) Any hazardous waste.

6.3.3 Action by Town outflow metering.

(1) If any wastewater or other wastes are discharged or proposed to be discharged to the public sewers, which wastewaters or other wastes contain the substances or possess the characteristics enumerated in this section and which in the judgment of the Town may have a deleterious effect upon the Town's POTW processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Town may:

(a) Reject the wastewater or other wastes;

(b) Require pretreatment to an acceptable condition for discharge to the POTW;

(c) Require control over the quantities and rates of discharge;

(d) Require payment to cover the added cost of handling and treating the wastes; and/or

(e) Take any appropriate enforcement action against an industrial user or user which violates the prohibitions of this section.

(2) If the Town permits the pretreatment or flow equalization of waste flows, the design and installation of the plant and equipment for such pretreatment or flow equalization shall be subject to the review and approval of the Town and subject to the requirements of all applicable Town, state and federal codes, ordinances and laws. The Town's approval, if granted, shall not be deemed to relieve the discharger of its responsibility to comply with its wastewater discharge permit requirements and shall not constitute an acceptance of the adequacy of the pretreatment process equipment selected. Where preliminary treatment or flow-equalizing facilities are provided for any wastewater or other wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(3) Outflow metering.

(a) Whenever the Town has reason to believe that a particular discharger is discharging unmetered flows into the Town's POTW or public sewers in the form of storm runoff, groundwater, roof runoff or subsurface drainage or from any other source listed in Subsection 6.3.2(11) of this section or otherwise and that the volume of such flows, on a percentage basis, exceeds the Town-wide average for such flows, the Town may install, or require the discharger to install, an outflow metering device and may thereafter charge the discharger the Town's cost, if any, of installing the outflow metering device and the Town's cost of treating such flows as provided in the Town's approved schedule of sewer fees. All charges imposed by the Town under this Subsection 6.3.3(3) shall be collected in the same manner as other sewer fees established under 30-A M.R.S.A. § 5405.
(b) Prior to imposing charges under this Subsection, the Town shall give the discharger written notice of a show cause hearing, as provided in Section 6.10.4 of this Ordinance. At the show cause hearing, the discharger shall be afforded an opportunity to show that its discharges into the Town's POTW or public sewers do not include excessive unmetered flows or that such flows were caused by an upset or unavoidable malfunction. For this purpose, the term "unavoidable malfunction" shall be defined as provided in 38 M.R.S.A. § 359, Subsection 9. In the event of excessive unmetered flows caused by an unavoidable malfunction, the Town shall issue an order directing correction of the malfunction within 90 days of the order date. This period may be extended for an additional period of up to 90 days if the malfunction cannot be corrected within the original ninety-day period due to winter weather conditions. If the malfunction remains uncorrected upon expiration of the specified period, the Town shall impose the additional charges provided in this Subsection retroactively to the date of the Town's order.

(c) Imposition of additional charges as provided in this Subsection 6.3.3(3) shall not bar or be a prerequisite for other enforcement action under Sections 6.10, 6.11 or 6.12 of this Ordinance.

6.3.4 Grease, oil and sand interceptors shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, sand or other harmful ingredients, except that such interceptors shall not be required for private residential living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town and shall be located so as to be readily and easily accessible for cleaning and inspection.

6.3.5 No discharger or user shall increase the use of potable or process water, in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this Ordinance. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in a manner that would allow it to be discharged to the POTW.

6.3.6 Federal Categorical Pretreatment Standards. The categorical pretreatment standards found at Title 40 of the Code of Federal Regulations, Chapter I, Subchapter N, Parts 405 through 471, are incorporated herein by reference. These standards must be adhered to by dischargers to, or users of, the POTW.

1) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the Town convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Town. The Town may establish equivalent mass limits only if the industrial user meets all the conditions set forth in Subsection 6.2.6(a) through (c) below.

(a) To be eligible for equivalent mass limits, the industrial user must:

[1] Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

[2] Currently use control and treatment technologies adequate to achieve compliance with the applicable pretreatment standard and not have used dilution as a substitute for treatment;

[3] Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

[4] Not have daily flow rates, production levels, or pollution levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
[5] Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user’s request for equivalent mass limits.

(b) An industrial user subject to equivalent mass limits must:

[1] Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

[2] Continue to record the facility’s flow rates through the use of a continuous flow monitoring device;

[3] Continue to record the facility’s production rates and notify the Town whenever production rates are expected to vary by more than 20% from its baseline production rates determined in Section 6.2.6. Upon notification of a revised production rate, the Town will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

[4] Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to Subsection 6.3.6 (1)(a)[1] so long as it discharges under an equivalent mass limit.

(c) When developing equivalent mass limit, the Town:

[1] Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

[2] Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

[3] May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the industrial user’s actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 6.3.5. The industrial user must also be in compliance Section 6.13.3 regarding the prohibition of bypass.

(2) Once included in its permit, the industrial user must comply with the equivalent limitations developed as per this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(3) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Town within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Town of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

6.3.7. Local limits.
(1) Limits for certain pollutants will be established to protect against pass-through or interference. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limits as identified on the user’s wastewater discharge permit. All discharge local limits shall be technically based and approved by the DEP.
(2) Local limits may be set for the following pollutants: arsenic, barium, cadmium, chromium, copper, cyanide, lead, mercury, nickel, fats, oils or other greases of animal or vegetable origin or oil and grease and other petroleum or mineral oil products, silver, TTO and zinc. This list may be amended or local limits may be developed for any other pollutants deemed appropriate, including pollutants that can cause pass-through, interference, worker health and safety problems, fume toxicity, etc. The Town will provide advanced written notice of new local limits to users prior to initiating enforcement actions.

(3) The discharge local limits must be met at the point where the user's wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless otherwise indicated on the wastewater discharge permit. The Town may impose mass limitations in addition to or in place of concentration-based limitations.

(4) The Town may develop best management practices (BMPs) and mass-based limits by ordinance or in individual wastewater discharge permits, to implement local limits and any other general discharge prohibitions as regulated in Section 6.2.

6.3.8. Town's right of revision. The Town reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

6.3.9. Special agreement. The Town reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. A user may also request a variance from the categorical pretreatment standard from the approval authority. Such a request will be approved only if the user can prove that the factors relating to its discharge are fundamentally different from the factors considered by the EPA when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13. The Town is authorized to set appropriate fees or other charges for such agreements.

6.3.10. Pretreatment facilities. Users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in this Ordinance within the time limitations specified by the EPA, the state or the Town, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the Town shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review and shall be approved by the Town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the Town's POTW under the provisions of this Ordinance.

6.3.11. Accidental discharge/slug control plans. The Town may require any user to develop and implement an accidental discharge/slug control plan. At least once every two years the Town shall evaluate whether each significant industrial user needs such a plan. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

(1) Description of discharge practices, including non routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in this section of this Ordinance; and
(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

Section 6.4. Wastewater Surveys.

6.4.1. It shall be unlawful to discharge wastewater to any public or private sewer within the Town of Hampden where such discharged wastewater reaches the Town's POTW without having first complied with the provisions of this Ordinance.

6.4.2. When requested by the Town, all users must complete a wastewater survey form, on a form supplied by the Town, which contains information on the nature and characteristics of their wastewater. This form must be submitted to the Town prior to discharge of the user's wastewater into the Town's POTW. The Town is authorized to prepare a form for this purpose and may periodically require users to update the survey. Failure to complete this wastewater survey form shall be reasonable grounds for terminating service to the user and shall be considered a violation of this Ordinance. Existing industrial dischargers shall file wastewater survey forms within 30 days after being notified by the Town and proposed new dischargers shall file such forms at least 90 days prior to connecting to the POTW. The information to be supplied to the Town by the user shall include, but not be limited to, the following information:

(1) The name, address and location of the user and the number of employees.

(2) The SIC of the user.

(3) The known or suspected to be present wastewater constituents and characteristics, including but not limited to those mentioned in this Ordinance. Any sampling and analysis that is required by the Town shall be performed in accordance with standard methods and/or those contained in 40 CFR 136. The costs of all such sampling, analysis and reporting shall be fully borne by the user.

(4) The time and duration of discharges.

(5) The average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be as actually measured unless other verifiable techniques are approved by the Town due to cost or non-feasibility.

(6) The site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation adjacent to or at the user's premises.

(7) The activities, facilities and plant process on the premises, including all materials which are or may be discharged to the POTW.

(8) The nature and concentration of any known or suspected pollutants or materials prohibited by this Ordinance from being included in the discharge, together with a statement regarding whether or not compliance is being achieved with this Ordinance on a consistent basis and, if not, whether additional O&M activities and/or additional pretreatment is required for the user to comply with this Ordinance.

(9) The identification of each product produced by the user by type, amount, process or processes and rate of production.

(10) The type and amount of raw materials utilized, average and maximum per day, by the user.
6.4.3. All disclosure forms and any periodic reports submitted by a user shall be signed by the principal executive officer of the user and shall contain the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

6.4.4. The Town will evaluate the completed wastewater survey forms and material safety data sheets furnished by the user and may require the user to furnish additional information. The user shall provide all requested additional information within 15 days after receiving notification from the Town that additional information is required. After full evaluation and acceptance of all submitted data, the Town shall make the determination as to whether the user is subject to EPA pretreatment requirements. If the Town determines that the user is subject to EPA pretreatment requirements, the Town shall require the user to apply for a wastewater discharge permit as required by Section 6.5 of this Ordinance. The user shall make application for a wastewater discharge permit, on a form provided by the Town, within 30 days after having received notification from the Town to do so. The user shall provide, with the permit application, at the user's own expense, the results of all sampling and analysis of the user's wastewater effluent as the Town may be required to accompany the permit application. If so requested by the Town, the user shall collect all required samples in the presence of the Town.

Section 6.5. Wastewater Discharge Permits.

6.5.1. Every new or existing user of the Town's POTW or wastewater plant which is determined to be a categorical user or significant industrial user as defined in Section 1.1 of this Ordinance, is required to obtain a wastewater discharge permit from the Town.

6.5.2. The Town may prescribe special license, disclosure and reporting requirements for nonindustrial users of high-strength conventional waste distinct from the requirements imposed on industrial users under this section. Such requirements shall not be more burdensome than the requirements imposed on industrial users by this section.

6.5.3. Wastewater discharge permits shall be subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the Town. The conditions of wastewater discharge permits shall be enforced in accordance with this Ordinance and applicable state and federal regulations.

6.5.4. Wastewater discharge permits may impose effluent restrictions or limits on the user if the Town determines that such limits are necessary to protect the quality of the treatment plant influent, effluent or sludge or to maintain compliance with any applicable federal or state law, including requirements under the Town's NPDES permit and national categorical pretreatment standards for new and existing sources set out in Title 40 of the Code of Federal Regulations, Chapter I, Subchapter N, Parts 401 through 471.

6.5.5. The Town will evaluate the data furnished by the user and may require additional information to complete the user's wastewater discharge permit application. Within 14 days of receipt of a complete wastewater discharge permit application, the Town will determine whether a wastewater discharge permit is required and, if so, whether a wastewater discharge permit should be issued. The Town may deny any application for a wastewater discharge permit. The Town shall notify the user, in writing, of the decision on the wastewater discharge permit application.

6.5.6. Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. Each wastewater discharge permit shall indicate a specific date upon which it will expire.
6.5.7. Wastewater discharge permits are issued to a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner or a new user, different premises or a new or changed operation. To facilitate the issuance of new, separate permits, the Town may allow new owners or individuals to operate under an existing wastewater discharge permit for a period not to exceed 90 days.

6.5.8. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Town to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits shall contain the following conditions:

(a) A statement that indicates the wastewater discharge permit duration.

(b) A statement that indicates that the wastewater discharge permit is nontransferable pursuant to Section 6.5.7 of this section and a provision requiring any new owner or operator to be furnished with a copy of the existing wastewater discharge permit by the prior user.

(c) Pretreatment standards and effluent limits based on the general and specific prohibited discharge standards, categorical pretreatment standards, local limits, including best management practices and mass-based limitations, and all applicable law.

(d) Self-monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include a sampling frequency and sample type based on federal, state and local law.

(e) A statement of applicable penalties for violation of pretreatment standards and requirements and any required compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state or local law.

(f) Other specific conditions the Town deems necessary to ensure compliance with this Ordinance and federal and state regulations and statutes.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and flow equalization.

(b) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass or other measure of identified wastewater pollutants or properties.

(c) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices, any of which would be designed to reduce, eliminate or prevent the introduction of pollutants into the POTW.

(d) Requirements for the development and implementation of spill and/or slug control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or routine discharge.

(e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW by the user.

(f) The unit charge or schedule of user charges and fees for the management of the user's wastewater discharged to the POTW.
(g) Requirements for the installation and maintenance of inspection and sampling facilities and equipment.

(h) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(i) Identification by the user of the location of the user's outfall to the POTW.

(j) Other specific conditions the Town deems necessary to ensure compliance with this Ordinance and federal and state regulations and statutes.

6.5.9. Any aggrieved person, including the user, may file a petition with the Town, in writing, to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit application within 15 days of the permit's issuance or notification of the Town's denial.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of any administrative appeal.

(2) In its petition, the petitioner must indicate the wastewater discharge permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit. A petitioner seeking review of a permit denial must specifically allege reasons why a permit should be issued, along with conditions of issuance that the petitioner believes should satisfy any concerns the Town may have about the suitability of the user's wastewater for discharge to the Town's POTW.

(3) The requirements or conditions of any wastewater discharge permit shall not be stayed by the Town pending the outcome of the administrative appeal.

(4) Upon receipt of the petition, the Town may act to grant the petitioner's request. Said action must take place within 14 days of receipt of the petition. If the Town refuses to grant the petitioner's request, however, the Town Manager shall notify, in writing, the Town Council.

(a) The Town Council shall schedule an administrative hearing, which shall be recorded within 30 days of notification by the Town Manager or as soon thereafter as may be arranged. The Town Council shall conduct the hearing so as to develop an adequate administrative record, and the Town Council may choose to limit the asking of questions to the members of the Town Council only. The petitioner will bear the burden of proof at the hearing and will present its case first.

(b) The Town Council shall issue its decision, in writing, within 45 days of the hearing. The Town Council's decision must be guided by the provisions of this Ordinance. Failure by the Town Council to issue a decision within that time period shall constitute a denial of the administrative appeal; however, the record of the administrative hearing, including any exhibits, shall be made a part of any further judicial reviews. Town Council decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, not to modify a wastewater discharge permit or to issue a modified wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Parties seeking judicial review of the final administrative action must do so by filing a complaint with the Penobscot County Superior Court pursuant to Maine Rules of Civil Procedure 80B.

6.5.10. Modifications.
(1) The Town may modify at any time the wastewater discharge permit for good cause, including but not limited to the following:
(a) To incorporate any new or revised federal, state or local pretreatment standards or requirements.

(b) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the issuance of the wastewater discharge permit.

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(d) Information is received by the Town indicating that the permitted discharge poses a threat to the Town's POTW, Town personnel or the receiving waters.

(e) Violation of any terms or conditions of the wastewater discharge permit.

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater survey form, wastewater discharge permit application or in any other required reporting.

(g) Revision of, or a grant of a variance from, categorical pretreatment standards pursuant to 40 CFR 403.13.

(h) To correct typographical or other errors or omissions in the wastewater discharge permit.

(2) Challenges to any such modifications can be made pursuant to the provisions of Subsection I of this section.

6.5.11. Any user which violates any condition of its permit or of this Ordinance or of applicable state and federal statutes and regulations may have its permit revoked by the Town. Violations subjecting a user to possible revocation of its permit include, but are not limited to, the following:

(1) Failure of a user to accurately report the wastewater constituents and characteristics of its discharge.

(2) Failure of a user to report significant changes in operations or its wastewater constituents and characteristics.

(3) Refusal of reasonable access by the Town to the user's premises during regular business hours for the purpose of inspection or monitoring.

(4) Violations of the conditions of the permit.

(5) Failure to provide advance notice of the transfer of the ownership of a permitted user.

(6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application, any required wastewater surveys or other required reporting.

(7) Falsifying monitoring reports or tampering with monitoring equipment.

(8) Failure to pay surcharges, user fees, permit fees, fines or other required payments.

(9) Failure to meet the requirements of a compliance schedule.

6.5.12. Compliance schedules.
(1) Where additional pretreatment and/or O&M activities will be required to comply with this Ordinance, the user shall provide a declaration of the shortest schedule by which the user will provide such additional pretreatment and/or implementation of additional O&M activities.

(2) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to comply with the requirements of this Ordinance, including but not limited to dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction and all other acts necessary to achieve compliance with this Ordinance.

(3) Under no circumstances shall the Town permit a time increment for any single step directed toward compliance which exceeds nine months.

(4) No later than 14 days following each milestone date in the schedule and the final date for compliance, the user shall submit a progress report to the Town, including, at a minimum, a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the approved schedule. In no event shall more than none months elapse between such progress reports to the Town.

Section 6.6. Reporting Requirements:
6.6.1. Baseline monitoring reports.
(1) Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Town a report which contains the information listed in Subsection 6.5.1(2) below. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the Town a report which contains the information listed in Subsection 6.5.1(2) below. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(2) Users described in Subsection 6.6.1(1) above shall submit the information set forth below:

(a) The name and address of the facility, including the name of the operator and owner.

(b) A list of any environmental control permits held by or for the facility.

(c) A brief description of the nature, average rate of production and SIC of the operations carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(d) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

(e) Categorical pretreatment standards; sampling results.

[1] The categorical pretreatment standards applicable to each regulated process.

[2] The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Town, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations
or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with the provisions of Sections 6.6.9 and 6.6.10 of this section.

(f) A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional O&M and/or pretreatment is required to meet the pretreatment standards and requirements.

(g) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.5.12 of this Ordinance.

(h) All baseline monitoring reports must be signed and certified in accordance with Section 6.4.3 of this Ordinance.

6.6.2. Compliance schedule progress report. The requirements imposed by Section 6.5.12 of this Ordinance shall apply to the compliance schedule required by Subsection 6.6.1(2)(g) of this section.

6.6.3. Report on compliance with categorical pretreatment standard deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Town a report containing the information described in Subsection 6.6(2)(d) through (f) of this section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.4.3 of this Ordinance.

6.6.4. Periodic compliance reports.

(1) All significant industrial users shall, at a frequency determined by the Town, but in no case less than twice per year in June and December, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Town or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with Section 6.4.3 of this Ordinance.

(2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW, using the analytical requirements and sampling procedures prescribed in Sections 6.6.9 and 6.6.10 of this section, the results of this monitoring shall be included in the report.

6.6.5. Report of changed conditions. Each user must notify the Town of any planned significant changes to the user's operations or process systems which might alter the nature, quality or volume of its wastewater at least 60 days before the change.
(1) The Town may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 6.5 of this Ordinance.

(2) The Town may issue a wastewater discharge permit under Section 6.5 of this Ordinance or modify an existing wastewater discharge permit under Section 6.5.10 of this Ordinance in response to changed conditions or anticipated changed conditions.

(3) No user shall implement the planned changed conditions until and unless the Town has responded, in writing, to the user's notice.

(4) For purposes of this subsection, significant changes include, but are not limited to, flow increases of 10% or greater and the discharge of any previously unreported pollutants.

6.6.6. Reports of potential problems.
(1) In the case of any discharge, including but not limited to hazardous waste discharges, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge or a slug load that may cause potential problems for the POTW, the user shall immediately notify the Town of the incident by telephone, email or other reliable means. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five days following such a discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or other damage to person or property, nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Subsection 6.5.6(1) above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(4) Significant industrial users are required to notify the Town immediately of any changes at their facility affecting the potential for a slug discharge.

6.6.7. Notification of the discharge of hazardous waste. In addition to all other requirements of this Ordinance, any user which discharges hazardous waste into the POTW shall notify the POTW, the EPA Regional Waste Management Division Director and Maine hazardous waste authorities, in writing, within five days of the discharge, of any such discharge. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, the type of discharge (continuous, batch or other) and the user's plan to avoid future discharges of the same or other hazardous waste. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or other damage to person or property, nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

6.6.8. Notice of violation/repeat sampling and reporting. If sampling performed by a user or the POTW indicates a violation, the user must notify the Town within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Town within 30 days after becoming aware of the violation. The user is not required to resample if the POTW monitors at the user's facility at least once a month or if the POTW samples between the user's initial sampling and when the user receives the results of this sampling.
6.6.9. Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or a report required by this Ordinance shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with appropriate procedures approved by the EPA.

6.6.10. Sample collection.
(1) Except as indicated in Subsection 6.6.10(2) below, the user must collect wastewater samples using twenty-four-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Town. Where time-proportional composite sampling or grab sampling is authorized by the Town, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Town, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides and volatile organic chemicals must be obtained using grab sample collection techniques.

(3) For sampling required in support of baseline monitoring and ninety-day compliance reports required in Sections 6.6.1 and 6.6.3 of this section and 40 CFR 403.12(b) and (d), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical data are available, the Town may authorize a lower minimum. For the reports required by Section 6.6.4 of this section and 40 CFR 403.12(e) and 403.12(h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

6.6.11. Determination of noncompliance. The Town will use appropriate sampling to determine noncompliance with pretreatment standards, including the use of standard methods.

6.6.12. Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall control.

6.6.13. Recordkeeping. Users subject to the reporting requirements of this Ordinance shall retain and make available for inspection and copying all records or information obtained pursuant to any monitoring activities, including documentation associated with BMPs, required by this Ordinance and any additional records or information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include, but not be limited to, the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall be retained by the user for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the POTW or where the user has been specifically notified of a longer retention period by the Town.

6.6.14. State requirements. State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such requirements and limitations; provided, however, that such requirements and limitations are more stringent than the provisions of this Ordinance or federal law requirements or limitations.
6.6.15. Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Town upon the request of the Town.

6.6.16. Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with Section 6.4.4, users submitting baseline monitoring reports under Section 6.6.1, users submitting reports on compliance with the categorical pretreatment standard deadlines under Section 6.6.3, and users submitting periodic compliance reports required by Section 6.6.4. The following certification statement must be signed by an authorized representative as defined in Section 1.1:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Section 6.7. Compliance Monitoring; Right of Entry.
6.6.1. Inspection and sampling. The Town/City shall have the right to enter the facilities of any user to ascertain whether the purpose of this Ordinance, and any permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. All users shall allow the Town ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying and the performance of any additional duties as the Town Manager deems necessary.

(1) Each user shall provide and operate, at its own expense, a monitoring facility to allow inspection, sampling and flow measurement of the user's wastewater discharge to the POTW.

(2) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Town will be permitted to enter without delay for the purposes of performing specific responsibilities, such as compliance monitoring.

(3) The Town shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. The user shall bear the costs of such setup or installation.

(4) The Town shall require the user to install monitoring equipment as the Town deems necessary. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly (four times per year) to ensure their accuracy.

(5) Any temporary or permanent obstruction to the safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Town and the obstruction shall not be replaced. The costs of clearing such access shall be borne by the user.

(6) Unreasonable delays in allowing the Town access to the user's premises shall be a violation of this Ordinance.

(7) In the event that the user is in or has previously been in noncompliance with this Ordinance or with the user's wastewater discharge permit, the user shall be required to pay the full cost of all additional sampling and analysis that the Town may conduct to determine the user's compliance with this Ordinance.
(8) All monitoring facilities shall be constructed and maintained in accordance with all applicable construction codes, standards or specifications. Construction, if required, shall be completed within 120 days of receipt of the wastewater discharge permit by the user.

6.7.2. Administrative inspection warrants. If the Town has been refused access to any building, structure or property, or any part thereof, for the purpose of inspecting, sampling or otherwise monitoring compliance with this Ordinance, the Town shall seek to secure an administrative inspection warrant pursuant to Maine Rules of Civil Procedure 80E. The warrant, if issued by the District Court, shall be executed pursuant to Maine Rules of Civil Procedure 80E, and the Town shall be accompanied by a uniformed Town police officer during said execution.

Section 6.8. Confidential Information.
Information and data on a user obtained from reports, surveys, wastewater discharge permit and monitoring programs and from the Town's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the user under applicable state law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose such confidential information shall not be made available for inspection by the public but shall be made available immediately upon request to state and federal governmental agencies for uses related to the MEPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302, will not be recognized as confidential information and will be available to the public without restriction.

Section 6.9. Publication of Users in Significant Noncompliance.
The Town shall publish annually, in a newspaper of general circulation that provides a meaningful public notice within the jurisdiction served by the POTW, a list of the users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" as defined in Section 1.1 shall be applicable to all significant industrial users (or any other industrial user) as defined in Section 1.1 of this Ordinance.

Section 6.10 Administrative Enforcement Remedies.
6.10.1. At the time of enactment of this Ordinance, the Town will have developed an enforcement response plan (ERP) which outlines the Town's general procedure for the enforcement of this Ordinance. The ERP shall be initially adopted by Town Council order and may be subsequently amended by order. The Town will follow the ERP to the greatest extent possible when contemplating compliance with and enforcement of this Ordinance; however, nothing in the ERP or this Ordinance will preclude or otherwise limit the Town from taking any action, including emergency actions or other enforcement actions, prior to undertaking any initial enforcement procedure in the ERP, including issuance of a notice of violation (NOV).

6.10.2. Notice of violation (NOV). When the Town finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town may serve upon that user a written NOV. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which must include specific required actions, shall be submitted by the user to the Town. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

6.10.3. Consent orders. The Town may enter into consent orders, assurances of voluntary compliance or other documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 6.10.5 and 6.10.6 of this section and shall include language which make them judicially enforceable. Such orders may require the payment of administrative fines pursuant to Section 6.10.7 of this section.
6.10.4. Show cause hearing. The Town may order a user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement to appear before the Town and show cause why the proposed enforcement should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally by the Town or by registered or certified mail, return receipt requested, at least 14 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. Failure to appear for a show cause hearing may be grounds for revocation of the user's wastewater discharge permit and disconnection from or termination of discharge to the POTW.

6.10.5. Compliance orders. When the Town finds that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town may issue an order to the user responsible for the discharge directing that the user comes into compliance within 30 days. If the user does not come into compliance within 30 days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.10.6. Cease and desist orders.
(1) When the Town determines that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the Town may issue an order to the user directing it to cease and desist any such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge to the POTW.

(2) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.10.7. Administrative fines.
(1) When the Town finds that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, including a user’s failure to obtain a wastewater discharge permit pursuant to Section 6.5 of this Ordinance, the Town may fine such user in an amount not to exceed $2,500 per day. Each day of violation shall constitute a separate offense subject to fine. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In the case of failure to obtain a required wastewater discharge permit, the fine shall accrue on a daily basis commencing on the day the user first was notified or became aware of the need for such a permit. The Town may add the costs of preparing administrative enforcement actions, such as notices and orders, to any fine assessed.

(2) Any and all unpaid charges, fines and penalties under this Ordinance shall, after 30 calendar days from the due date, be assessed an additional penalty of 12% of the unpaid balance, and interest shall accrue thereafter at a rate of 1% per month. A lien against the user's property may be sought for unpaid charges, fines and penalties as allowed under state law.
(3) Users desiring to dispute such fines must file a written request for the Town to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. The Town shall convene an administrative hearing on the matter and conduct said hearing in accordance with the procedures delineated in Section 6.5.9 of this Ordinance. Failure to file a timely request for an administrative hearing constitutes a waiver of any administrative appeal. The decision of the Town Council conducting the administrative hearing, including a decision to not reduce the fine, shall be final, and any appeal must follow the requirements of Maine Rules of Civil Procedure 80B. In the event that the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.

(4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.10.8. Emergency suspensions. The Town may immediately suspend a user's discharge either with or without written or verbal notice to the user whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of the public. The Town may also immediately suspend a user's discharge, either with or without written or verbal notice, that threatens to interfere with the operation of the POTW or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge to the POTW. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary, including immediate severance of the connection to the POTW, to prevent or minimize damage to the POTW, its receiving waters or endangerment to any persons. The Town shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town that the period of endangerment has passed, unless the termination proceedings in Section 6.10.9 of this section are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Town describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Said report must be submitted as least seven days prior to the date of any show cause or termination hearing held pursuant to Sections 6.10.4 and 6.10.9 of this section.

(3) Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this subsection.

6.10.9. Termination of discharge.
(1) In addition to the provisions in Section 6.5.11 of this Ordinance, any user that violates the following conditions is subject to termination of the user's discharge to the POTW:

(a) Violation of wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of the user's discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

(e) Violation of the pretreatment standards in Section 6.3 of this Ordinance.
(2) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause pursuant to Section 6.10.4 of this section why the proposed action should not be taken. Additionally, the user may request an administrative hearing, in writing, within 30 days of the decision of the show cause hearing. The hearing shall be conducted in accordance with the procedures delineated in Subsection 6.10.7(3) of this section. Exercise of this option by the Town shall not be a bar to, or a prerequisite for, taking any other action against the user.

Section 6.11. Judicial Enforcement Remedies.

6.11.1. Injunctive relief. When the Town determines that a user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town may request that the Town Attorney seek appropriate injunctive relief pursuant to the laws of this state which restrains or compels the specific performance of the conditions of the wastewater discharge permit, order or other requirements imposed by this Ordinance on activities of the user. The Town may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. The decision whether to seek injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

6.11.2. Civil penalties and criminal referral.

(1) Any person who violates the provisions of this Ordinance shall be subject to civil penalties pursuant to 30-A M.R.S.A. § 4452, as well as applicable civil or criminal penalties pursuant to 38 M.R.S.A. §§ 349 and 1319-T. The penalties in those statutes shall be in addition to the specific penalties in this Ordinance.

(2) A user which has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or other permit issued hereunder or any other pretreatment standard or requirement shall be required to pay a fine of not less than $1,000 per day and not more than $2,500 per day for each and every day of a violation for a first offense. These fines shall increase to a minimum of $2,500 per day and a maximum of $25,000 per day for a second offense of the same or a similar nature occurring within two years of the first offense. Each day of violation shall constitute a separate offense subject to fine. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(3) Pursuant to 30-A M.R.S.A. § 4452 and Maine Rules of Civil Procedure 80K, the Town may seek reasonable attorney fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town.

(4) In determining the amount of civil liability, the court shall be asked to take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions undertaken by the user, the compliance history of the user and any other factor as justice requires.

(5) No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment or other part of, or otherwise harm, the POTW. Penalties for violations of this provision of this Ordinance shall be a minimum fine of $1,000 for the first offense. A second offense committed within five years shall be punished by a minimum fine of $10,000. These penalties are in addition to any penalties associated with other civil or criminal provisions of state and federal law which said person may be subject to for such action.

6.11.3. Filing a suit for civil penalties or making a criminal referral shall not be a bar against, or a prerequisite for, taking any other action against a user.

6.11.4. The Town reserves the right to make appropriate referrals for criminal prosecution pursuant to the provisions of 38 M.R.S.A. §§ 349 and 1319-T, as well as any other applicable federal or state law.
Additionally, enforcement of this Ordinance shall not preclude criminal prosecution for other violations of state or federal law, and the Town will cooperate in any such prosecutions.

**6.11.5.** The provisions of Sections 6.10 and 6.11 of this Ordinance are not exclusive remedies. The Town reserves the right to take any and all enforcement actions or combinations thereof against a noncompliant user.

**Section 6.12. Supplemental Enforcement Action.**

**6.12.1.** Performance bonds. The Town may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement unless such user first files a satisfactory bond with the Town, payable to the Town, in a sum not to exceed a value determined by the Town to be necessary to achieve consistent compliance with this Ordinance.

**6.12.2.** Liability insurance. The Town may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit or order issued hereunder or any pretreatment standard or requirement unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge, which shall include naming the Town as an additional insured.

**6.12.3.** Water supply severance. Whenever a user violates or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town will work with the Water District to sever water service to the user under district regulations, if applicable. Service will only recommence at the user’s expense, after the user has satisfactorily demonstrated its ability to comply with this Ordinance.

**Section 6.13. Affirmative Defenses to Discharge Violations.**

**6.13.1.** Upset.

(1) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection 6.13.1(2) below are met.

(2) A user which wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

(a) An upset occurred and the user can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable O&M procedures; and

(c) The user has submitted the following information to the Town within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.

[1] A description of the indirect discharge and cause of noncompliance;

[2] The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time period the noncompliance is expected to continue; and

[3] Steps being taken and/or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
(3) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

6.13.2 Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 6.3.1 of this Ordinance or the specific prohibitions in Subsection 6.3.2(3) through (18) and (20) of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or

2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town was regularly in compliance with its NPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.


(1) For the purposes of this Ordinance, the following terms shall have the meanings indicated:

BYPASS - The intentional diversion of waste streams from any portion of a user's treatment facility.

SEVERE PROPERTY DAMAGE - Any substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Subsections 6.13.3(3) and 6.13.3(4).

(3) Notice.

(a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Town at least 10 days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the Town of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Town may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) Enforcement action.

(a) Bypass is prohibited, and the Town may take an enforcement action against a user for a bypass, unless:
[1] Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

[2] There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and


(b) The Town may approve an anticipated bypass, after considering the adverse effects, if the Town determines that it will meet the three conditions listed in Subsection 6.13.3(4)(a).

ARTICLE 7
PROTECTION FROM DAMAGE

Section 7.1. Tampering with Town's Publicly Owned Works: No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of or will affect operation of the Town’s POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct, and shall be subject to any of the penalty provisions of this Ordinance or State law.

Section 7.2. Contractor’s Liability Insurance: A contractor must present a certificate showing proof of liability insurance before a permit will be issued for construction of building sewers, sewer extensions, or disposal of private sewage.

ARTICLE 8
TOWN OF HAMPDEN
INDUSTRIAL/COMMERCIAL ENFORCEMENT RESPONSE

Section 8.1. Purpose:
The purpose of this plan is to document a well defined, legally defensible sequence of steps to be followed when dealing with industrial users who are out of compliance with the Town of Hampden’s Industrial Pretreatment Program and Sewer Ordinance. These formal enforcement actions will help to resolve any confusion between the Town and its Industrial Users as to consequences of one-time, repeated or continuing non-compliance and are intended to ensure equitable treatment of Industrial Users.

EPA regulations require the Town to take specific enforcement action against Industrial Users found to be in Significant Non-Compliance with the pretreatment requirements of this Ordinance. This Enforcement Response Plan defines the conditions under which the Town must cite a User for Significant Non-Compliance and lists appropriate enforcement measures to remedy such situations.

EPA guidelines also require that the selected enforcement response be appropriate to the extent of the Pretreatment Program violation. While a telephone call to the Industry might be appropriate for a late submission, a more severe response is needed for a more serious violation which, for example, might result in an upset of the Wastewater Treatment Plant caused by an Industrial discharge. This EPA guideline based Enforcement Response Plan will consider the Following criteria when assessing the appropriateness of a particular response:

A). Magnitude of the violation;
B). Duration of the violation;
C). Effect of the violation on the receiving water;
D). Effect of the violation on the Treatment Plant
E). Compliance history of the Industrial User;
F). Good faith efforts on the part of the Industrial User; and
G). Degree of the Industrial User’s responsibility for the violation.
8.2 Significant Non-Compliance:

EPA requires the Town to identify Industrial Users that are in Significant Non-Compliance (SNC) with the requirements of the federally mandated Pretreatment Program regulations. Users found to be in SNC are subject to enforcement action by the Town, and to public notification of the violation(s) once per year in the newspaper. Federal regulations define Significant Non-Compliance as violations which meet at least one of the following criteria:

8.2.1. Chronic Violations- Sixty six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six month period exceed by any magnitude a numeric Pretreatment Standard or Requirement including Instantaneous Limits as defined in Section 1.1 of the Sewer Ordinance.

8.2.2. Technical Review Criteria (TRC) Violations- Thirty three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined in Section 1.1 of the Sewer Ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).

8.2.3. Any other violation of a Pretreatment Standard or Requirement as defined by Sec. 1.1 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Town or Pretreatment Coordinator determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public as defined by Section. 1.1 of the Sewer Ordinance.

8.2.4. Any discharge of a pollutant that caused imminent danger to human health, including the health of the Town's or City's POTW personnel, or to the environment or has required an exercise of the Town's emergency authority to halt the discharge under 40 CFR 403.8(f)(2)(vi)(B).

8.2.5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

8.2.6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance schedules.

8.2.7. Failure to accurately report any non-compliance with permit requirements.

8.2.8. Any other violation or group of violations, which may include a violation of Best Management Practices, which the Town determines will adversely affect the operation or implementation of the Town's pretreatment program.

8.3 Selection of Enforcement Responses:

Table 1 attached to this Ordinance represents an Enforcement Response Guide based on EPA recommended response measures for varying degrees of permit violations. The Guide will be used by the Town to determine appropriate measures in the event of a violation of the Town's Pretreatment Program and/or Sewer Ordinance. Selection of appropriate enforcement response will be based on the following steps:

8.3.1. The Town will locate the type of non-compliance in the first column (1) of the Response Guide.
8.3.2. Using column two (2), the Town will identify the most accurate description of the nature of the violation.

8.3.3. The Town will assess the appropriateness of the recommended responses in column three (3). First time offenders, or those demonstrating “good faith” progress may merit a more lenient response. Similarly, repeat or frequent offenders or those demonstrating negligence may require a more stringent response. Furthermore, the Town will judge the violation by seven (7) additional criteria:

1. Magnitude- Generally, an isolated instance of non-compliance can be addressed with an informal response or Notice of Violation (NOV). However, since even an isolated violation could threaten human health and/or the environment, the Treatment Plant, damage public and private property, or threaten the integrity of the Town’s or Bangor’s Pretreatment Program (i.e., falsifying a self-monitoring report) all instances of Significant Non-Compliance will be responded to with an Administrative Order (AO) which requires a return to compliance by a specific deadline.

2. Duration- Violations, regardless of severity, which continue over prolonged periods of time will subject the violator to escalated enforcement actions. Minor violations which are chronic in nature are one form of Significant Non-Compliance and will be dealt with through the use of AOs.

3. Effects to the Receiving Water- Any violation which causes environmental harm will be met at a minimum with an AO and a fine. Environmental harm will be presumed whenever an industrial discharge:
   a). Passes through the Treatment Plant;
   b). Is directly responsible for causing a violation of the Town of Hampden NPDES/MEPDES permit, including its’ water quality standards; or
   c). Has a toxic effect upon the receiving waters, such as fish kill.

In addition, the response will be designed to recover any NPDES/MEPDES fines paid by the Town, which are the result of the industry’s discharge violation.

4. Effects on the POTW- Any violation having a negative impact on the Treatment Plant and/or Collection System (such as increased treatment costs, harm to personnel or equipment, pipe corrosion, etc.), which hinders the operation of the Treatment Plant or Collections System; and/or which contaminates the Treatment Plant’s sludge, thereby reducing sludge disposal options, will be met with a fine of civil penalty as well as the recovery of additional costs and expenses involved.

5. Compliance History of the User- A pattern of recurring violations of any program requirements may indicate either that the user’s treatment system is inadequate or that the user has taken a lackadaisical approach to operating and maintaining its’ treatment system. These indications should alert the Town to the likelihood of future Significant Non-Compliance. Accordingly, stronger enforcement responses should be applied against users exhibiting consistent compliance problems than against those with only an occasional problem.

6. “Good Faith” of the User- Generally, a users’ demonstrated willingness to comply should predispose the Town to select one of the less stringent enforcement actions specified, provided the violation has not caused serious Treatment Plant upset or resulted in environmental damage. However, good faith does not eliminate the necessity of enforcement action, and compliance with previous enforcement orders should not necessarily be considered good faith.
(7). Responsibility of the User- Although Industrial Users should always be held accountable for their violations, some consideration should be given to whether the violation was the result of an unforeseeable accident, was preventable or was intentional on the part of the User. This will affect the enforcement response selection by the Town from the range of responses provided.

8.3.4. Column four (4) designates personnel responsible for the action.

8.3.5. The Town will document, in writing to the User, the rationale for selecting the particular enforcement response applied.

8.3.6. The Town will apply the enforcement response to the violator. The Town will specify the corrective action or other response required by the User, including response time limits.

8.3.7. The Town will document any Users' responses and the resolution of non-compliance.

8.3.8 The Town will follow up with escalated enforcement action if a Users' response is not received within thirty (30) days or sooner if appropriate or severe violations continue.

8.3.9 The Town normally will issue an NOV to the violator as a first step in enforcement proceedings. However, the Town may elect to by-pass this procedure in favor of an AO when it appears that the violation requires immediate remedial action.

Section 8.4 – Enforcement Response Plan Definitions:

AO Administrative Order

Civil Litigation Civil litigation against the User, seeking equitable relief, monetary penalties, and actual damages.

Criminal Prosecution Pursuing punitive measures against an individual and/or organization through a court of law.

Fine Monetary penalty assessed by the Town.

IU Industrial User of the POTW.

MeetingInformal meeting with the User to resolve non-compliance.

NOV Notice of Violation of the City of Bangor’s Industrial Pretreatment Program and/or the Sewer Use Ordinance.

NPDES National Pollutant Discharge Elimination System.

PC Pretreatment Coordinator of the City of Bangor.

POTW Publicly Owned Treatment Works

S Superintendent for the City of Bangor WWTP.

Show Cause Hearing Formal meeting requiring the User to attend and demonstrate why the Town should not take proposed enforcement action. The meeting may also serve as a forum to discuss corrective actions and corrective actions.

SV Significant Violation of the City of Bangor’s Industrial Pretreatment
Program and/or Sewer Use Ordinance.
### SECTION 8.5

**SELECTION OF ENFORCEMENT RESPONSES:**

**TABLE 1**

<table>
<thead>
<tr>
<th>NON-COMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>INITIAL RESPONSE: FOLLOW UP</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. ILLEGAL DISCHARGE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Unpermitted discharge (no permit)</td>
<td>Discharger unaware of permit requirement; no harm to POTW or to the environment.</td>
<td>NOV and application, or AO issued within 14 days of identifying the violation; requires a permit application within 30 days and the results of wastewater analysis within 60 days; proposed fine of $300-$500.</td>
<td>PC</td>
</tr>
<tr>
<td></td>
<td></td>
<td>AO issued as soon as possible, but in any case within 5 days to immediately halt discharge. Fine or civil litigation seeking penalties of $1000 to $2500 per day. Terminate service.</td>
<td>PC S</td>
</tr>
<tr>
<td>2) Non-permitted discharge (expired permit)</td>
<td>Failure to apply for permit renewal. No damage to POTW or environment.</td>
<td>Telephone call and NOV issued within 5 days of detection.</td>
<td>PC</td>
</tr>
<tr>
<td></td>
<td>Results in violation of POTW NPDES permit, or dangerous situation- SNC</td>
<td>AO issued as soon as possible, but in any case within 5 days to immediately halt discharge. Fine or civil litigation seeking penalties of $1000 to $2500 per day. Terminate service.</td>
<td>PC S</td>
</tr>
<tr>
<td><strong>B. DISCHARGE PERMIT VIOLATIONS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) Exceedance of discharge limits (local or categorical)</td>
<td>Isolated, non-significant</td>
<td>Telephone call and NOV issued within 5 days of receipt of laboratory results requiring written report with corrective and preventative action taken to prevent recurrence. (1st/2nd offense)</td>
<td>PC</td>
</tr>
<tr>
<td></td>
<td>Frequent, non-significant (repeated offense)</td>
<td>Meeting with violator or show cause hearing requested within 14 days of detection of violation. Meeting will be held within 30 days of detection of the violation. Proposed fine of $300-$500.</td>
<td>PC</td>
</tr>
<tr>
<td>NON-COMPLIANCE</td>
<td>NATURE OF VIOLATION</td>
<td>INITIAL RESPONSE; FOLLOW UP</td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>SNC</td>
<td>AO issued within 5 days with compliance schedule; fine of $1000 per day of violation, or civil litigation seeking penalties of $1000 to $2500 per day.</td>
<td>PC S</td>
<td></td>
</tr>
<tr>
<td>Caused known damage to POTW or environment, or worker health hazard</td>
<td>AO issued within 5 days to immediately halt discharge; fine, civil litigation, or criminal prosecution.</td>
<td>PC S</td>
<td></td>
</tr>
<tr>
<td>2) Slug load discharge</td>
<td>Isolated without known damage.</td>
<td>NOV; AO issued within 14 days to develop a Spill Control Plan within 30 days.</td>
<td>PC S</td>
</tr>
<tr>
<td>Isolated with known damage, interference, pass-through. SNC</td>
<td>Fine or civil litigation seeking penalties of $500 to $700 per day and recovery of costs. Terminate service.</td>
<td>PC S</td>
<td></td>
</tr>
<tr>
<td>Recurring SNC.</td>
<td>Fine or civil litigation seeking penalties of $1000 to $2500 per day and recovery of costs. Terminate service.</td>
<td>PC S</td>
<td></td>
</tr>
</tbody>
</table>

**C. SAMPLING, MONITORING, AND REPORTING VIOLATIONS**

| 1) Minor sampling, monitoring or reporting deficiencies. | Isolated or infrequent (1st/2nd offense) | Telephone call and NOV issued within 14 days of detection.                                                                 | PC |
|                                                       | Frequent or continuous                  | NOV issued within 5 days; proposed fine $100-$300.                                                                 | PC |
| 2) Major sampling, monitoring or reporting deficiencies. | Isolated or infrequent (1st/2nd offense) | NOV issued within 5 days of detection; meeting with violator requested within 14 days. Proposed fines of $300 to $500. | PC |
|                                                       | Frequent or continuous; SNC             | Meeting with Show Cause Hearing requested within 14 days of detection. Fine or civil litigation seeking penalties of $500. | PC |
### Town of Hampden Maine

### Sewer Ordinance

<table>
<thead>
<tr>
<th>NON-COMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>INITIAL RESPONSE: FOLLOW UP</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>3) Complete failure to sample, monitor or report is more than 30 days late.</td>
<td>SNC</td>
<td>AO with compliance schedule issued within 5 days of detection; civil litigation and/or criminal prosecution seeking penalties of $1000-$2500 per day. Terminate service.</td>
<td>PC S</td>
</tr>
<tr>
<td>4) Failure to submit schedule of compliance</td>
<td>Violation of AO.</td>
<td>Fine; civil litigation and/or criminal prosecution seeking penalties of $1000-$2500 per day until schedule is filed.</td>
<td>S</td>
</tr>
<tr>
<td>5) Failure to notify of discharge limit violation slug discharge.</td>
<td>Isolated or infrequent, no known Effects.</td>
<td>NOV; AO issued within 14 days of detection.</td>
<td>PC</td>
</tr>
<tr>
<td></td>
<td>Frequent or continued violation-SNC</td>
<td>Show Cause Hearing requested within 14 days; AO issued within 5 days of detection; civil litigation seeking penalties of $1000 per day per violation; criminal Prosecution.</td>
<td>PC S</td>
</tr>
<tr>
<td>6) Failure to install monitoring equipment</td>
<td>Continued SNC</td>
<td>AO issued within 5 days of detection; temporarily suspend service if agreed upon compliance date is exceeded by 30 days.</td>
<td>PC S</td>
</tr>
</tbody>
</table>

### D. COMPLIANCE SCHEDULE VIOLATIONS

<p>| 1) Missed milestone date | Will not effect other milestone dates, or final date. | Telephone call and NOV issued within 5 days of milestone date passage. | PC |
| | Will effect other milestones or final date. | Meeting requested within 14 days or prior to next milestone date; AO issued within 5 days of missed milestone date. | PC S |</p>
<table>
<thead>
<tr>
<th>NON-COMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>INITIAL RESPONSE: FOLLOW UP</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Failure to meet compliance schedule reporting requirements</td>
<td>Will effect other milestones or final date. Violation not for good cause</td>
<td>Show Cause Hearing requested within 14 days or prior to next milestone date; fine or seek civil penalties of $500-$2500 per day of violation.</td>
<td>PC, S</td>
</tr>
<tr>
<td>2) Failure to meet compliance schedule reporting requirements</td>
<td>Did not submit report, but did complete milestone.</td>
<td>Telephone call and NOV issued within 14 days of Detection.</td>
<td>PC</td>
</tr>
<tr>
<td></td>
<td>Did not submit report or complete milestone.</td>
<td>NOV; AO issued within 5 days of missed milestone date; proposed fines of $300-$500.</td>
<td>PC, S</td>
</tr>
<tr>
<td>3) Missed final date</td>
<td>Good cause</td>
<td>Telephone call and NOV issued within 5 days of missed date.</td>
<td>PC</td>
</tr>
<tr>
<td></td>
<td>30 days or more outstanding; failure or refusal to comply without good cause.</td>
<td>Show Cause Hearing requested within 14 days of detection; AO with fines; judicial action.</td>
<td>PC, S</td>
</tr>
<tr>
<td>4) Reporting false information</td>
<td>Any instance SNC.</td>
<td>Referral to prosecutor for criminal investigation; civil litigation and/or criminal prosecution seeking maximum penalties allowed by State law (at least $1000 per day per violation); Termination of service</td>
<td>S</td>
</tr>
</tbody>
</table>

**E. SPILL INCIDENTS**

<table>
<thead>
<tr>
<th>NON-COMPLIANCE</th>
<th>NATURE OF VIOLATION</th>
<th>INITIAL RESPONSE: FOLLOW UP</th>
<th>PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Spill incident</td>
<td>Reported and investigated</td>
<td>NOV issued at time of inspection; meeting requested within 14 days of detection; AO</td>
<td>PC</td>
</tr>
<tr>
<td></td>
<td>Failure to report spill</td>
<td>NOV; meeting within 14 days of detection; AO with proposed fines of $300-$500.</td>
<td>PC</td>
</tr>
</tbody>
</table>
### NON-COMPLIANCE

<table>
<thead>
<tr>
<th>Nature of Violation</th>
<th>Initial Response; Follow Up</th>
<th>Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to develop or upgrade Spill Prevention Plan</td>
<td>NOV; AO with fines; Show Cause Hearing to be held within 30 days of notification.</td>
<td>PC</td>
</tr>
<tr>
<td>Failure to act on a decision of compliance meeting and results in known damage to POTW or environment.</td>
<td>Judicial action; terminate service.</td>
<td></td>
</tr>
</tbody>
</table>

### F. VIOLATIONS DETECTED DURING FIELD INSPECTIONS/INVESTIGATIONS

<table>
<thead>
<tr>
<th>Description</th>
<th>Analysis</th>
<th>Initial Response; Follow Up</th>
<th>Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Minor violation of analytical procedures</td>
<td>Any instances</td>
<td>Telephone call and NOV issued within 14 days of receipt of monitoring results.</td>
<td>PC</td>
</tr>
<tr>
<td>2) Major violation of analytical procedures</td>
<td>No evidence of negligence or intent.</td>
<td>NOV; meeting to be held within 30 days of notification. AO issued within 14 days of receipt of monitoring results.</td>
<td>PC</td>
</tr>
<tr>
<td>Evidence of negligence or intent-SNC</td>
<td></td>
<td>AO or civil action and penalty; possible criminal prosecution.</td>
<td>PC S</td>
</tr>
<tr>
<td>3) Minor violation of permit condition</td>
<td>No evidence of negligence or intent.</td>
<td>NOV; AO for immediate corrective action required.</td>
<td>PC</td>
</tr>
<tr>
<td>Evidence of negligence or intent</td>
<td></td>
<td>AO or civil litigation and penalties; possible criminal prosecution. Terminate service.</td>
<td>PC S</td>
</tr>
<tr>
<td>4) Major violation of permit condition</td>
<td>Evidence of negligence or intent-SNC</td>
<td>AO or civil litigation and penalties; possible criminal prosecution. Terminate service.</td>
<td>S</td>
</tr>
</tbody>
</table>

### G. OTHER PERMIT VIOLATIONS

<table>
<thead>
<tr>
<th>Description</th>
<th>Analysis</th>
<th>Initial Response; Follow Up</th>
<th>Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Wastestreams are diluted</td>
<td>Initial violation</td>
<td>AO with fines</td>
<td>PC</td>
</tr>
</tbody>
</table>
ARTICLE 9
PENALTIES - RESIDENTIAL

Section 9.1. Violation of Sewer Ordinance: Any person found to be violating any provision of this Ordinance, except Section 7.1, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Section 9.2. Fines: Any person who fails to comply with the provisions of this Ordinance other than those provisions pertaining to the payment of charges for services established herein shall, upon conviction, be subject to a fine not exceeding one hundred dollars ($100.00) for each offense. The continued violation of any provision of any section of this Ordinance, other than those pertaining to the payment of charges for services established herein, shall constitute a separate offense for each and every day such violation of any provision hereof shall continue. If the Town prevails in the prosecution of an offense hereunder, it shall be reimbursed for the attorney’s fees and costs.

Section 9.3. Alternate Penalties: As an alternative, upon violation of this Ordinance, the proper authorities of the Town, in addition to other remedies may institute any appropriate action or proceedings including an injunction to prevent such unlawful use, construction, or maintenance of cesspools, septic tanks, sewage disposal systems, pipes or drains, to restrain, correct, or abate such violation, or to prevent the occupancy of any building, structure or land where said violations of this Ordinance are found.

Section 9.4. Liabilities to the Town: Any person violating any of the provisions of this Ordinance shall become liable to the Town for any and all expense, loss, or damage occasioned by the Town by reason of such violation.

ARTICLE 10
SEWER SERVICE CHARGE

Section 10.1. Establishment of a Sewer Service Charge: The source of the revenue for retiring debt services and for capital expenditures, operation and maintenance of the public sewage works shall be a sewer service charge. The public sewage works service area and the nature of buildings required to have sanitary facilities shall be as defined in Section 2.4 thereof. In the case of a building not connected to the public system, such charge shall be deemed a “ready to serve” charge levied to aid in defraying expense incurred in making service available to the property. In the case of a connected building not in active use or occupancy and having no discharge during a given billing period, the portion related to capital expenditures and retirement of debt service shall be regarded as minimum charge. In the case of a connected building actively discharging to the public system for all or part of any given billing period, the charge shall be increased to include the cost of operation and maintenance of the public sewage works.

Section 10.2. Sewer Service Charge Rate: Sewer service charge rates shall be determined by the Town Council on a year-to-year basis and, in general, such charges will be determined on a rate structure based on water consumption. The sewer service charge will be computed and billed at regular intervals throughout each calendar year, as established by the Town Council in accordance with the Town of Hampden Fees Ordinance. There shall be no discounts or abatements given for sewer use charges unless such discounts or abatements are provided in accordance with the provisions outlined in Section 10.3.

Users shall be given annual notification of the rates and distribution of costs between capital expenditures and operation and maintenance charges. Any revenue from Sewer Service Charges in excess of cost must be retained in the sewerage account and cannot be used to defray costs in other functions of the Town.

Section 10.3. Abatements: Abatements for use of water for lawn sprinklers, garden hoses, filling of swimming pools, or other uses of significant volumes of water, which do not enter the public sewer, may be made on application to the Town. The adjusted billing determined shall not be less than the highest billing or adjusted billing applicable to the property during the previous three quarters. The Town shall
require verification of the significant sewer usage which is cause for the requested abatement. The Town Manager or his/her designee shall approve or deny abatements. No more than one (1) abatement can be given in one (1) calendar year except upon petition to the Town Council.

**Section 10.4. Special Charge for Industrial Organizations:** A Special Sewer Service Charge shall be assigned to any industrial firm or organization, the strength or other characteristic of whose waste varies significantly from that of normal domestic sewage. In general, such charges will be based on equitable prorating of costs for conveying and treating such waste, taking into account, but not necessarily limited to, the effect of volume, BOD, suspended solids, settleable solids, chlorine demand, toxicity, and pH. Pretreatment by the industry may also be a requirement if necessary to make the waste compatible with flow in the sewer system. The Town Council, after appropriate study, and advice from the Town Manager, shall assign a Special Sewer Charge to the industrial firm by separate agreement with said firm. The applicable portions of the preceding sections, as well as the equitable rights of the public, shall be the basis for such an arrangement.

**10.4.1. Additional Special Charge:** In addition to the Special Sewer Service Charge, which is concerned solely with the cost to the Town for debt service, capital expenditures, operation and maintenance of the public sewage works, there shall be a special charge to nongovernmental users of the public sewage works in accordance with the Town of Hampden Fees Ordinance identified in the Standard Industrial Classification Manual, 1972, prepared by the Federal Government Office of Management and Budget, as amended and supplemented, under the following divisions:

- **Division A** - Agriculture, Forestry and Fishing
- **Division B** - Mining
- **Division D** - Manufacturing
- **Division E** - Transportation, Communications, Electric, Gas and Sanitary Services
- **Division I** - Services

**Section 10.5. Reserved Right to Charge Sewer Service Charge:** The Town Council reserves the right from time-to-time to change Sewer Service Charges originally or previously assigned to any property owner.

**Section 10.6. Charge for Property Owners Outside Town Limits:** All property owners outside the Town limits who, by their own request, are served by sanitary sewers must pay a Sewer Service Charge in accordance with the Town of Hampden Fees Ordinance.
TOWN OF HAMPDEN, MAINE
SHORELAND ZONING ORDINANCE

ADOPTED: Hampden Town Council, March 1, 2010
Effective Date:

Effective Date: September 14, 2011

Article 17 Definitions

AMENDED: Hampden Town Council, July 14, 2014 (DEP Approval: September 3, 2014)
Effective Date: August 13, 2014

Article 4.B Sections 15 (O) and 15 (O 1)
Table 1 Land Uses in the Shoreland Zone
Article 15 O Timber Harvesting (NOTE: Repealed January 1, 2013)
Article 15 O 1 Timber Harvesting Statewide Standards
Article 17 Definitions

CERTIFIED BY:

Denise Hodsdon, Town Clerk

Town Clerk
Affix Seal
NOTE: This document is based on Chapter 1000 Guidelines for Municipal Shoreland Zoning Ordinances.

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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 areas.

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 all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, the upland edge of a coastal wetland, including all areas affected by tidal action, the upland edge of a freshwater wetland, all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream and all land areas within 75 feet, horizontal distance, of the normal high-water line of certain local streams.

   NOTE: The Town of Hampden, Maine has opted to not govern docks, wharfs, piers or other extending or located below the shoreline. 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 of Hampden on March 1, 2010, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a shoreland permit submitted to the Town of Hampden within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

   B. **Sections 15(O) and 15(O-1).** Deleted Amended 7-14-2014, Effective Date 8-13-2014

   C. **Repeal of Prior Shoreland Zoning Provisions.** Upon the effective date of this Ordinance pursuant to Section 4(A) above, Section 4.14 of the “Zoning Ordinance of the Town of Hampden, Maine” shall stand repealed. Provided, however, that said provisions of the Zoning Ordinance shall remain in effect for the prosecution of any violations thereof in existence as of the effective date of this Ordinance.”
5. **Availability.** A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

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

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

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

9. **Shoreland Districts and Shoreland Zoning Map**

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

   (1) Resource Protection also identified by the initials RP
   (2) Limited Residential also identified by the initials LR
   (3) General Development also identified by the initials GD
   (4) Stream Protection also identified by the initials SP
   (5) Local Stream Protection also identified by the initials LSP

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

   C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall 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 shall 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 Shoreland District Boundaries. Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, edge of pavement of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of shoreland district boundary lines, the Board of Appeals shall be the final authority as to location.

11. Land Use Requirements. Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall 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.


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

B. General

(1) Transfer of Ownership. Non-conforming conditions may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or non-conforming lot, subject to the provisions of this Ordinance.

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

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. Non-conforming Structures

(1) Expansions. A non-conforming structure may be added to or expanded after obtaining a shoreland permit from the same permitting authority as that for a new structure, if such addition or expansion does not create an increase in non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

(a) After January 1, 1989 if any portion of a structure is less than the required shoreline setback from the shoreline, that portion of the structure shall not be expanded, as measured in floor area or volume of a structure, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from the shoreline, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume of a structure since that date.
(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the shoreline setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

(2) Relocation. A non-conforming 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 wastewater disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a replacement system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the shoreline setback to the greatest practical extent, the Code Enforcement Officer shall 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 subsurface wastewater disposal system and other on-site soils suitable for subsurface wastewater disposal systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the shoreline setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the shoreline 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 re-established within the shoreline 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 shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(3) Reconstruction or Replacement. Any non-conforming structure which is located less than the minimum required shoreline setback 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 shoreland permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the shoreline setback requirement to the greatest practical extent as determined by the Code Enforcement Officer in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to create an increase in non-conformity of a structure. If the reconstructed or replacement structure is less than the minimum required shoreline setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the minimum required shoreline setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the minimum shoreline setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the minimum required shoreline setback 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 shoreland 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 shoreline setback to the greatest practical extent the Code Enforcement Officer shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

(4) Change of Use of a Non-conforming Structure. The use of a non-conforming 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, local 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, the Planning Board shall require written documentation from the applicant, 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. Non-conforming Uses

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

(2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming 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 shall 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 (5) year period.

(3) Change of Use. An existing non-conforming use may be changed to another non-conforming 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 shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

(1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto 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, minimum lot width and shore frontage can be met. Variances relating to shoreline setback or other requirements not involving lot area, minimum lot width or shore frontage shall be 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 at the time of adoption of this Ordinance, 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 non-conforming 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 the effective date of this ordinance, 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 at the time of or since adoption or amendment of this Ordinance, 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 shall be combined to the extent necessary to meet the dimensional requirements.
This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, 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 municipal sanitary sewer or can accommodate a subsurface wastewater 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 shore frontage and lot area 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 Shoreland Districts

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

(1) Water bodies and Wetlands. Areas within 250 feet, horizontal distance, of the shoreline of wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river. Amended 7-14-2014, Effective Date 8-13-2014

(2) Floodplains. Floodplains along rivers defined by the 100 year floodplain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA’s Flood Insurance Rate Maps.

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

(4) Other Smaller Wetlands. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.
(5) Bluffs and River Bank Erosion. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Limited Residential District. The Limited Residential District includes those areas within 250 feet, horizontal distance, of the shoreline suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, Stream Protection District or Local Stream Protection District and areas which are used less intensively than those in the General Development District. Residential dwelling units and the land area within 100 feet of such residential dwelling units subject to shoreland zone regulations at the time of adoption of this ordinance shall be included in Limited Residential District. Such Limited Residential Districts shall be limited to the subject property only and not extend to neighboring properties.

C. (Limited Commercial District). Deleted.

D. General Development District. The General Development District includes areas within the shoreland zone containing 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.

E. (General Development II District). Deleted.

F. (Commercial Fisheries/Maritime Activities District). Deleted.

G. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the shoreline of a stream exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the shoreline of a great pond, or river, or freshwater or coastal wetland. The three following waterways are streams: the portion of the West Branch Souadabscook Stream southwest of its confluence with Brown Brook, Brown Brook and Burnt Swamp Stream. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

NOTE: Shaw Brook is listed in error as a Local Stream when in fact and on the Shoreland Map it is in fact a jurisdictional Stream and is zoned Stream Protection and or General Development.
H. Local Stream Protection District. The Local Stream Protection District shall include all land areas within seventy-five (75) feet horizontal distance of the shoreline of the following local waterways including: Baker Brook (and two unnamed tributaries of Baker Brook), Cold Brook, Reeds Brook, Shaw Brook, Sucker Brook, and Weber Brook.

NOTE: Shaw Brook is listed in error as a Local Stream when in fact and on the Shoreland Map it is a jurisdictional Stream and is zoned Stream Protection and or General Development.

NOTE: Portions of theses brooks in association with jurisdictional wetlands, streams or rivers may be in Resource Protection, Limited Residential and General Commercial Districts.

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

Key to Table 1:

<table>
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<th>Yes</th>
<th>Allowed (no shoreland permit required but the use must comply with all applicable land use standards.)</th>
</tr>
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<tbody>
<tr>
<td>No</td>
<td>Prohibited</td>
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<tr>
<td>PB</td>
<td>Allowed with shoreland permit issued by the Planning Board.</td>
</tr>
<tr>
<td>CEO</td>
<td>Allowed with shoreland permit issued by the Code Enforcement Officer</td>
</tr>
<tr>
<td>LPI</td>
<td>Allowed with shoreland permit issued by the Local Plumbing Inspector</td>
</tr>
</tbody>
</table>

Abbreviations:

- RP - Resource Protection
- LR - Limited Residential
- GD - General Development
- SP - Stream Protection
- LSP - Local Stream Protection

The following notes are applicable to the Land Uses Table on the following page:

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, 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 them:

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.

NOTE: A person performing any activities in a Shoreland Area shall also be subject to the Town of Hampden, Maine Zoning Ordinance which also governs land use activities. The most restrictive standards shall apply.
**TABLE 1. LAND USES IN THE SHORELAND ZONE**

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

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 shoreland 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 Reserved.
6 See further restrictions in Section 15(L)(2).
7 Except when area is zoned for resource protection due to floodplain criteria in which case a shoreland permit is required from the PB.
8 Except as provided in Section 15(H)(4).
9 Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Single Family Special Exceptions. Two-family residential structures are prohibited.
10 Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11 Reserved.
12 Shoreland permit not required but must file a written “notice of intent to construct” with CEO.
13 Forest Management Activities Deleted.
14 All clearing activities shall be supervised by a licensed forester.
15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

<table>
<thead>
<tr>
<th>Minimum Lot Area (sq. ft.)</th>
<th>Minimum Shore Frontage (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>(a) Residential per dwelling unit Within the Shoreland Zone</td>
<td></td>
</tr>
<tr>
<td>(i) Adjacent to Tidal Areas on well and septic</td>
<td>30,000</td>
</tr>
<tr>
<td>(ii) Adjacent to Non-Tidal Areas on well and septic</td>
<td>40,000</td>
</tr>
<tr>
<td>(iii) Adjacent to Tidal Areas on municipal sewer and water</td>
<td>18,000</td>
</tr>
<tr>
<td>(iv) Adjacent to Non-Tidal Areas on municipal sewer and water</td>
<td>18,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(b) Governmental, Institutional, Commercial or Industrial per principal structure Within the Shoreland Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Adjacent to Tidal Areas,</td>
</tr>
<tr>
<td>(ii) Deleted.</td>
</tr>
<tr>
<td>(iii) Adjacent to Non-tidal Areas</td>
</tr>
</tbody>
</table>

(c) Public and Private Recreational Facilities Within the Shoreland Zone

| (i) Adjacent to Tidal and Non-Tidal Areas | 40,000 | 200 |

(2) Certain Land Not Included Toward Lot Area. 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 (2) lots shall not be included toward calculating minimum lot area.

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

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

(5) Group Developments. 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 shall be met for each additional dwelling unit, principal structure, or use. (Please note that there are additional standards for group developments contained in the Zoning Ordinance).

B. Principal and Accessory Structures

(1) Shoreline Setback. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the shoreline which is the normal high-water line of great ponds and rivers that flow to great ponds, and seventy-five (75) feet, horizontal
distance, from the normal high-water line of other water bodies, tributary streams, local streams or the upland edge of a wetland. In the Resource Protection District the shoreline setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the shoreline setback requirements specified above shall apply.

Minimum Shoreline setback requirements

<table>
<thead>
<tr>
<th>Category</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>RP District except for specifically permitted structures</td>
<td>250 feet</td>
</tr>
<tr>
<td>Great Ponds</td>
<td>100 feet</td>
</tr>
<tr>
<td>Rivers that flow to Great Ponds</td>
<td>100 feet</td>
</tr>
<tr>
<td>Rivers</td>
<td>75 feet</td>
</tr>
<tr>
<td>Streams, Tributary Streams(^1) and Local Streams</td>
<td>75 feet</td>
</tr>
<tr>
<td>Wetlands</td>
<td>75 feet</td>
</tr>
</tbody>
</table>

In addition:

- Unstable & Highly Unstable Coastal Bluffs: Required shoreline setback measured from top of bluff.
  
(See section 15B(1)(c) below)

\(^{1}\)NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

(a) Exception for Water-Dependent Uses. The shoreline setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) deleted.

(c) Coastal Bluff Setback. For principal structures, the shoreline setbacks established in 15B(1) shall be measured in horizontal distance starting at and away from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. The Maine Office of GIS Data Catalog provides a data layer titled “coastal_bluff_hazards” ([http://megis.maine.gov/catalog](http://megis.maine.gov/catalog)) which is also acceptable as source information for coastal bluffs. If the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located is in question, the applicant must 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 by the permitting official is not reached in regard to the location of the top of the bluff the applicant may appeal the matter to the Town of Hampden Board of Appeals.

(d) Exception for Accessory Structures. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required shoreline setbacks, the code enforcement officer may issue a shoreland permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height of a structure, and shall be located as far from the shoreline as practical and shall meet all other applicable standards, including lot coverage and
vegetation clearing limitations. In no case shall the structure be located closer to the shoreline than the principal structure.

(2) Height. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential and Stream Protection Districts, shall not exceed thirty-five (35) feet in height of a structure. This provision shall 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 shall comply with the Town of Hampden Floodplain Management Ordinance.

(4) Lot Coverage. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers that do not flow to great ponds—where lot coverage shall not exceed seventy (70) percent.

(5) Retaining Walls. Retaining walls that are not necessary for erosion control shall meet the structure shoreline setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(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, local 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, local streams 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, local 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 shoreland 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 (4) 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 shall 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. Deleted.

D. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

(1) Minimum Size. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not 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 shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or a river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, local streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:
(1) Minimum Size. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

(2) Shoreline Setback. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, local streams or the upland edge of a wetland.

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

(4) Vegetation Clearing. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

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

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

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

(1) Auto washing facilities

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

(3) Chemical and 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 municipal 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) Printing

G. Parking Areas

(1) Shoreline Setback. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The shoreline setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline if the Planning Board finds that no other reasonable alternative exists further from the shoreline.

(2) Design. Parking areas shall be adequately sized for the proposed use and shall 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 shall comply with the Town of Hampden Zoning Ordinance standards contained in Article 4.7.

(a) Parking Space Exception: Parking spaces for a vehicle and attached boat trailer shall be forty (40) feet long.

(b) Deleted.

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

(1) Shoreline Setback. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or a river that flows to a great pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water-bodies, tributary streams, local stream or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (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, local stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, local stream or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway shoreline setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.
Section 15 (H)(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 due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

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

(3) Deleted.

(4) Roads in the RP District. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a shoreland 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 shall 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.

(5) Road Side Slope. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).

(6) Road Grades. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

(7) Drainage Buffers. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, local streams or wetlands, roads and driveways shall 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 shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(8) Stormwater Management. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall 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 shall apply:
(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>

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

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

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

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

I  Signs. Conformance With Zoning Ordinance. Signs locations, size, configuration and lighting shall comply with the Town of Hampden Zoning Ordinance standards contained in Article 4.8.

J. Storm Water Runoff

(1) Stormwater Management. All new construction and development shall 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, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

(2) Stormwater Maintenance. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning. Stormwater runoff control systems shall be in compliance with Department Chapter 500 and applicable Postconstruction Ordinance, Zoning Ordinance and Subdivision Ordinance standards.

K. Subsurface Wastewater Disposal Systems

(1) Subsurface Wastewater Disposal. All subsurface wastewater disposal systems shall 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 replacement system and any associated fill extensions, shall not extend closer than seventy-five (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.

L. Essential Services

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

(2) Limitations in the RP and SP Districts. The installation of essential services, other than roadside 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 shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

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

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

NOTE: Mineral Exploration and Extraction are also regulated in the Town of Hampden, Maine Zoning Ordinance in Article 4.23.

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a shoreland permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.

(2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Minimum distances from property lines for extraction operations are established in the Hampden Zoning Ordinance in Article 4.23.

(3) (Significant River Segments). Deleted.

(4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

(b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

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

(5) 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.

N. Agriculture

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

(2) Manure Stockpiling. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water-bodies, tributary streams, local stream or wetlands. 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) Tillage Requiring Conservation Plan. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

(4) Tillage Shoreline Setbacks. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water-bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams, local streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

(5) Grazing Shoreline Setbacks. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water-bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, local streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above shoreline setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.
O.  **Timber Harvesting.**  Deleted Amended 7-14-2014, Effective Date 8-13-2014

O-1.  **Timber Harvesting – Statewide Standards**  Deleted Amended 7-14-2014, Effective Date 8-13-2014

NOTE: Timber Harvesting in Shoreland Zones is now permitted through the Maine Forest Service and governed by MFS Rule - Chapter 21 Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas

P.  **Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**  All Shoreland Districts are subject to this Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting section. Clearing or removal of vegetation for activities other than timber harvesting shall be supervised by a licensed forester. Supervision shall include marking of trees for cutting and written verification by the licensed forester post-cut stating that the cutting was in keeping with the original markings.

(1)  **Resource Protection Cutting Limits.**  In a Resource Protection District abutting a great pond, there shall 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 safety hazards.

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

(2)  **Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, local stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:**

(a)  **There shall 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 footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(b)  **Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained.**  For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond or a river or stream flowing to a great pond, shall be 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.

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 &lt; 4 in.</td>
<td>1</td>
</tr>
<tr>
<td>4 &lt; 8 in.</td>
<td>2</td>
</tr>
<tr>
<td>8 &lt; 12 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>8</td>
</tr>
</tbody>
</table>
Adjacent to other water-bodies, tributary streams, local 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.

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

\[(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}\]

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern 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 this 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(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

(3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, local streams or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the 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 ten thousand (10,000) square feet, whichever is greater.

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

(5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

(1) Filling, Grading and Excavation Requires Shoreland Permit and Plan. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a shoreland permit shall 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 shall be submitted to the permitting authority for approval and shall 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 riprap.

(2) Avoid Steep Slopes. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
(3) Erosion and Sedimentation Control. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Stabilization. Any exposed ground area shall be temporarily or permanently stabilized within one (1) 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 shall occur within nine (9) months of the initial date of exposure. In addition:

(a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall 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 shall 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) Drainageways. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with *vegetation* or lined with *riprap*.

R. Soils. All land uses shall 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 wastewater disposal systems*, and *commercial or industrial development* and other similar intensive land uses, shall 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 shall 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 shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. Water Quality. No activity shall 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*.

T. 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, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall 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 shall be appointed or reappointed annually by July 1st.

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

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

B. Shoreland Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a shoreland permit, engage in any activity or use of land or structure requiring a shoreland 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 non-conforming use. A person who is issued a shoreland permit pursuant to this Ordinance shall have a copy of the shoreland permit on site while the work authorized by the shoreland permit is performed.

(1) Exception Road Culvert Replacement. A shoreland 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) Exception Archaeological Excavations. A shoreland 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) Other Permits May Be Required. Any shoreland permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Shoreland Permit Application

(1) Application and Plan Required. Every applicant for a shoreland permit shall submit a written application, including a scaled site plan, on a form provided by the Town of Hampden, to the Code Enforcement Officer as indicated in Section 14. Applications for activities also required to obtain a building permit under the Town of Hampden, Maine Zoning Ordinance may apply for said permit concurrent with a building permit. Such a building permit shall substitute the required shoreland permit upon clear demonstration that all aspects of this ordinance have been satisfied.
(2) Legal Standing and Certification of Information. All applications shall 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 shoreland permit hereunder, certifying that the information in the application is complete and correct.

(3) Date Stamp Applications. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

(4) Plumbing and Subsurface Permits Required. If the property is not served by a municipal sanitary sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface wastewater disposal system.

(5) Other Information as Required. The Code Enforcement Officer and the Planning Board shall 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 Shoreland Permits. Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions 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;

- 26 -
(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Deleted;

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

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

If a shoreland permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall 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, or regulation or statute administered by the Town.

E. Single Family Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a shoreland 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 or no later than July 1, 2009.

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

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

   (b) Located outside the floodway of the 100-year floodplain 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 1/2 the width of the 100-year flood-plain.

(4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall 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, local 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 shall 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 Shoreland Permit. Shoreland permits shall 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 shoreland permit, the
applicant shall have one additional year to complete the project, at which time the shoreland
permit shall expire.

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 municipal
officials or other written arrangements have been made between the municipal officials and the
utility.

H. Appeals

(1) Powers and Duties of the Board of Appeals. A Board of Appeals is hereby established in
accordance with the state law and the provisions of this Ordinance. The Board of Appeals
shall be 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 shall have the following powers with regard to this Ordinance:

(a) Administrative Appeals: All administrative appeals shall be 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 shall hear and
decide administrative appeals. An administrative appeal is an appeal: 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 shoreland
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 shall be 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 shall 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 shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

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

(i) The proposed structure or use would meet the provisions of Section 15, Land Use Standards, except for the specific provision which has created the non-conformity 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" shall mean:

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) Disability Variance. Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals 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. The board shall restrict any variance granted under this subsection 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 board 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” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

(e) The Board of Appeals shall 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 shall comply with any conditions imposed.

(f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (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 shall be made part of the record and shall 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 shall 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 shall 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 shall 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 shall 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 shall be taken within thirty (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 thirty (30) day requirement.

(ii) Applications for appeals shall 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, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (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 shall constitute a quorum for the purpose of deciding an appeal.
(ii) The person filing the appeal shall have the burden of proof.

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

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board’s decision. Copies of written decisions of the Board of Appeals shall 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.A. 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 forty-five (45) days from the date of any decision of the Board of Appeals.

(6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (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 forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require 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 fifteen (15) days after the decision on reconsideration.

I. Enforcement

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

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall 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 shall be submitted to the municipal officers and be maintained as a permanent record.
(b) The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall 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. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

(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 shall 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 shall be penalized in accordance with 30-A, M.R.S.A. section 4452.
17. Definitions.

Accessory structure or use. “Accessory structure or use” means a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall 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. “Aggrieved party” means an owner of land whose property is directly or indirectly affected by the granting or denial of a shoreland permit or variance under this Ordinance; a person whose land abuts land for which a shoreland 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 shoreland permit or variance.

Agriculture. “Agriculture” means the production, keeping or maintenance for sale or lease, of plants and/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 and green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture. “Aquaculture” means the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area. “Basal Area” means the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement. “Basement” means any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume of a structure below the existing ground level.

Boat Launching Facility. “Boat Launching Facility” means 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.


Campground. “Campground” means any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

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

Coastal wetland. “Coastal wetland” means 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. The line defining the limits of the subject term is defined by the term shoreline.

Commercial use. “Commercial use” means the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.
Cross-sectional area. Deleted Amended 7-14-2014, Effective Date 8-13-2014

DBH. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Development. “Development” means 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. “Dimensional requirements” means numerical standards relating to spatial relationships including but not limited to shoreline setback, lot area, shore frontage and height of a structure.

Disability. “Disability” means 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.

Disruption of shoreline integrity. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Driveway. “Driveway” means a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Emergency operations. “Emergency operations” means 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. “Essential services” means 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 shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure. “Expansion of a structure” means an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use. “Expansion of use” means the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Family: Shall mean 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 shall 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 shall be calculated as follows: Any persons related by blood, adoption or marriage plus one unrelated person shall be considered to constitute a total of two unrelated persons, and each additional unrelated person shall 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. *(Amended 08-15-2011)*

**Floodway.** “Floodway” means 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 by more than one foot in height.

**Floor area.** “Floor area” means the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Forest management activities.** “Forest management activities” means timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads. All proposed forest management activities shall require a forest management plan prepared and submitted by a licensed forester.

**Forested wetland.** “Forested wetland” means a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Forest stand.** “Forest stand” means a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

**Foundation.** “Foundation” means 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 wetland” means freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and 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. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition. The line defining the limits of the subject term is defined by the term shoreline.

Functionally water-dependent uses. “Functionally water-dependent uses” means 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 can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, (excluding recreational boat storage buildings) finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Great pond. “Great pond” means any inland body of water which in a natural state has a surface area in excess of ten acres. (Great pond in Hampden, Maine includes Hermon Pond, Patten Pond, Hammond Pond and Ben Annis Pond). The line defining the limits of the subject term is defined by the term shoreline.

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

Harvest area. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Height of a structure. “Height of a structure” means 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. “Home occupation” means an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

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

Individual private campsite. “Individual private campsite” means 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 ten (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. “Industrial” means the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional. “Institutional” means 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.

Land management road. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Licensed forester “Licensed forester” means a forester licensed under 32 M.R.S.A. Chapter 76.

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 and Baker Brook Tributary 2, Cold Brook, Reeds Brook, Shaw Brook, Sucker Brook and Weber Brook.

NOTE: Shaw Brook is listed in error as a Local Stream when in fact and on the Shoreland Map it is in fact a jurisdictional Stream and is zoned Stream Protection and or General Development.

Lot area. “Lot area” means 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. “Marina” means 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. “Market value” means 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. “Mineral exploration” means 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. “Mineral extraction” means any operation within any twelve (12) month period which removes more than one hundred (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. “Minimum lot width” means the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential. “Multi-unit residential” means a residential structure containing three (3) or more residential dwelling units.
Native. “Native” means indigenous to the local forests.

Non-conforming condition. “Non-conforming condition” means a non-conforming lot, non-conforming structure or non-conforming use in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot. “Non-conforming lot” means 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.

Non-conforming structure. “Non-conforming structure” means a structure which does not meet any one or more of the following dimensional requirements; shoreline setback, height of a structure, or lot coverage, but in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use. “Non-conforming use” means use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line (non-tidal waters). “Normal high-water line (non-tidal waters)” means 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.

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

Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland. Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland are divided into two categories:

**Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure. “Principal structure” means a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use. “Principal use” means a use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility. “Public facility” means 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. “Recent floodplain soils” means the following soil series as described and identified by the National Cooperative Soil Survey:

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

Recreational facility. “Recreation facility” means 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. “Recreational vehicle” means 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. “Replacement system” means a subsurface wastewater disposal 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. “Residential dwelling unit” means 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 shall include 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.

Residual basal area. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Residual stand. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Riprap. “Riprap” means rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River. “River” means a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. The line defining the limits of the subject term is defined by the term shoreline. In Hampden, Maine “river” includes: Penobscot River, Souadabscook Stream and West Branch Souadabscook Stream beginning north at its confluence with Brown Brook.

Road. “Road” means 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.

Service drop. “Service drop” means any utility line extension which does not cross or run beneath any portion of a water body provided that:
1. in the case of electric service
   a. 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
   b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service
   a. the extension, regardless of length, will be made by the installation of telephone wires to
      existing utility poles, or
   b. the extension requiring the installation of new utility poles or placement underground is less
      than one thousand (1,000) feet in length.

Shore frontage. “Shore frontage” means 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 permit. “Shoreland permit” means documented municipal authorization of any activity or use
would occur; or expand, change, or replace an existing use or structure; or renew a discontinued non-
conforming use requiring a permit within the shoreland area in accordance with this ordinance.

Shoreland zone. “Shoreland zone” means the land area located within two hundred and fifty (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 seventy-five (75) feet, horizontal distance, of
the normal high-water line of a stream and specified tributary streams.

NOTE: Shoreland zone also includes specified local streams as called out in 13H Local Stream
Protection District.

Shoreline. “Shoreline” means the normal high-water line, or upland edge of a wetland whichever is
greater.

Shoreline setback. “Shoreline setback” means the required minimum horizontal distance from the
shoreline to the nearest part of a structure, road, parking space or other regulated object or area.

Significant River Segments. “Significant River Segments” means See Appendix B or 38 M.R.S.A. section
437. (As of the date of adoption of this ordinance the Statute does not identify any Significant River
Segments in Hampden, Maine).

Skid Road or Skid Trail. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Slash. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Stream. “Stream” means a free-flowing body of water from the outlet of a great pond or the confluence
of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey
7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point
where the body of water becomes a river or flows to another water body or wetland within the shoreland
area. In Hampden, Maine “stream” applies to Brown Brook, Burnt Swamp Stream and West Branch Souadabscook Stream southwest of its confluence with Brown Brook.

Structure. “Structure” means anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guyed and guyed anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start. “Substantial start” means completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface wastewater disposal system. “Subsurface wastewater disposal system” means any system designed to dispose of waste or waste water 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.A. section 414, any surface waste water disposal system, or municipal sanitary sewer system.

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

Tidal waters. “Tidal waters” means all waters affected by tidal action during the highest annual tide.

Timber harvesting. “Timber harvesting” means the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Timber harvesting and related activities. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Tributary stream. “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.

NOTE: Tributary Stream does not include the term local stream which is defined elsewhere.

Upland edge of a wetland. “Upland edge of a wetland” means 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 maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed when the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation.
vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Vegetation. “Vegetation” means all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Velocity zone. “Velocity zone” means 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.

Volume of a structure. “Volume of a structure” means 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. “Water body” means any great pond, river or stream. Water body also includes local streams.

Water crossing. “Water crossing” means 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. “Wetland” means a freshwater wetland or coastal wetland.

Windfirm. Deleted Amended 7-14-2014, Effective Date 8-13-2014

Woody vegetation. “Woody vegetation” means live trees or woody, non-herbaceous shrubs.

STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)
TOWN OF HAMPDEN
SOLID WASTE FLOW CONTROL AND LICENSING ORDINANCE

COUNCIL ORDINANCE, Repealing and Replacing the Solid Waste Flow Control Ordinance

WHEREAS, the Town of Hampden adopted a Solid Waste Flow Control Ordinance on June 6, 1988; and

WHEREAS, the Town desires to update the ordinance; and

WHEREAS, it is more cost effective to repeal and replace the ordinance rather than try to amend it; and

WHEREAS, it is the intent of the Town Council that the new Solid Waste Flow Control and Licensing Ordinance replace the 1988 Solid Waste Flow Control Ordinance seamlessly and without lapse of coverage.

NOW THEREFORE, THE TOWN OF HAMPDEN HEREBY ORDAINS:

Article 1:

The Town of Hampden Solid Waste Flow Control Ordinance adopted on June 6, 1988 is hereby repealed effective on the date of passage of this Council Order.

Article 2:

The Town of Hampden hereby adopts and enacts the attached Solid Waste Flow Control and Licensing Ordinance effective on the date of passage of this Council Order.
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ADOPTED: Hampden Town Council, June 6, 1988
Effective date, June 5, 1988

REPEALED: Hampden Town Council, August 7, 2017
REPLACED: Hampden Town Council, August 7, 2017
Effective date, September 6, 2017

CERTIFIED BY: Paula A. Scott, Town Clerk
ARTICLE I - TITLE.

This article shall be known as the Solid Waste Flow Control and Licensing Ordinance.

ARTICLE 2 - ENABLING LEGISLATION.

This chapter is enacted pursuant to the authority granted in 38 M.R.S.A. § 1304-B and 30-A M.R.S.A. § 3001, et seq.

ARTICLE 3 - LEGISLATIVE FINDINGS.

§ 3.1 The Town of Hampden has an obligation to protect the health, safety and general wellbeing of the citizens of the Town of Hampden, and to enhance and maintain the quality of the environment, conserve natural resources, and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the collection, transportation and disposal of solid waste.

§ 3.2 The Maine legislature has established a "Solid Waste Management Hierarchy," embodied in 38 M.R.S.A. § 2101, pursuant to which, it is the policy of the State to implement an integrated approach to solid waste management and to prioritize waste management in accordance with the following hierarchy: (i) reduction of waste; (ii) reuse of waste; (iii) recycling of waste; (iv) composting of biodegradable waste; (v) processing of waste including incineration; and (vi) land disposal.

§ 3.3 The Penobscot Energy Recovery Company ("PERC") facility in Orrington is an energy recovery facility currently in operation that processes municipal solid waste into refuse-derived fuel for incineration and generates electrical power as a byproduct of the incineration process. In accordance with a contract known as the Second Amended, Restated and Extended Waste Disposal Agreement, which the Town executed in May 1998 (the PERC Disposal Agreement), the Town has committed to direct municipal solid waste originating within its borders to PERC for disposal through the term of the PERC Disposal Agreement, which term is scheduled to end on March 31, 2018.

§ 3.4 The Fiberight Facility (Fiberight), which is to be constructed by Fiberight in Hampden, will be a recycling facility that processes municipal solid waste to recover recyclable materials, and that uses wet pulping, anaerobic digestion and other processes to convert the organic fraction of municipal solid waste into cellulosic biofuel, a processed engineered fuel product, and marketable biogas and other products. In accordance with a contract known as the Joinder Agreement, which the Town executed in June 2016, the Town has committed to direct municipal solid waste originating within its borders to the Fiberight Facility for processing starting on April 1, 2018.

§ 3.5 Of the available disposal options within the State of Maine identified in the hierarchy at
38 M.R.S.A. § 2101 at the time of the execution of the PERC Disposal Agreement, the Town found that disposal at the PERC Facility was then the option that would best satisfy the statutory priorities for management of municipal solid waste over the term of the PERC Disposal Agreement. At the time of the execution of the Joinder Agreement, the Town found that the Fiberight Facility would be the option that would best satisfy the statutory priorities for management of municipal solid waste over the term of the Joinder Agreement.

§ 3.5 Disposal at the PERC Facility over the term of the PERC Disposal Agreement, and then at Fiberight Facility over the term of the Joinder Agreement, of municipal solid waste generated in the Town of Hampden is the preferred in-state management option and best serves the interests of the Town of Hampden in maintaining public health, safety, scenic values, resource conservation goals, etc., in accordance with the disposal priorities established by the Legislature in 38 MRSA § 2101.

ARTICLE 4 - DEFINITIONS.

The terms, phrases and words in this section shall have the following meanings:

Acceptable Solid Waste: All waste accepted by the Solid Waste Facility.

Commercial Hauler: An individual, corporation, partnership or other legal entity that transports solid waste for another from within the corporate limits of the Town of Hampden for compensation, or that transports solid waste generated by its own business.

Solid Waste Facility: Shall mean the PERC Facility during the term of the PERC Disposal Agreement, which is scheduled to terminate on March 31, 2018; and then beginning April 1, 2018, shall mean the Fiberight Facility during the term of the Joinder Agreement provided the Fiberight Facility is able to accept the Town’s municipal solid waste; if the Fiberight Facility is not able to accept municipal solid waste or if the Joinder Agreement is terminated during its initial term or an extension term pursuant to Article 10 of the Joinder Agreement, it shall mean an alternative facility to be designated by the Town Manager.

Fiberight: Fiberight, LLC, a Delaware limited liability company, together with its affiliates and successors in interest.

Fiberight Facility: The facility of Fiberight, LLC, to be constructed in Hampden, Maine.

PERC Facility: The facility of the Penobscot Energy Recovery Company in Orrington, Maine.

Solid Waste: Shall have the same definition as set forth in 38 M.R.S.A. § 1303-C, as the same may be amended from time to time.

Town Manager: The Hampden Town Manager.
ARTICLE 5 - DISPOSAL OF SOLID WASTE

The Town of Hampden hereby directs that all acceptable commercial solid waste generated within the Town of Hampden that is not disposed of outside of the State of Maine shall be delivered to the Solid Waste Facility and that all acceptable residential solid waste generated within the Town of Hampden that is not disposed of outside of the State of Maine shall be delivered to the Hampden Transfer Station for ultimate management and disposal at the Solid Waste Facility. Nothing in this provision shall be deemed to regulate or prohibit disposal outside of the State of Maine of any waste generated within the Town of Hampden.

ARTICLE 6 - COMMERCIAL HAULER LICENSING.

§ 6.1 License Required. All Commercial Haulers must obtain on an annual basis a commercial hauling license from the Town Manager.

§ 6.2 Licensing Procedure.

(a) All Commercial Haulers must submit a completed application form prescribed by the Town of Hampden.

(b) All Commercial Haulers must include with each application a list of the current license plate numbers of all trucks owned by the applicant which are to be used to haul waste within the Town of Hampden. The list shall be kept up-to-date, and any changes must be reported immediately to the Town Manager.

(c) Each Commercial Hauler shall provide a list of all disposal locations at which acceptable solid waste collected in the Town of Hampden is disposed. In the event of a violation or suspected violation of this Ordinance by a Commercial Hauler, the Town of Hampden may require that such hauler also provide to the Town Manager a list of all generators of acceptable solid waste transported by that hauler located within the Town of Hampden, a description of all routes used to transport that waste within the Town of Hampden, updated monthly. In addition, the driver of each of the Commercial Hauler's vehicles shall identify the source of each load containing Acceptable Solid Waste from within the Town of Hampden on the weight ticket, either by route number or by the name of the commercial establishment if the load is from a single source.

(d) Only vehicles that are in good operating condition, that have their loads enclosed within a container or covered securely and that are capable of discharging their loads to the Solid Waste Facility's tipping room floor or at the Hampden Transfer Station by mechanical means will be licensed.

(e) A Commercial Hauler shall annually provide to the Town certificate(s) of insurance from a reputable insurance agency demonstrating that the vehicle(s) that the Hauler will use to haul waste within the Town of Hampden are insured for the duration of the license. The Town Manager shall set the minimum insurance requirement annually. Any changes to a vehicle's insurance shall be immediately reported to the Town; if the insurance coverage for a vehicle is below the minimum required coverage, such
§ 6.3 Nontransferable. The Commercial Hauler license shall be nontransferable.

§ 6.4 Fees. In order to be licensed, the Commercial Hauler shall pay an annual fee to the Town of Hampden. A basic fee covers the first vehicle and an additional fee will be levied for each additional vehicle to be licensed. These fees shall be as provided in the Fees Ordinance.

§ 6.5 Credit for tonnage. It shall be the responsibility of the Commercial Hauler to ensure that the Town of Hampden is given credit by the Solid Waste Facility for all Acceptable Solid Waste collected within the Town of Hampden and delivered to the Solid Waste Facility by the Commercial Hauler.

§ 6.6 Responsibilities of the Commercial Hauler. The Commercial Hauler shall be held fully responsible for the presence of unacceptable waste in loads delivered by the hauler to the Solid Waste Facility. Unacceptable waste shall have the definition set forth in the applicable contract between the Town and the Solid Waste Facility. In the event it has been determined that the Commercial Hauler has delivered unacceptable waste to the Solid Waste Facility, the hauler shall remove that waste immediately at the hauler's expense. In the event that the hauler fails to promptly remove any such waste, the waste may be removed by the Town of Hampden or its agents, with double the cost of removal and disposal to be paid to the Town of Hampden by the hauler. The hauler shall be fully responsible for the handling of waste between any source within the Town of Hampden and the Solid Waste Facility.

§ 6.7 Indemnification. By accepting a license, a Commercial Hauler agrees to defend, indemnify, and hold harmless the Town of Hampden, its elected officials, officers, agents, and employees against any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, relating in any way (1) to hauling operations, or (2) to the delivery of unacceptable solid waste to the Solid Waste Facility. The foregoing indemnity expressly extends to claims of injury, death, or damage to employees of the Commercial Hauler or anyone for whose acts they may be liable. In claims against any person or entity indemnified under this paragraph by an employee of the Commercial Hauler, the indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Commercial Hauler under the Maine Workers’ Compensation Act or other disability benefit or employee benefit acts. Commercial Hauler expressly waives immunity under the Maine Workers’ Compensation Act for the purposes of this indemnity provision.

§ 6.8 Inspection of Records. The Town of Hampden or its agents shall have the right, upon reasonable notice, to inspect the records of any Commercial Hauler as to any solid waste collected by it within the municipal limits of the Town of Hampden.

§ 6.9 Payment.

(a) Each Commercial Hauler will be billed monthly for the total tonnage delivered by him or her to the Solid Waste Facility at a rate per ton equal to the sum of the current tipping fee, plus any administrative fees charged to support multijurisdictional solid
waste activities and a one-percent Town of Hampden administrative fee; said billing to be done by the Town of Hampden or its designated agent.

(b) The Town of Hampden reserves the right to adjust the tipping fee from time to time as may be necessary to defray its total cost of solid waste disposal; however, the same tipping fee will be charged to all Commercial Haulers within the Town of Hampden.

(c) Billing shall be done on a cycle to be determined by the Town of Hampden or its designated agent. Payment shall be due and payable within 30 calendar days from the date of invoice. Late payments shall be subject to the same rate of interest as is in effect at the time for delinquent property tax payments. Failure to pay within the prescribed time may result in temporary suspension of the Commercial Hauler's license until payment is received.

(d) The Town of Hampden or its designated agent may also require licensed Commercial Haulers to post a payment bond or such other guaranty acceptable to the Town of Hampden to insure the financial capability of such haulers to meet required payments to the Town of Hampden. Posting of a bond or other guaranty may be required of a licensed hauler who has failed to make timely payments of all fees billed and whose license was temporarily or permanently suspended.

ARTICLE 7 - ENFORCEMENT

§ 7.1 All provisions of this chapter are enforceable by duly authorized police officers and the Town Manager or his or her designee(s).

§ 7.2 Any person who violates any provision of this chapter is subject to penalty as hereinafter provided.

§ 7.3 Whenever the Town Manager or his or her designee(s) determine that there has been a violation of this ordinance, they shall give notice of such violation to the person(s) responsible by personal service or by registered mail, return receipt requested, as follows:

   (a) The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.

   (b) The citation may contain an outline of remedial action which, if taken, will result in compliance.

   (c) The citation shall state that unless corrections are made within the allotted time, the violator will be subject to prosecution pursuant to the provisions of this article.

§ 7.4 Any person, firm or corporation that violates this article shall be subject to a civil penalty, payable to the municipality, of not more than $100.00 for each violation.

§ 7.5 In addition to the above, the Town of Hampden may suspend the commercial hauling license of any Commercial Hauler who violates the provisions of this Ordinance.
(a) Upon notice to the Commercial Hauler of a suspension, a public notice of the suspension will be issued and a hearing scheduled before the Hampden Town Council.

(b) If the Hampden Town Council upholds the decision of the Town Manager, then a penalty of $100 for each violation shall be levied against the Commercial Hauler, with each day of violation considered to be a separate offense. Said penalty shall be paid to the Town of Hampden prior to reinstatement of the license.

(c) In the event that a Commercial Hauler shall have violated the provisions of this ordinance for five days or more or on ten or more separate occasions, the Town of Hampden shall have the right to revoke any existing license and to refuse to grant a license in the future to the hauler or any other person or entity controlled by or under common control with the hauler.

ARTICLE 8 - SEVERABILITY

The provisions of this Ordinance are deemed to be severable. If any part of this Ordinance is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of this Ordinance.
TOWN OF HAMPDEN, MAINE
SPECIAL AMUSEMENT ORDINANCE

ADOPTED: Hampden Town Council October 6, 1997
Effective: November 11, 1997

AMENDED: Hampden Town Council November 17, 2003
Effective: December 17, 2003

AMENDED: Hampden Town Council June 19, 2006
Effective: July 19, 2006

CERTIFIED BY: Denise Hodsdon
Name

SPECIAL AMUSEMENT ORDINANCE
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TOWN OF HAMPTDEN, MAINE
SPECIAL AMUSEMENT ORDINANCE

The Town of Hampden hereby ordains:

ARTICLE I
GENERAL ADMINISTRATION

1.1. Title. This ordinance shall be known and may be cited at the Special Amusement Ordinance of the Town of Hampden, Maine

1.2. Purpose. The purpose of this Ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor as required by 28-A MRSA § 1054.

1.3. Definitions.

Entertainment: For the purposes of this ordinance, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

Licensee: For purposes of this Section, “Licensee” shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such licensee.

1.4. Separability. The invalidity of any provisions of this Ordinance shall not invalidate any other part.

ARTICLE II
STANDARDS OF ISSUANCE

2.1. Permit Required. No licensee for the sale of liquor to be consumed on the licensed premises shall permit, on the licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

2.1.1. Information Included on Application. Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; the applicant’s residence address; the business address; the nature of the business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the circumstances; and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant’s current liquor license.

2.1.2. Entertainment Regulated. No licensee shall permit entertainment on the licensed premises, whether provided by professional entertainer(s), employees of the licensed premises, or any person or by electronic depiction, video or movie screen, when the entertainment involves:
1. The performance of acts, or simulated acts, of sexual intercourse, or any sexual acts which are prohibited by law;

2. The actual or simulated touching, caressing, or fondling of the breasts, buttocks, or anus, or genitals, by the entertainer, employee, or patron;

3. The actual or simulated displaying of the breast, the genitals, pubic hair, buttocks, or anus;

4. The permitting by any licensee of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals, anus, or breasts.

5. For the purposes of this subsection, the terms “displaying” or “expose” shall mean unclothed or un-costumed and not covered by a fully opaque material.

2.1.3. Compliance with Other Municipal Regulations. No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

2.1.4. Fee Required. The fee for a special amusement permit shall be paid in accordance with the Town of Hampden Fees Ordinance. (Amended: 11-17-03)

2.1.5. Public Hearing. The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 30 days of the date of the application was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

2.1.6. Issuance of Permit. The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles, or by-laws.

2.1.7. Validity of Permit. A permit shall be valid only for the license year of the applicant’s existing liquor license.

2.2. Inspections. Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance of the State law, or are reasonably necessary to secure compliance with any ordinance provision of State law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection any reasonable time that the admission is requested.

2.2.1. Analysis of Commodities or Materials. Whenever any analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or State law, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

2.2.2. Revocation of Permit. In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection of take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the
performance of their duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the charge of the premises, at the time it is sought to make the inspection.

2.3. Suspension or Revocation of a Permit. The municipal officers may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permits which have been issued under this Ordinance on the grounds that the music, dancing, or entertainment conducted on the licensed premises constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinance, articles, by-laws, or rules and regulations.

2.4. Rules and Regulations. The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of the special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

2.5. Permit Procedures. Amended 06-19-2006

2.5.1. Notification of Applicant. Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date of their decision. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit has been denied.

2.5.2. Deleted. (Amended: 06-19-2006)

2.6. Admission Charge. A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit

ARTICLE III
ENFORCEMENT

3.1. Penalty. Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than One Hundred Dollars ($100.00) for the first offense, and up to Five Hundred Dollars ($500.00) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Hampden. Each day of violation shall constitute a separate offense. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town shall be awarded reasonable attorney’s fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

ARTICLE IV
APPEALS
(Amended: 06-19-2006)

4.1. Compliance With Board of Appeals Ordinance. All appeals shall be 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. Any licensee who has requested a permit and has been denied, or whose permit has been
revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to
the Board of Appeals as defined in 30-A MRSA § 2691. (Amended: 06-19-2006)

4.2 Appellate Review. The Board of Appeals may conduct an appellate review of the denial of permit
request and may also conduct an appellate review of the revocation or suspension of a permit. (Amended: 06-
19-2006)

4.3 Basis of the Appeal. The Board of Appeals may consider if the permitted activities constitutes a
detriment to the public health, safety, or welfare, or if the denial, revocation, or suspension was arbitrary
or capricious, or if the denial, revocation, or suspension was not supported by a preponderance of the
evidence demonstrating violation of any ordinance, article, by-law, or rule or regulation of the
municipality. (Amended: 06-19-2006)

4.4 Granting or Reinstating a Permit. The Board of Appeals may grant or reinstate the permit if it finds
that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or
that the denial, revocation, or suspension was arbitrary or capricious, or that the denial, revocation, or
suspension was not supported by a preponderance of the evidence demonstrating violation of any
ordinance, article, by-law, or rule or regulation of the municipality. (Amended: 06-19-2006)
TOWN OF HAMPDEN, MAINE
STREET OPENING/UTILITY CONNECTION ORDINANCE

Adopted: Hampden Town Council, 04/19/2016
Effective: 05/19/2016

CERTIFIED BY:

Paula Scott, Town Clerk

Affix Seal
TOWN OF HAMPDEN, MAINE
STREET OPENING/UTILITY CONNECTION ORDINANCE
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TOWN OF HAMPDEN

STREET OPENING/UTILITY CONNECTION ORDINANCE

SECTION I

CONFLICTING ORDINANCES

1.1 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.

SECTION II

PERMITS REQUIRED

2.1 Street Opening Permit – It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the Town without first obtaining a street opening permit from the Hampden Public Works Department. All permits will be issued in accordance with the provisions of Title 23, Chapter 307, Subchapter II of the Maine Revised Statutes Annotated.

1) The permit will be issued by the Hampden Public Works Department.
2) A standard construction detail and instructions will be issued with the permit. All work shall conform to the requirements of the standard detail and instructions.
3) The permit must be obtained by the contractor or utility company doing the work.
4) Certain roads within the Town of Hampden also require a highway opening permit issued by the Maine Department of Transportation. The Public Works Department will maintain a listing of such streets.

2.2 Sewer and Storm drain Connection Permits - All new or replacement sanitary sewer or storm drain connections to town mains shall be subject to all of the regulations set forth hereinafter relative to private utility connections, except that prior to the issuance of said permit, the payment of any outstanding assessments for the town sewer construction will be required in addition to the permit fee.

2.3 Limitations

1) No street opening permit will be issued between December 1 in any one year and April 1 in the following year except for an emergency.
2) Permits will require the contractor to maintain temporary trench repair until such time as a permanent repair can be made.
3) The contractor shall only perform any work requiring inspection weekdays (7:30 a.m. to 5:00 p.m.), unless an emergency situation requires otherwise. The town will bill the contractor for additional inspection costs for inspections outside these hours in accordance with the fee schedule herein.
4) The contractor shall schedule work within the street to avoid rush-hour traffic whenever possible.
5) Prior to obtaining a street opening permit from the Town, the contractor shall provide the Town with a Dig-Safe number and must contact utilities not participating in the Dig-Safe program.
SECTION III
CONTRACTORS

3.1 Approved Contractors - All work in connection with the excavation and backfill of any opening in a public way shall be performed only by approved contractors or by the forces of the particular utility concerned. Adequate equipment shall be employed so as to expedite the completion of the work, and proper construction methods shall be used, as hereinafter described.

3.2 Insurance - The contractor doing the work shall show proof of adequate insurance coverage before a permit is issued.

3.3 Unsatisfactory Construction - Contractors with a work history of two unsatisfactory similar type street opening or utility connection projects within the previous 18 months, in the opinion of the Public Works Director, or having an outstanding balance related to a previous street opening permit, will not be issued a street opening or utility connection permit.

SECTION IV
INSPECTIONS

4.1 Inspections - All work in connection with street openings and utility connections will be subject to the inspection and approval of the Public Works Director (Director) or his or her authorized representative. The Director will decide as to the adequacy of the materials to be used, extra safety precautions which may be required to protect the public and the scheduling of the work to be performed. No backfilling operations shall be allowed prior to the examination of the work by the Director.

4.2 Notification - The contractor shall provide timely notification to the Town in order that inspection services can be scheduled for the appropriate time.

SECTION V
STREET OPENINGS; SCHEDULE OF CHARGES

5.1 Openings by Utility Companies

1) Utility companies will be required to obtain separate permits for each street opening within accepted public rights-of-way. The utility company shall be responsible for performing all backfill operations, including the replacement of roadway gravel, temporary patching of the surface, and the permanent surface pavement.

2) The Town reserves the right to inspect the work undertaken by utility companies and to charge an inspection fee according to the schedule of charges.

5.2 Openings by Private Entities - A contractor representing any person, firm or corporation desiring to open any portion of a public way for the purpose of installing, repairing, replacing, examining or attempting to locate any private utility connection must first obtain a permit from the Director. Prior to the issuance of said permit, the applicant shall pay to the Town of Hampden for inspection services in accordance with the schedule of charges contained herein. The applicant will be responsible for all work, including temporary pavement and the permanent paved surface. No backfilling shall be allowed without the prior examination of the work by the Director or
representative. Trenches backfilled without the Engineer's approval will be subject to the corrective work outlined in Section IX herein.

5.3 Schedule of Charges

1) The amount to be paid for a street opening/utility connection permit will be based upon the following inspection fee schedule:

<table>
<thead>
<tr>
<th>TYPE OF FEE</th>
<th>FEE</th>
</tr>
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<tbody>
<tr>
<td>Standard Permit Fee</td>
<td>$50.00</td>
</tr>
<tr>
<td>Weekend Work Permit Fee</td>
<td>$210.00</td>
</tr>
<tr>
<td>After the Fact Permit Fee</td>
<td>$420.00</td>
</tr>
<tr>
<td>Additional Inspection Costs</td>
<td>Actual Labor Expense plus Town Overhead</td>
</tr>
</tbody>
</table>

2) The Director may waive the weekend work and after the fact permit fees for utilities that open streets in cases of emergencies without first obtaining a permit.

SECTION VI
EXCAVATING AND BACKFILLING

6.1 Protective Measures

1) It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain barriers and warning devices necessary for the safety of the general public. The barriers and warning devices shall conform to the requirements of the latest edition of the Manual of Uniform Traffic Control Devices.

2) Appropriate measures shall be taken to assure that, during the performance of the excavation work, traffic conditions as normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public. If it becomes necessary to close the street to traffic to permit the work, prior approval of said closing shall be obtained from the Director. The contractor shall be responsible for notifying the Hampden Police and Fire Departments concerning the closing.

3) The work shall be conducted in such a manner so as to prevent damage to adjacent property, and should such damage occur, the property shall be restored to its original condition, as directed by the Director. The excavated materials shall be placed in a location so as not to endanger those working in the trench, pedestrians or users of the street.

4) It shall be the contractor's responsibility to comply with the latest Occupational Safety and Health Administration (OSHA) requirements that may apply to the work.

6.2 Excavating

1) It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit.

2) Prior to any excavation work, all surface pavement shall be cut to full depth by an approved method.

3) Proper bracing or shoring shall be maintained to prevent the collapse of adjoining grounds, and the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface. Care shall be taken so as not to damage existing pipes, cables or conduits in the making of such excavations or tunnels, and notice shall be given to the persons maintaining any such pipes, cables
or conduits, or to the city department or officer charged with the care thereof, which
are or may be endangered or affected by the making of any such excavation or tunnel
before such pipes, cables or conduits shall be disturbed. No unnecessary damage or
injury shall be done to any tree or shrub or to the roots of any tree or shrub.

6.3 Backfilling
1) Whenever a permit has been issued for a street opening or utility connection and the
excavation has been made, the trench or opening shall be backfilled in accordance
with the details issued with the permit.
2) Flowable fill will be required for backfill of cross trenches and openings within the
street zone of major streets, or as conditions may require, as determined by the
Director when the permit is issued.
3) No organic material, pavement or stones greater than six inches in diameter shall be
present in the backfill.
4) Replace to twenty-one-inch depth, or match existing base depth, whichever is greater,
with gravel conforming to the latest Maine Department of Transportation
specification for gravel base.
5) If a permit is issued during the freezing weather conditions, frozen backfill will not be
allowed in the trench.
6) If the material excavated contains too much moisture for proper compaction, it shall
be removed and replaced with suitable backfill material with similar characteristics of
native soil excavated.

6.4 Compaction of Backfill Material
1) All backfill shall be thoroughly compacted by equipment designed specifically for
that purpose.
2) The first six inches of fill over the structure or pipe in the trench shall be compacted.
The balance of the backfill shall be placed in layers not exceeding 12 inches and
thoroughly compacted.
3) All material excavated from the trench shall be replaced in the trench, except for the
amount which may be displaced by the installation of gravel base, pipe/utility or
crushed stone surround.
4) All backfill shall be compacted to meet at least 90% of total compaction as measured
by the proctor test in grass areas and to 95% of total compaction in pavement areas.

SECTION VII
REPLACEMENT OF SURFACE MATERIAL

7.1 Bituminous Paving on Flexible Base
1) When a street opening permit is issued on a street which has been constructed for
heavy traffic and has a bituminous surface without a cement concrete base, the same
amount of gravel shall be replaced in the trench as is removed when the excavation is
made where this material exceeds the twenty-one-inch depth as specified in Section
6.3.
2) After the gravel base has been placed and before the permanent bituminous wearing
surface is placed, the existing bituminous surface shall be cut back an additional 12
inches on all sides with a pavement saw or milling machine, and the cut edges shall
be painted with bituminous tack before the new bituminous paving is placed.
Bituminous paving shall be performed in accordance with MDOT Standard Specifications for Highways and Bridges.

7.2 Temporary and Permanent Surfacing

1) The contractor to whom a street opening permit has been issued shall provide a temporary patch (coldpatch) of the street opening, generally within 24 hours after the trench has been backfilled and compacted according to the requirements contained in Section 6.3 and 6.4.

2) The temporary patch shall be made using premixed bituminous material (coldpatch), which shall remain in place until the permanent patch has been installed.

3) Within 30 calendar days from the date of trench backfill, but not later than November 1, the contractor shall provide permanent pavement replacement in accordance with Section 7.1 and the detail sheet provided with the permit. For emergency winter work, the permanent trench repair must be completed by June 15.

7.3 Restoration - The contractor shall restore all areas of disturbance, including stone curb, esplanades and gravel surfaces, including shoulders, sodded areas, shrubbery fencing, ditches, etc., to the condition prior to construction.

7.4 Warranty - The contractor or utility shall correct any deficiencies in the trench or pavement for a period of one year from completion of the work authorized by this permit.

SECTION VIII
UTILITY CONNECTIONS

8.1 Connections - All work relative to connecting a building drain or yard drain to a town main shall be performed by an approved contractor, only under the direct supervision of the Director or authorized representative.

8.2 Damage - If the Town main is damaged or broken by the contractor, then the damaged or broken section of main will be removed and replaced at no cost to the Town by the contractor under the supervision of the Director.

8.3 Connection Devices - Any tap to a public sewer or storm drain shall be made and an approved connection device installed in the presence of the Public Works Director or his or her authorized representative.

8.4 Connections to Manholes - Connections to manholes, wet wells or other structures shall be prohibited unless approved by a representative of the Director. If approval is given, the structure must be cored and a watertight boot installed at the location indicated by the Director as referred to in Article IV of the Sewer Ordinance.
SECTION IX
VIOLATIONS AND PENALTIES

9.1 Replacement of Defective Work

1) If any part of the work specified above relative to repairing or filling the trenches or excavations shall be unskillfully or improperly done, the Director or his or her representative may direct that the work be re-excavated and replaced in a proper manner or that other corrective action shall be taken to properly repair the trench and the pavement surface.

2) If the applicant does not repair the defective work within 24 hours of notice, then the Director will act to have the work performed by the Town, and the applicant shall pay a penalty equal to the whole of said expense incurred by the Town, with a surcharge of 50%. No additional permits will be issued to the contractor until this cost has been paid in full.

3) The contractor shall be responsible for the work and shall hold the Town harmless from any claims resulting from the work.

9.2 Violations

1) Any person, firm or corporation who or which shall dig or make an excavation in any portion of the public way or make connection to a public sewer or storm drain without first obtaining a permit shall be required to pay an after the fact permit fee of $420.

2) Additionally, any person, firm or corporation who violates the provisions of this article shall be liable for a civil penalty of not less than $100 for each offense. Each day shall constitute a separate offense. Such fine may be levied against the contractor.
Town of Hampden
Street Opening / Utility Connection Permit

Permit # __________________
Date: __________________
Phone: __________________
Fax: __________________

Dig-Safe Number: ____________________________  Proof of Insurance: ____________________________

Work Information

Street Address: ____________________________  Requested Address: ____________________________
Lot Location: ____________________________  Type: ____________________________
Type of Work: ____________________________  Work Explanation: ____________________________
Did-Safe Start Date: ____________________________  Did-Safe End Date: ____________________________

Contractor Information

ID: __________________  Company: __________________  Phone: __________________
Contact Person: __________________  Emergency Phone: __________________
Contractor Address: ________________________________________________________________

Owner Information

Owner Name: ____________________________  Phone: __________________
Owner Address: ______________________________________________________________________
Signature: __________________________________________________________________________

By signing above, I acknowledge that I have read and understand the "Instructions for Contractor" Form and reviewed the backfill requirements diagram and acknowledge that I have read the Town Ways and Street Opening and Utility Connection Ordinance for the Town of Hampden.

Permit Issued By: ____________________________  Fee: __________________

Special Requirements

Engineer: ______________________________________________________
Comments: ______________________________________________________

The standard permit fee is $50.00. A weekend work permit fee is $210.00. Any contractor who applies for a permit after the fact, will be charged a $420.00 fee. The permit is granted subject to the provisions of Title 23, Chapter 307, and Subchapter II of Maine Revised Statutes Annotated.
Instructions for Contractors & Backfill Requirements

1. No permit shall be issued without a Dig Safe number and proof of liability insurance. By signing this permit the contractor certifies that all utilities have been contacted and that the contractor is financially responsible for any and all utility disruptions. A copy of the permit must be available for inspection at the excavation site.

2. Contractor must comply with OSHA regulations, MUTCD work zone requirements and all applicable state, local and federal regulations.

3. Contractor must notify emergency responders prior to setting up lane closures or blocking any town road.

4. The Hampden Public Works is not responsible for locating or marking sewer or storm connections. Contractor shall not rely on any such town marking activities. Contractor is responsible for locating and marking such connections.

5. New sewer and drain connections must be made with approved connection devices and inspected by Hampden Public Works. Contact Hampden Public Works Department a minimum of 24 hours prior to excavation for approved connection devices and 24 hours prior to backfilling to schedule utility and backfill inspections.

6. Backfill shall consist of clean excavated material or clean material hauled on site containing no frozen or perishable material and with no rocks greater than 6" in size. Material shall be approved by the Road Commissioner prior to commencing backfill.

7. Backfill shall be placed in 12" maximum lifts and compacted to 95% using proper compaction procedures.

8. Fillable fill shall be 1500 psi minimum or as directed by Hampden Public Works Director.

9. Provide 2" of rigid insulation for utilities buried less than 5' deep and 4" of rigid insulation for utilities buried less than 3'.

10. Trench shall have temporary or permanent pavement within 24 hours of being backfilled (48 hours maximum weekends and holidays). Finish pavement shall be placed within 30 calendar days.

11. Contractor shall be responsible for replacement of brick sidewalks, concrete sidewalks and curbing according to Hampden Public Works Director.

12. The Town of Hampden Street Opening/Utility Connection Permit is issued in accordance with Article II, section 2.12 of the Town Ways Ordinance and the Street Opening and Utility Connection Ordinance. Fees and construction requirements identified by the Hampden Water District or other independent utilities may also apply.

Contact Information

- **Dig Safe**
  - PH: 811 (1-888-344-7233)
  - 1-888-dig-safe

- **Public Works**
  - PH: 207-862-3337
  - 207-478-8396
  - FX: 207-862-5167

- **Water District**
  - PH: 207-862-3450
  - FX: 207-862-3595

- **Police/Fire**
  - PH: 207-862-4000
  - FX: 207-862-4588
SUBDIVISION ORDINANCE

Prepared for the

TOWN OF HAMPDEN, MAINE

By

PENOBSCOT VALLEY REGIONAL PLANNING COMMISSION

FEBRUARY 1982

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

ADOPTED BY HAMPDEN TOWN COUNCIL: May 17, 1982

EFFECTIVE DATE: June 17, 1982

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1030

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

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

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

AMENDED: October 4, 1993
EFFECTIVE: November 3, 1993
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AMENDED: December 20, 1993
EFFECTIVE: January 19, 1994
1031

AMENDED: February 7, 1994
EFFECTIVE: March 9, 1994
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AMENDED: December 4, 1995
EFFECTIVE: January 3, 1996
552.15.C  552.25  552.26

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

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

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

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

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

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

AMENDED: April 4, 2016
EFFECTIVE: May 4, 2016
540-545 (repealed)

AMENDED: July 6, 2016
EFFECTIVE: August 5, 2016
100  310  345-347  431  441  442  444-446
460  513  524  531  532  546  551-555
570  710-740  1022  1025  1026  1031  1032

CERTIFIED BY: 
Paula Scott, Town Clerk

Affix Seal
TOWN OF HAMPDEN, MAINE
SUBDIVISION ORDINANCE

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ARTICLE 100

DECLARATION OF PURPOSE

The purpose of these standards shall be to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment, to promote the development of an economically sound and stable community, and to uphold the state Subdivision Law (MRSA) Title 30, Section 4956). This ordinance establishes separate and distinct construction standards and maintenance practices for Public Streets and Private Streets. (Amended 07-06-16)

ARTICLE 200

AUTHORITY AND ADMINISTRATION

210. Authority - This Ordinance is enacted pursuant to and consistent with Title 30 MRSA Section 4956; the Subdivision Law.

220. Administration and Enforcement

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

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

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

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

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

226. Any person, firm, or corporation or other legal entity found guilty of a violation of this Ordinance shall be punished by a fine of not more than one thousand dollars ($1,000) for each such occurrence.
ARTICLE 300  
PROCEDURES FOR SUBDIVISION REVIEW

310. Introduction – At the subdivider’s option, an application for subdivision approval may propose one or more Public Streets, one or more Private Streets, or a combination thereof. Proposed subdivisions that include one or more Public Streets shall be reviewed under the procedures set forth in section 320 and section 330, inclusive. Proposed Private Street Subdivisions shall be exempt from section 320 and 330, inclusive, and shall be reviewed under the procedures set forth in section 345. (Amended 07-06-16)

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

320. Preapplication Meeting and Submission of a Sketch Plan

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

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

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

323. The sketch plan shall consist of an outline of the proposed subdivision, drawn on a map drawn to scale, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch. Accompanying the sketch plan shall be a written application which includes a description of existing covenants and easements and zoning; medium intensity soils survey information (obtainable from the Penobscot County Soil Conservation Service); information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots, typical lot width, and depth, plans regarding sewer and water service and road construction; and any proposed nonresidential areas. An application form, available at the town office, shall be used to submit the written information.
324. Other than the classification of the subdivision and the roads, if necessary, no binding commitments shall be made between the subdivider and the board at this stage.

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

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

330. Review of Major Subdivision

331. Preliminary Plan

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

331.2. Procedure

1. Within six (6) months after classification of the sketch plan as a major subdivision by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan for a major subdivision. The Preliminary Plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.

2. The application for approval of the Preliminary Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance, payable by check to the Town of Hampden, Maine. (Amended: 06-06-88, 11-17-03)

3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.

4. The time of submission of the Preliminary Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which fifteen (15) copies of the application for Preliminary Plan approval, complete and accompanied by the required fee and all data required by section 331.3 of this Ordinance shall have been filed with the code enforcement officer. (Amended: 10-05-87)

5. A public hearing shall be held by the Planning Board at the time of submission of the preliminary subdivision plan. Said hearing shall be advertised in a newspaper of general circulation in the town at least ten (10) days prior to the hearing. A notice of said hearing shall be mailed to each land owner abutting the proposed development and to each landowner within three hundred (300) feet of the property line of the proposed development. Landowners shall be considered to be those against whom property taxes are
assessed. Failure of any landowner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the code enforcement officer. The applicant shall bear all associated costs of advertisements and notifications. If site plan review is required it shall be combined with this hearing. (Amended: 05-07-84)

6. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public and the Town Council relative to any municipal ordinance, standard, or regulation which is applicable to the proposed subdivision and relative to the relationship of the subdivision to the ordinance, standard, or regulation.

7. Within thirty (30) days after the public hearing, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within thirty (30) days of the public hearing shall constitute approval of the Preliminary Plan.

8. When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:

A. The specific changes which it will require in the Final Plan;

B. Specific information which is over and above that required in section 332.2 of this Ordinance which will be required in the Final Plan review (such additional information must be reasonably related to the review of the subdivision);

C. The character and extent of the required improvements for which waivers have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare.

9. Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

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

331.3.1. Information About the Applicant

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

2. Name of applicant (if other than owner) indicated on the map plan and in accompanying written information.
3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of secretary of state’s registration in accompanying written information.

4. Name of applicant’s authorized representative in accompanying written information.

5. Name, address, and number of registered professional engineer or land surveyor indicated on the map plan and in accompanying written information.

6. Address to which all correspondence from the Planning Board should be sent in accompanying written information.

7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.) in accompanying written information?

8. What interest does applicant have in any property abutting parcel to be subdivided in accompanying written information?

9. State whether preliminary plat plan covers entire, contiguous holdings of applicant or not in accompanying written information.

331.3.2. Information About the Parcel to be Subdivided

1. Location of property: Book and page (from register of deeds) in accompanying written information.

2. Location of property: Map and lot (from assessor’s office) in accompanying written information.

3. Map survey of tract to be subdivided, certified by a registered land surveyor, tied to established reference points (attach to application) indicated on the map plan.

4. Current zoning of property indicated on the map plan and in accompanying written information.

5. Acreage of parcel to be subdivided in accompanying written information.

6. A soils report, identifying soil types and location of soil test areas indicated on the map plan. Evidence of soil suitability according to the Maine State Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one (1) soil test per lot if subsurface sewage disposal is proposed.

7. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided indicated on the map plan.

8. Indicate the nature of any restrictive covenants to be placed on the deeds indicated on the map plan and in accompanying written information.
331.3.3. Information About the Subdivision

1. Proposed name of subdivision indicated on the map plan and in accompanying written information.

2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.

3. Date, north point, graphic map scale indicated on the map plan.

4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells indicated on the map plan.

5. Location of all parcels to be dedicated to public use and the conditions of such dedication indicated on the map plan and in accompanying written information.

6. A location map, drawn at a scale in which one (1) inch equals no more than five hundred (500) feet, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area indicated on the map plan. The location map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision (attach to application).

7. Location and size of significant existing physical features including but not limited to wetlands, floodplains, watercourse, rock outcrops and trees of twelve-inch caliper diameter at chest height indicated on the map plan.

8. Location and size of any existing sewers, watermains, culverts and drains on the property indicated on the map plan.

9. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and other open spaces indicated on the map plan.

10. Contour lines at an interval of not more than two (2) feet in elevation, unless otherwise specified by the Planning Board indicated on the map plan. All elevations shall be referred to USGS datum.

11. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalks indicated on the map plan.

12. Storm drainage plan indicating the approximate location and size of proposed lines, catch basins and means of disposal indicated on the map plan.

13. The approximate location and size of all proposed water and sewer lines, valves, pump stations and hydrants. Also connections to existing sewer and water systems or alternative methods of water supply and sewage disposal shall be shown indicated on the map plan.

14. Location of all other existing and proposed utilities such as electricity and telephone indicated on the map plan.
15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted indicated on the map plan. This information may be indicated on a Preliminary Plan print.

16. If the application covers only a part of the subdivider’s entire holding, a map of the entire tract, drawn at a scale in which one (1) inch equals not more than five hundred (500) feet showing an outline of the subdivided area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract indicated on the map plan. The part of the subdivider’s holding submitted, shall be considered in light of the entire holding.

17. If the preliminary application covers more area than the Final Plan will cover, a map showing the phasing of the entire project, drawn at a scale in which one inch equals not more than five hundred (500) feet and indicating the proposed timing of each phase indicated on the map plan.

332. Final Plan

332.1. Procedure

1. Within six (6) months of the date of Planning Board action on the Preliminary Plan, the subdivider shall submit the Final Plan to the Planning Board. Failure to submit the Final Plan within the designated time period shall require resubmission of the Preliminary Plan to the Planning Board. However, the subdivider may submit a Final Plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within three (3) years of the date of approval of the preceding phase. The Final Plan shall consist of two (2) original transparencies of all maps or drawings and fifteen (15) copies of all items necessary to complete the submission. *(Amended: 10-05-87)*

2. The application for approval of the Final Plan shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance. The cost of the following improvements shall be included in the calculation of cost: sewer, storm drainage, and/or street work. The subdivider shall be responsible for providing the Town Manager with an estimate of construction cost, prepared by an engineer acceptable to the Town Manager. The Town Manager shall be responsible for certifying the acceptability of the estimate. *(Amended: 06-06-88, 11-17-03)*

3. The subdivider, or his duly authorized representative shall attend the meeting of the Planning Board to discuss the Final Plan.

4. The time of submission of the Final Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least forty-five (45) days prior to which the complete application, accompanied by the required fee, shall have been filed with the code enforcement officer. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time of submission of the Final Plan. *(Amended: 10-05-87)*

5. Within thirty (30) days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.
6. Prior to submitting the Final Plan, the subdivider shall file an improvement guarantee with the Town Manager. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount and form of the guarantee shall be that defined under Article 400 of this Ordinance.

7. Public hearing - The board may vote to hold a public hearing on the proposed subdivision. If so, such hearing shall be held within thirty (30) days of having received a complete Final Plan (as determined under section 332.1 item 5.) The manner described in section 331.2 item 5 of this Ordinance. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation.

8. Review and Action on Final Plan - The board shall, within thirty (30) days of a public hearing; or within sixty (60) days of having received a complete application, if no public hearing is held; or within such other time limit as may be mutually agreed to by the board and the subdivider, review the application and deny or grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and state law and to preserve the public’s health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.

9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and any conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the Final Plan.

10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.

11. The subdivider shall file a signed subdivision plan at the Penobscot County registry of deeds within ninety (90) days of the approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety-day periods.

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

1. **Registered Land Surveyor or Engineer** The name, registration number, seal and signature of the surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross-section and profile sheets also indicated on the map plan.

2. **Streets** - The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings indicated on the map plan.

3. **Street Profiles and Details** - Profiles of centerlines of proposed new streets on sheets separate from the plat, at a horizontal scale on one inch equals 40 feet and vertical scale of one inch equals four (4) feet; profiles of all proposed sewers shall be shown on street profiles, when applicable, at the same scale. All elevations shall refer to USGS datum indicated on the map plan. Detail drawings of any construction methods required for the accommodation of utilities and street appurtenances shall be included. *(Amended: 06-19-89)*

4. **Street Cross Section** - Cross section at fifty-foot horizontal intervals of proposed new streets, on sheets separate from the plan at the scale of 1 inch equals 5 feet horizontal and 5 feet vertical indicated on the map plan. *(Amended: 06-19-89)*

5. **Sewer profiles.** Profile of sanitary sewer, if not shown on street profiles, on sheets separate from the plan, at the same scale indicated for street profiles indicated on the map plan.

6. **Storm drainage plan.** Indicating the location and size of the proposed lines, catchbasins, underdrains, their profiles and means of disposal indicated on the map plan.

7. **Open spaces.** The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider indicated on the map plan and in accompanying written information. If open space or recreation land is to be dedicated to the town, accompanying the plan must be a copy of the minutes of the Town Council, attested by the town clerk, in which the Town Council agrees to accept such open space or recreation land. Also accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that he is satisfied with the legal sufficiency of the documents conveying such land dedication.

8. **Lots** - The location, bearing and length of every line, with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.

9. **Permanent Reference Monuments** - The location of permanent monuments and pins, set at all lot corners, and identified as existing or proposed indicated on the map plan.

10. **Improvement Guarantee** - Accompanying the plat shall be a letter from the Town Manager indicating that the form, duration, and amount of the improvement guarantee is sufficient and that it has been filed with him in accompanying written information.

11. **Approval Space** - Suitable space to record on the approved plan the date and conditions of approval, if any indicated on the map plan. This space shall be similar to the following example:
This is to certify that after reviewing the subdivision submission information for the subdivision shown on this plan and considering each of the criteria set forth in M.R.S.A. Title 30-A, Section 4404 (as amended) and in the Hampden Subdivision Ordinance, the undersigned have made findings of fact establishing that this subdivision plan along with its additional submission information has met all the criteria set forth and therefore the subdivision is approved.

12. **Accompanying Data** - The plans shall show the proposed location of all utilities (i.e. water, sewer, electrical, telephone) with written letters from each respective utility indicating their approval for the proposed design and location as shown on the plans. Also there shall be a letter from the Fire Chief approving the number, size and location of hydrants proposed and a letter from the Town Manager indicating the Town’s approval of rental charges in accompanying written information. *(Amended: 06-19-89)*

13. **Easements** - If any easements have been required by the Planning Board, title to the easement, drawn up in a form and substance acceptable to the town or the Hampden Water District if applicable) shall be provided to the town (or the Hampden Water District if applicable) by the subdivider before final approval is granted in accompanying written information.

### 340. Review of Minor Subdivision

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

342. **Procedure**

1. Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plan. The subdivision plan shall substantially conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.

2. The application for approval of a minor subdivision shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance payable by check to the Town of Hampden, Maine. *(Amended 11-17-03)*

3. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plan.

4. The time of submission of the subdivision plan shall be considered to be the date of the regular monthly meeting of the Planning Board, at least fifteen (15) days prior to which the application, complete and accompanied by the required fee has been filed with the code enforcement officer.
officer. The Planning Board shall issue the subdivider a dated receipt for the subdivision plan at the time of submission of the subdivision plan.

5. Fifteen (15) paper copies and two (2) transparent copies of the subdivision application, containing all information required in section 343 of this Ordinance shall be submitted. (Amended: 10-05-87)

6. Within thirty (30) days from receipt of a subdivision plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed it shall notify the subdivider and begin its full evaluation of the proposed subdivision.

7. In the event that the Planning Board determines to hold a public hearing on the proposed subdivision, it shall hold such public hearing within thirty (30) days of having received a complete subdivision application, and shall cause notice of the date, time and place of such hearing to be given to the subdivider and to be published in a newspaper of general circulation in Hampden at least two (2) times, the date of the first publication shall be at least seven (7) days prior to the hearing. The decision to hold a public hearing is discretionary, and in making its decision the Planning Board may consider the size and location of the subdivision, its community impact, and whether any written requests for such hearing have been received.

8. The Planning Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of the time of submission, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30, MRSA, section 4956, the state subdivision law, and to preserve the public’s health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the state subdivision law.

9. Upon approval of the plan, at least a majority of the board members present and eligible to vote shall sign both transparencies. The date and conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the registry of deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action with respect to the subdivision.

10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan, unless the plan is first resubmitted to the Planning Board and the board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the registry of deeds.

11. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within ninety (90) days of the date of approval. Any plan not filed within ninety (90) days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension which shall not exceed two (2) additional ninety (90) day periods.
12. If the Planning Board fails to take action within thirty (30) days of a public hearing or within
sixty (60) days of the time of submission of a complete subdivision plan, if no hearing is held,
or within the mutually agreed to time, as specified above, the subdivision plan shall be deemed
disapproved.

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

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

343.1. Information About the Applicant

map & text 1. Name of owner indicated on the map plan and in accompanying written info.

map & text 2. Name of applicant (if other than owner) indicated on the map plan and in accompanying
written information.

text 3. If applicant is a corporation, state whether the corporation is licensed to do business in
Maine, and attach a copy of secretary of state’s registration in accompanying written
information.

text 4. Name of applicant’s authorized representative in accompanying written information.

map 5. Name, address, seal, signature, and number of the land surveyor who prepared the plan
indicated on the map plan.

text 6. Address to which all correspondence from the Planning Board should be sent in
accompanying written information.

text 7. What interest does the applicant have in the parcel to be subdivided (option, land
purchase contract, record ownership, etc.) in accompanying written information?

text 8. What interest does the applicant have in any property abutting parcel to be subdivided in
accompanying written information.

343.2. Information About the Parcel to be Subdivided

text 1. Location of property: book and page (from register of deeds) in accompanying written
information.

text 2. Location of property: map and lot (from assessor’s office) in accompanying written
information.

map & text 3. Current zoning of property indicated on the map plan and in accompanying written
information. Show location of zone boundaries on the parcel if any zone boundary
crosses the parcel.
4. Acreage of parcel to be subdivided in accompanying written information.

5. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided as per tax assessor’s records indicated on the map plan.

6. Indicate the nature of any covenants or deed restrictions which are intended to cover all or part of the tract indicated on the map plan and in accompanying written information.

7. An actual field survey of the boundary lines of the parcel, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and shall be marked by permanent monuments, and shall be referenced and shown on the plan indicated on the map plan and in accompanying written information.

8. Location of any watercourses, floodplain, wetland, or unique natural features on the parcel indicated on the map plan.

343.3. Information About the Subdivision

1. Proposed name of subdivision indicated on the map plan.

2. Number of lots and lot sizes indicated on the map plan and in accompanying written information.

3. Date, north point, graphic map scale indicated on the map plan.

4. The location of permanent monuments or pins, set at all lot corners and identified as existing or proposed indicated on the map plan.

5. The location, bearing and length of every lot line with all lots to be numbered in accordance with the property maps of the Town of Hampden indicated on the map plan.

6. Suitable space to record on the approved plan the date and conditions of approval, if any. This space shall be similar to the following example:

(Additional Suggested Text)

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

Approved: Town of Hampden Planning Board

Chairman

________________________

Date Approved: ____________________

Date Signed: ____________________

Conditions: ____________________

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

8. Location and name of existing public streets and way.

345. Review of Private Street Subdivision (Added 07-06-16)

346. Procedure (Amended 07-06-16)

1. Upon receipt of an application, the Town Planner may refer the application to the Public Works Director for review and comment prior to scheduling the application before the Planning Board.

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

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

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

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

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

7. Only the Planning Board shall have the authority to approve or deny applications for a private street.

347. Submissions - Each application for a Private Street Subdivision shall be accompanied by completed plans labeled “plan of a private way” prepared and sealed by civil engineer or land surveyor registered in the State of Maine, which include information contained herein. Where the
required information is incorporated in the overall site plan of a development, separate road plans shall not be required. *(Amended 07-06-16)*

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

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

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

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

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

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

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

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

8. A complete statement of all the terms and conditions of the proposed road easement, including copies of all agreements or intended agreements regarding the maintenance and improvements of the right-of-way and roadway. Agreements shall include authorization from servient land owners allowing for any intensified or other use of the right of way. Furthermore, said maintenance agreements shall be in such form to be recordable with the Penobscot Registry of Deeds and shall specifically address the liability and responsibility of the parties to said agreement to maintain the Private Street pursuant to the specifications of this Article, including, but not limited to, the responsibility of removing snow from said roads. The recorded statement which runs with the land, shall also inform subsequent purchasers that the road is private and may never be maintained or accepted by the Town of Hampden. *(Amended 07-06-16)*
9. The plan shall bear notes that the Town of Hampden will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Planning Board.

10. Appropriate deed restrictions and/or master deed provisions shall provide for free and clear vehicular access for emergency service vehicles on all private roads. All Private Streets shall comply with the Town of Hampden E911 Addressing Ordinance.

ARTICLE 400
IMPROVEMENT GUARANTEES

410. Improvement Guarantees Required

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

420. Procedure

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

430. Time Limit

431. Completion Deadline. All required improvements within a major subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the town during said two-year period plus at least eighteen (18) months following the expiration of the two-year period. The additional eighteen-month period is required as protection to the town in the event the subdivider fails to complete the required improvements and for the one year guarantee period. (Amended 02-12-02) (Amended 07-06-2016)

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

440. Inspection and Certification

441. Prior to the initiation of construction, a pre-construction conference will be held with the subdivider, Public Works Director, Hampden Water District (if applicable), Community and Economic Development Director and Code Enforcement Officer. Evidence of issuance of required state and local permits shall be provided by the subdivider at the time of the meeting. (Added 07-06-2016)

442. The Town Manager or his/her duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Town Manager or his/her representative who is carrying out these inspections. Upon completion of the improvements the Town Manager shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved final subdivision plan. If the improvements have not been satisfactorily completed, the Town Manager shall provide a written list of the defects. (Amended 07-06-2016)

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

1. A statement from the subdivider’s engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;

2. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.

444. No final inspection will be conducted by the Town Manager between November 15th and April 15th. This does not prohibit council acceptance of improvements inspected between April 15th and November 15th. (Amended: 06-19-89) (Amended 07-06-2016)

445. The costs of inspections, including the costs of review by a third party engineer if needed, shall be paid by the subdivider prior to the issuance of the certification of completion. The Public Works Director shall establish and determine the costs of inspection. If the subdivider does not directly pay the costs of inspection, the same shall be paid from the deposit established by the Public Works Director and held by the Town, and the balance, if any, shall be returned to the subdivider. (Added 07-06-2016)

446. Private Streets need to be inspected by the Town’s staff or designee during the construction process. If the owner did not include the Town’s staff in the construction process and wished to have the Private Street serve as frontage for one or more newly created lots at a later date, the owner would need to hire at the owner’s expense a professional engineer licensed in Maine to inspect the roadway and to certify that the road has been constructed according to the Private Street standards in this Ordinance. (Added 07-06-2016)

450. Release of Guarantee

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

460. Reduction of Guarantee

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

2. Conditional acceptance may be authorized providing:
   
   A. All site improvements with the exception of final paving are completed to the satisfaction of the Town Manager or his/her representative.

   B. The binder pavement layer is placed on all areas proposed to be paved.

   C. The developer supplies the Town Manager with an improvement guarantee (article 410), documented by a written estimate from a reputable paving contractor, for the placement of the final finished pavement layer. Said guarantee shall be released in accordance with Section 450. (Amended: 06-19-89) (Amended 07-06-2016)

3. Upon acceptance of the improvements by the Town, the Town Manager shall release up to eighty-five (85) percent of the improvement guarantee, and shall release the remaining portion fourteen (14) months after acceptance of the improvements by the Town, unless the Town Manager has provided notice of a guarantee claim pursuant to Section 475, in which case the guarantee shall remain in place until any such claims have been resolved to the satisfaction of the Town Manager. (Amended 02-12-02)

470. Incomplete or Unsatisfactory Work

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

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

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

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

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

1. The subdivider shall provide the town with evidence of the value of the personal property satisfactory to the Town Manager.

2. The subdivider shall, at his/her expense, provide the town with a title opinion from an attorney, satisfactory to the town, that there exists no outstanding recorded security interest in said property; the subdivider shall provide the town with evidence, satisfactory to the Town Manager, of ownership of the proposed property.

3. The subdivider shall enter into an agreement with the town and execute a security interest in favor of the town, which shall be filed as required by law; said agreement shall provide that the ownership of the property shall be transferred to the town, unless the subdivider satisfactorily completes the required improvements in accordance with this Ordinance and with the approved final subdivision plan. Said agreement and security interest shall contain such additional provisions as may be required by the Town Manager.

4. In the case of stocks, bonds, or other securities, the subdivider shall deliver to the town or its designated trustee the original certificate for said security, together with a stock or bond power endorsed in blank by the subdivider authorizing the transfer of ownership on the books of the corporation. In the case of other personal property, the subdivider shall deliver to the town, or its designated trustee, the personal property together with a satisfactory security interest in such property.

5. In the case of stocks, bonds, or other securities, the Town Manager may require that the value of said securities exceed the estimated cost of the required improvements in order to protect the town from market fluctuations, or may at his/her option reject stocks, bonds or other securities that in his opinion do not provide the town with satisfactory security.

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

2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Hampden immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the limit of credit stated in the letter. (Amended 02-12-02)

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

ARTICLE 500
GENERAL REQUIREMENTS AND DESIGN STANDARDS

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

510. General Requirements

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

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

513. Soils - Subdivisions which contain poor soils due to organic materials, clays, or seasonal high water table (less than 24 inches below grade) shall provide appropriate construction techniques, including but not limited to, underdrains and geotextiles in public road construction. The same construction techniques may be required of Private Streets if the Director of Public Works or his/her designee determines, based on inspection, that these techniques are needed based on soil quality. (Amended: 10-04-93, 07-06-16)

520. Lots

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

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

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

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

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

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

524. Lot Frontage - Lot frontage shall be deemed acceptable only if it is on a road or street as defined in the Hampden Zoning Ordinance, or on a Private Street approved and constructed pursuant to the standards in this Ordinance. Tie lines must be shown at the front setback line to demonstrate that the lot meets the frontage requirement of the zoning district at the setback unless the lot frontage exceeds the minimum frontage requirement by at least five feet. (Amended 10-03-05, 07-06-16)

530. Drainage Requirements

531. General - The subdivider will be required to provide surface water and storm drainage management facilities appropriate to the finished subdivision. The following requirements must be met for both minor and major subdivisions. Minor subdivisions of single family dwellings in the Rural District and Private Street Subdivisions are exempt from the following requirements. (Amended 07-06-2016)

1. A storm water management system will be designed to infiltrate, detain or retain water falling on the site during a design storm, such that the post-development peak discharge and runoff shall not exceed the peak discharge and runoff from the site prior to the development.

2. Pipe systems shall be designed to pass the peak discharge of a ten-year frequency, twenty-four-hour duration storm. Open channel systems shall be designed to contain a design storm. In
addition, areas expected to be flooded by the design storm will be indicated on the plans, and be considered part of the drainage and storm water management system.

3. The storm water management system will take into consideration the upstream discharge and runoff which must pass over or through the development site. The system will be designed to pass upstream discharge and runoff, generated by the design storm, through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.

   A. The surface water and stormwater management system shall be designed so that no water shall be stored in any ditches or drainage ways located along streets or roads during a 10 year, 24 hour storm event. (Amended 02-12-02)

4. Urban development which provides public sewer and water service shall be designed to handle storm water drainage by means of an enclosed system with catch basins. Where necessary to control storm water, asphalt curbing may be required.

5. Materials and Installation

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

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

6. Drain inlet alignment shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear drain is obtained in writing from the Public Works Director. (Amended 07-06-16)

7. Manholes/catch basins shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

8. Upon completion, each catch basin or manhole shall be cleaned of all accumulated silt, debris, or foreign matter until public acceptance. (Amended: 10-04-93)

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

1. The proposed storm water management system shall be designed by a professional engineer experienced in the design of storm water systems. The designer of the system will evaluate the effectiveness of various storm water methods and develop and make available for review the hydraulic calculations. These calculations will be based on accepted engineering practices and must demonstrate that the requirements of section 531 will be met.

2. Where permanent embankment-type storage or retention basins are planned, the basins shall be designed in accordance with good engineering practices, such as outlined in the current Soil Conservation Service Engineering Field Manual or other appropriate references.
3. Rights-of-way or easements will be designated for all components of the drainage and storm water management system lying outside the established street lines. Stormwater detention facilities shall not be located on lots but on separate parcels to be conveyed to the town or provided for by easement to include provisions for suitable annual maintenance by the town, if for a Public Street, or by a private party, if for a Private Street. All rights-of-way and easements for drainage and storm water management facilities for Public Streets will be turned over to the town upon town acceptance of the road(s). Notwithstanding the provisions of this subsection, commercial and industrial subdivisions, and Private Street Subdivisions, are exempted from the provision requiring that stormwater detention facilities be separated from lots and conveyed to the Town.  (Amended 02-12-02)(Amended 07-06-16)

4. The developer shall certify in writing that all components of the storm water management system will be maintained until the system is formally accepted by the municipality or a quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system.

5. The storm water management system will be fully coordinated with the project site plans, including consideration of street patterns, pedestrian ways, open space, building siting, parking areas, recreational facilities, and other utilities. Stormwater drainage channels shall be directed to run along property lines to avoid driveway and other utility crossings.  (Amended 02-12-02)

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

540. Open Space and Recreation Land – (Repealed 4-4-2016)

541. Approval Authority - (Repealed 4-4-2016)

542. Area Required - (Repealed 4-4-2016)

543. Standards for Land - (Repealed 4-4-2016)

544. Standards for Cash-in-Lieu of Land - (Repealed 4-4-2016)

545. Provisions for Ownership and Maintenance of Open Space or Recreation Areas - (Repealed 4-4-2016)

546. Provisions for Ownership and Maintenance of Private Streets – In a Private Street Subdivision, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such Private Street(s). The means for insuring the Private Street(s) will be maintained in perpetuity shall be: (Added 07-06-2016)

1. Subdivider may retain ownership and responsibility for maintenance of such Private Street(s);

or

2. Subdivider shall provide for and establish one or more organizations for ownership and maintenance of such Private Street(s). Such organization may be a nonprofit homeowners’ corporation or other organization as approved by the Planning Board. If such organization is formed, it shall be formed and operated in accordance with the following rules:
A. The organization shall be formed by the subdivider and be operating, with financial subsidization by the subdivider if necessary, before the sales or lease of any lots or units within the development.

B. Membership in the organization is mandatory for all purchasers of units therein and their successors.

C. The organization shall be responsible for maintenance of Private Street(s) in the subdivision. It shall also be responsible for insurance, as needed, for Private Street(s) in the subdivision.

D. The members of the organization shall share equitably the cost of maintaining Private Street(s) in the subdivision in accordance with written procedures established by them. (Amended 07-06-16)

550. Street Standards

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

1. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Hampden.

2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets and Private Streets, shall be designed so as to discourage movement of through traffic. (Amended 07-06-16)

3. The arrangement of streets in a major subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice.

4. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town under conditions approved by the Town Council.

5. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.

6. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.

7. Whenever possible, subdivisions containing fifteen (15) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the official road map, if such exists, or streets on an approved Subdivision Plan.

8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked “Reserved for road
realignment (or widening) purposes”. Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.

552. **Private Street Standards.** All streets in a private subdivision shall be planned so as to meet the following standards: *(Added 07-06-16)*

1. The design and construction of all Private Streets shall comply with this Ordinance relative to Private Streets, subject to the approval of the Planning Board.

2. Notwithstanding any other provisions of the Ordinance to the contrary, Private Streets in subdivisions platted prior to the enactment of this Ordinance and Private Streets that are contained in land divisions approved by the Town of Hampden prior to the enactment of this Ordinance, shall continue to meet the specifications approved at the time of application. Upon expansion, reconstruction, or major alteration of an existing Private Street, new construction shall comply with then-current requirements of Private Streets.

3. Intersections of streets shall be at angles as close to ninety (90) degrees as possible. In no case shall two (2) streets intersect at an angle of less than sixty (60) degrees.

4. A distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets.

5. The applicant will provide a stop sign and street name sign meeting Town specification at the intersection with the public street.

553. **Design and Construction Standards for Streets Eligible for Public Acceptance** - All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the Planning Board. *(Amended 07-06-16)*

**Design and Construction Standards for Streets**

<table>
<thead>
<tr>
<th>Item</th>
<th>Collector</th>
<th>Minor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Minimum right-of-way width</td>
<td>66 ft.</td>
<td>66 ft.</td>
</tr>
<tr>
<td>2. Minimum pavement width</td>
<td>24 ft.</td>
<td>20 ft.</td>
</tr>
<tr>
<td>3. Minimum grade</td>
<td>0.5%</td>
<td>1.0%</td>
</tr>
<tr>
<td>4. Maximum grade</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>5. Maximum grade at intersection 3% Within feet from intersection</td>
<td>75 ft.</td>
<td>50 ft.</td>
</tr>
<tr>
<td>6. Minimum centerline radii on curves</td>
<td>200 ft.</td>
<td>100 ft.</td>
</tr>
<tr>
<td>7. Minimum tangent length between reverse curves</td>
<td>200 ft.</td>
<td>100 ft.</td>
</tr>
<tr>
<td>8. Depth of subgrade grading</td>
<td>22 in.</td>
<td>22 in.</td>
</tr>
</tbody>
</table>

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29 07-06-2016
<table>
<thead>
<tr>
<th>Item</th>
<th>Collector</th>
<th>Minor</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Sub base gravel depth</td>
<td>18 in.</td>
<td>18 in.</td>
</tr>
<tr>
<td>10. Upper base gravel</td>
<td>4 in.</td>
<td>4 in.</td>
</tr>
<tr>
<td>11. Pavement (see 552 item 2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Grade B</td>
<td>2-1/2 in.</td>
<td>2-1/2 in.</td>
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<tr>
<td>B. Grade C</td>
<td>1-1/2 in.</td>
<td>1-1/2 in.</td>
</tr>
<tr>
<td>C. Total thickness</td>
<td>4 in.</td>
<td>4 in.</td>
</tr>
<tr>
<td>12. Minimum road crown-centerline to edge of pavement</td>
<td>3 in.</td>
<td>3 in.</td>
</tr>
<tr>
<td>13. Minimum shoulder width on each side of road</td>
<td>2 ft.</td>
<td>2 ft.</td>
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<tr>
<td>14. Sidewalks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Minimum width</td>
<td>5 ft.</td>
<td>4 ft.</td>
</tr>
<tr>
<td>B. Gravel base course</td>
<td>6 in.</td>
<td>6 in.</td>
</tr>
<tr>
<td>C. Surface pavement</td>
<td>2 in.</td>
<td>2 in.</td>
</tr>
<tr>
<td>15. Dead-end or cul-de-sac streets</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Completely paved Radii of turn around at enclosed end</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Right-of-way boundary minimum</td>
<td>60 ft.</td>
<td>50 ft.</td>
</tr>
<tr>
<td>ii. Outside pavement radius - min.</td>
<td>40 ft.</td>
<td>35 ft.</td>
</tr>
<tr>
<td>B. With island (see #26)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Right-of-way boundary - min.</td>
<td>65 ft.</td>
<td>55 ft.</td>
</tr>
<tr>
<td>ii. Inside pavement radius</td>
<td>26 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>iii. Outside pavement radius</td>
<td>50 ft.</td>
<td>49 ft.</td>
</tr>
<tr>
<td>iv. Minimum pavement width</td>
<td>24 ft.</td>
<td>24 ft.</td>
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<td>(Amended: 10-03-05)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Temporary (See #27)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Radii at Right-of-way - min.</td>
<td>50 ft.</td>
<td>50 ft.</td>
</tr>
<tr>
<td>ii. Gravel turn around minimum</td>
<td>40 ft.</td>
<td>40 ft.</td>
</tr>
<tr>
<td>(Amended: 12-04-95)</td>
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<tr>
<td>16. Minimum pavement curb radii at intersections and where street meets cul-de-sac 20 ft. (Amended: 10-03-05)</td>
<td></td>
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<tr>
<td>17. Grade of streets should conform as closely as possible to the original relief of the land.</td>
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<tr>
<td>18. All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of two hundred (200’) feet.</td>
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<tr>
<td>19. Side slopes shall not be steeper than three (3’) feet horizontal and one foot vertical, graded, loamed (six [6] inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.</td>
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<tr>
<td>20. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches.</td>
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</tbody>
</table>
21. In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Town Manager.

22. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The subbase gravel shall meet the specifications for aggregate subbase courses as contained in the current edition of “The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation”. The upper base gravel shall meet the specifications for aggregate base courses in the same standards.

23. For Public Streets, after the upper base gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of “The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation”. (Amended 07-06-16)

24. The Planning Board may require curbing of roads in a subdivision including one or more Public Streets. (Amended 07-06-16)

25. Where a green space is planned in the interior of a cul-de-sac, existing vegetation should be preserved where possible. Any proposed landscaping shall be of a type which requires limited maintenance. (Amended: 12-04-95)

26. Where a proposed street may be extended, the Planning Board may authorize a temporary cul-de-sac. Temporary cul-de-sacs shall provide an escrow account for a period of five (5) years to cover the cost of paving, which is renewable in five (5) year increments. Access shall be prohibited from a temporary cul-de-sac. (Amended: 12-04-95)

554. **Design and Construction Standards for Private Streets** - All streets in a Private Street Subdivision shall be designed and constructed to meet the following standards: (Added 07-06-16)

<table>
<thead>
<tr>
<th>Item</th>
<th>Private</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Minimum right-of-way width</td>
<td>66 ft.</td>
</tr>
<tr>
<td>2. Minimum roadway travel width</td>
<td>20 ft.</td>
</tr>
<tr>
<td>3. Minimum pavement width</td>
<td>Not Required</td>
</tr>
<tr>
<td>4. Maximum grade</td>
<td>8%</td>
</tr>
<tr>
<td>5. Maximum grade at intersection</td>
<td>3%</td>
</tr>
<tr>
<td>Within 75 feet from intersection</td>
<td></td>
</tr>
<tr>
<td>7. Minimum centerline radii on curves</td>
<td>150 feet</td>
</tr>
<tr>
<td>8. Minimum tangent length between reverse curves</td>
<td>100 ft.</td>
</tr>
</tbody>
</table>
Town of Hampden, Maine
Subdivision Ordinance

9. Subbase course (heavy gravel) MDOT Type D
   (May be waived if pre-existing street) 18 inches

10. Base course (crushed gravel MDOT Type A)
    (May be waived if pre-existing street) 4 inches

11. Pavement Not Required

12. Minimum road crown-centerline N/A
to edge of pavement.

13. Minimum shoulder width on each side of road (if paved) 2 feet

14. Sidewalks Not Required

15. Turnaround at dead-end Hammerhead or T

See Sample Cross Section for Private Street Subdivision.

555. Utilities in Streets - In a major subdivision, the Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved. In a Private Street Subdivision, the owner or owners shall convey, where applicable, an easement to the Town, described by metes and bounds, for sewer purposes over the entire right-of-way, and shall convey, where applicable, an easement to the Hampden Water District, described by metes and bounds, for water purposes over the entire right-of-way, and shall record both easements, as applicable, in the Penobscot County Registry of Deeds. (Amended 07-06-16)

556. Street Names

1. Proposed street names shall be substantially different from existing street names so as not to be confused in sound or spelling.

2. If proposed streets are extensions of existing streets they shall carry the same name.

3. Generally no street should change direction by more than ninety (90) degrees without a change in street name.

4. In general, streets shall have names, not numbers or letters. (Amended: 09-21-87, 06-19-89)

560. Utilities

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

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

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

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

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

570. Buffer Strip - The Planning Board may require a buffer strip when a proposed major subdivision will be located adjacent to a use where separation is desirable. (Amended 07-06-16)

ARTICLE 600
WAIVER AND MODIFICATIONS OF THESE REGULATIONS

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

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

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

710. Should any section or provision of this ordinance be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations, and to this end, the provisions of this ordinance are hereby declared to be severable. (Amended 07-06-16)

720. The effective date of this ordinance is June 17, 1982 (Amended 07-06-16)

730. These regulations shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, ordinance, permit, or provision of law. Where these
regulations impose a higher standard for the protection and promotion of health and safety, the provisions of this ordinance shall prevail. (Amended 07-06-16)

740. A copy of this ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. (Amended 07-06-16)

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

ARTICLE 800
AMENDMENTS

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

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

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

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

ARTICLE 900
APPEALS

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

ARTICLE 1000
DEFINITIONS

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

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

1021. Subdivision. “Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term
“subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5 year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units with a 5 year period.

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

A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider’s own use as a single-family residence or for open space land as defined in Title 36, M.R.S.A. Section 1102, for a period of at least 5 years before the 2nd dividing occurs; or

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

1. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot(s) in reviewing a proposed subdivision created by a subsequent dividing.

2. A lot of 40 or more acres shall not be counted as a lot, except:

A. When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in the Hampden Zoning Ordinance, or any superseding state statute.

3. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, or by the transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.

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

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

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

Exceptions

This Ordinance does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971, in accordance with laws then in effect;

2. Previously existing subdivisions. Subdivision in actual existence on September 23, 1971, that did not require approval under prior law; or

3. Previously recorded subdivision. A subdivision, a plan of which had been legally recorded in the Penobscot County Registry of Deeds before September 23, 1971.

1022. Private Street Subdivision – A subdivision which includes construction of one or more Private Streets, and does not involve the construction or reconstruction of a Public Street. (Added 07-06-16)

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

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

1025. Major Subdivision - A subdivision which is not a minor subdivision or a Private Street Subdivision. (Amended 07-06-16)

1026. Street or Road - Shall mean a right-of-way, intended for motorized traffic, in the Town of Hampden, which is either: (Amended 07-06-2016)

1. Owned, established, and maintained by the Town of Hampden, the County of Penobscot, or the State of Maine; or

2. Is shown on a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds.

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

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

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

1030. Design Storm - A storm with a frequency or recurrence interval of twenty-five (25) years and a duration of twenty-four (24) hours.
1031. **Private Street (or Road)** – A Street within a deeded right-of-way that provides access to more than one principal structure and is privately owned and has not been dedicated to public use other than access by emergency and public safety vehicles, and is maintained by its private owners. A Private Street (or Road) shall be protected by a permanent easement which shall conform to the Road Classification Standards Table and which shall be shown on the plan. The limits of a private way shall begin from the edge of the traveled way of a Public Street and all associated sub roads that spur off from this road. Maintenance of this right-of-way area shall be the responsibility of the homeowner’s association. *(Added 07-06-16)*

1032. **Public Street (or Road)** – A public or dedicated right-of-way, which affords the principal means of vehicular access to abutting property and which is under public ownership or control. *(Added 07-06-16)*

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

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

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

2. Not considered part of a great pond, coastal wetland, river, stream or brook.

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

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

1036. **New Structure or Structures** - “New structure or structures” includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance. *(Amended: 02-07-94)*
Sample Cross Section for Private Street Subdivision
TOWN COUNCIL COMPENSATION ORDINANCE

The Town of Hampden hereby ordains that the following ordinance be enacted.

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

<table>
<thead>
<tr>
<th>Position</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairman</td>
<td>$35.00/meeting</td>
</tr>
<tr>
<td>Other Councilors</td>
<td>$30.00/meeting</td>
</tr>
</tbody>
</table>

Section 2. For the purposes of this Ordinance, a meeting shall include all regular or special meetings of the Town Council, as well as the meetings of its Committees provided, however, that if a Committee meeting takes place on the same date as and immediately prior to or following a meeting of the Town Council, the two adjacent meetings shall be considered a single meeting for the purposes of compensation. In order to be eligible for compensation for a meeting, the chairman or councilor must have been present at the meeting.

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

Adopted by Town Council: 9/19/2005
Effective: 1/01/2006
Amended: 08/21/2017
# TOWN OF HAMPDEN
## TOWN OF HAMPDEN, MAINE
### CEMETERY ORDINANCE

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<td>3</td>
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**ADOPTED:** Hampden Town Council September 8, 1981  
Effective Date: October 8, 1981

**AMENDED:** Hampden Town Council November 7, 1983  
Effective Date: December 7, 1983

**AMENDED:** Hampden Town Council September 8, 1986  
Effective Date: October 15, 1986

**AMENDED:** Hampden Town Council November 17, 2003  
Effective Date: December 17, 2003

**AMENDED:** Hampden Town Council September 18, 2017  
Effective Date: October 18, 2017

**CERTIFIED BY:**  
Paula A. Scott, Town Clerk
TOWN OF HAMPDEN, MAINE
CEMETERY ORDINANCE

Section 1. Cemeteries, Definition

The term cemeteries, as used in this ordinance, shall be construed to include all lands now or hereafter deeded to and accepted by the Town of Hampden for burial purposes including the following locations:

1. Locust Grove (downtown)
2. Riverview (East Hampden)
3. Neally's Corner (Kennebec Road)
4. Lakeview (Western Avenue/Route 9)
5. Old Burial Grounds

Section 2. Definitions

1. Cemetery Deed – A document that conveys burial rights, or the right of Interment for a Cemetery Lot. A deed establishes the lot owners and lineage of direct heirs to the lot. The recorded lot owner is determined by the purchaser at the time of the sale. The Cemetery Deed will detail, and not be limited to the following: name of the Cemetery; location of the cemetery lot(s) (row, area/section, plot number and grave or lot number); amount paid; name of person who purchased the lot(s); name of lot owner/grantee; lineage of direct heirs, if applicable; and trustee and witness signatures.

2. Grave – An area suitable for the interment of one body, except in the case of parent and child or two infants buried in one casket simultaneously. Further variation may be made in the case of cremations with family lots subject to the placing of markers and upon approval of the Cemetery Sexton.

3. Lot – A plot of land approximately 4 feet by 8 feet sufficient for one or more graves.

4. Resident – A person who has resided in the Town for at least two years during some point in their life, or is a current resident of the Town.

5. Grave-stones – Any stone which marks a grave or grave site.

Section 3. Lot Ownership

1. Right of Burial – The term “owner of lot” shall mean an individual who, either through purchase, grant, or transfer, acquired the right and privilege of burial of the dead, of constructing mausoleums and of erecting cenotaphs or other monuments or ornaments in accordance with the provisions of this ordinance as it exists or may hereafter be amended.

2. Transfer – The granting, transfer, and sale of lots in municipal cemeteries shall be under the control of the Cemetery Sexton subject to the rules and regulations adopted by the Town Council and the general supervision of the Town Manager. Owners transferring, granting or selling lots in municipal cemeteries must obtain prior consent of the Cemetery Sexton.

3. Purchase – Any individual wishing to purchase a cemetery lot shall apply to the Cemetery Sexton and then select from those lots available the lot he/she desires to purchase. Upon payment to the Town Treasurer in accordance with the Fees Ordinance, the Cemetery Sexton shall provide a
Cemetery Deed. A Cemetery Deed may be purchased at a time of need, or may be purchased in advance for pre-planning burial arrangements.

Section 4. Cemetery Sexton

1. Appointment – The Cemetery Sexton shall be appointed by the Town Manager. The sexton shall serve until removed by the action of the manager. He/she shall be responsible to the Town Manager for the control and management of all municipal cemeteries; for the direction of all assistants under his/her direct supervision, and for the administration of the Cemetery Ordinance adopted by the Town Council.

2. Authority – The Cemetery Sexton or his/her designated assistants have the authority to enter upon any lot with the necessary equipment for the purpose of improving the appearance and condition of any objectionable object that may have been placed contrary to the regulations of the cemetery; to remove any dead or dangerous tree, shrub, vine, neglected vegetation, fence, railing or enclosures; and to remove any artificial floral design or decoration not removed by September 10 of each year.

Section 5. Price Schedule

1. Lot Prices
   Lots purchased for non-residents *
   Lots purchased for residents *
   Lots purchased for non-resident infants or cremations *
   Lots purchased for resident infants or cremations *
   *Price Schedule and Fees are in accordance with the Town of Hampden Fees Ordinance in effect at the time of purchase.
   (Amended: 11-17-03)

2. Interment Prices
   Adult grave opened during weekday *
   Adult grave opened during weekend or holiday *
   Infant or cremation grave opened during weekday *
   Infant or cremation grave opened during weekend or holiday *
   *Price Schedule and Fees are in accordance with the Town of Hampden Fees Ordinance in effect at the time of purchase.
   (Amended: 11-17-03)

3. Additional Fees
   Funerals will pay an hourly fee* for services required by the Town beyond 3:00 P.M. There will be a fee* for the use of the receiving vault by non-residents.
   *Services and Fees are in accordance with the Town of Hampden Fees Ordinance in effect at the time of purchase. (Amended: 11-17-03)

Section 6. Care of Cemetery

1. Cemetery Care – Any person who purchases a lot is required to pay to the Town Treasurer the sum established in accordance with this ordinance as a reasonable amount for the care of said lots. The care of cemeteries shall include the cutting of the grass on the lot at reasonable intervals, the raking and cleaning of the lot, and such work as may be necessary to keep the grave in a neat condition, and for the care and maintenance of the cemetery. Care by the Town shall not include maintenance or repair of any monuments, planting of flowers or shrubs upon any lot, nor shall the Town be
Town of Hampden, Maine
Cemetery Ordinance

responsible to move, replant or replace any real or artificial flowers or decorations in conjunction
with the maintenance of said lot.

2. One half of all lot sale fees will remain in a capital account for perpetual lot care. Remaining funds
shall be used to offset costs of additional maintenance activities for all Hampden cemeteries.

Section 7. Regulations for Improving Lots

1. Enclosures - No enclosure of any nature, such as fences, copings, hedges or ditches shall hereafter be
erected on any lot.

2. Grade – Grave mounds shall not be allowed. No lots shall be raised above the established grade.

3. Placement – All flowers/decorations will be placed around the upright monument, or top of the grave.
The middle and foot of the grave shall be left clear to allow for maintenance activities.

4. Trees/Shrubs – No trees shall be planted in the Town of Hampden cemeteries. Shrubs may be
planted in the Town of Hampden cemeteries with the consent of the Cemetery Sexton.

5. Grave-stones – All headstones and monuments shall have a foundation. All graves where interment
has occurred shall be marked by a grave-stone. All markers shall be no more than 3 ½ feet in length
if a single lot is owned; the Cemetery Sexton may authorize wider markers if more than one adjacent
lot is in common ownership. Markers may not require a foundation. The location of all grave-stones
and markers shall meet the approval of the Cemetery Sexton.

6. Permitted and Prohibited Activities – Lot owners may improve, cultivate and care for their lots and
existing trees, shrubs and plants in accordance with ordinance and may utilize sound wood, concrete
or metal containers, plants or flowers of such kind or size as do not interfere with the adjacent lots.
Owners shall not change the grade of any lot or interfere in any way with the general plan of
landscaping of cemeteries, nor add any material to his/her lot which is considered by the Sexton to be
unfit for the cultivation of grass.

7. Application of Ordinance to Undertakers, Etc. – Undertakers, monumental concerns, contractors,
florists or other individuals or corporations working within the cemetery must comply with this
ordinance. All work done by such individuals or concerns must be preceded by notice provided to the
Sexton, and all work is to be performed under the supervision of, and meet the approval of, the
Cemetery Sexton.

8. Vaults – The casket must be placed in a container of permanent character, such as concrete or other
suitable material substance.

9. Trespass – No unauthorized person shall be allowed upon the grounds after dark.

10. Vandalism – No person shall injure any tree or shrub, or mar any landmarks, marker, memorial or
structure, or in any way deface the grounds of the cemetery.

11. Disclaimer – The cemetery Town of Hampden shall not be responsible for any theft or damage to
items present on the grave lots.
12. **Vehicles** – Any person driving in the cemetery shall be responsible for any damage done by his/her vehicle. Speeds of over 10 mph will not be permitted and no person shall drive his/her vehicle upon the lawns.

13. **Dogs** – Dogs shall not be permitted within cemetery grounds.
TOWN OF HAMPDEN, MAINE
TOWN WAYS ORDINANCE

Adopted: Hampden Town Council, 2/20/1979
Effective: 3/20/1979

Effective: 4/2/1991

Amended: 12/7/1987
Effective: 1/5/1988

Amended: 8/18/2003
Effective: 9/17/2003

Amended: 02/01/2010
Effective: 03/03/2010

Amended: 04/19/2016
Effective: 05/19/2016

Amended: 10/15/2018
Effective: 11/14/2018

CERTIFIED BY:

[Signature]
Paula Scott, Town Clerk

Affix Seal
TOWN OF HAMPDEN, MAINE
TOWN WAYS ORDINANCE
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TOWN OF HAMPDEN

TOWN WAYS ORDINANCE

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, except 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 therefore, 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 accept 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.
TOWN OF HAMPDEN, MAINE
VICTUALERS ORDINANCE

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ADOPTED: Hampden Town Council - April 20, 1998
Effective: May 19, 1998

AMENDED: Hampden Town Council - November 17, 2003
Effective: December 17, 2003

AMENDED: Hampden Town Council - May 16, 2005
Effective: June 15, 2005

Effective: February 21, 2013

CERTIFIED BY: _____________________________
Denise Hodsdon
Town Clerk

AFFIX SEAL
The Town of Hampden hereby ordains:

Section 1. Purpose. The purpose of this Ordinance is to regulate the sale of prepared food for consumption on or off the premises.

Section 2. License. Any person who owns or operates a place where food is prepared and served to the public as a profit-making venture for consumption on or off the premises, including but not limited to a restaurant, motel and hotel, deli, movie theater, soda fountain, bakery, sandwich shop, convenience store, or outdoor facility, shall be licensed annually as a victualer in order to operate within the Town.

At the time of application for a license or license renewal, applicant shall pay a fee in accordance with the Town of Hampden Fees Ordinance.

Section 3 Exceptions. A public or private school, public service organization, private club, church organization, fire department or any other non-profit organization selling food or drink to raise money for a charitable cause shall be exempt from the requirements of this Ordinance. Grocery stores, except those selling food items prepared on the premises, shall also be exempt. Establishments selling food and drink only through vending machines shall also be exempt.

The Hampden Town Council shall have the authority to decide if an establishment is exempt or not.

Section 4. Compliance

A. All establishments must be inspected by the code enforcement officer and the fire inspector to determine if they are in compliance with all municipal ordinances, including zoning, state life safety, and liquor regulations. Failure to be in compliance with any of the foregoing shall be grounds for denial of the application. In addition, failure to allow the code enforcement officer and the fire inspector to inspect the establishment shall be grounds for denial of the application.

B. The treasurer and tax collector must certify that all sewer user fees and personal property taxes are paid in full, as of the date of the application. Failure to meet these requirements shall be grounds for denial of the application.

Section 5. Application

A. Application forms for a victualer’s license or renewal shall be on a form designed for that purpose by the Town. Victualer applications, except for renewal applications under Subsection B below, shall be advertised by publishing notices in a local newspaper and by posting notices in at least two public places, at least seven (7) days prior to the meeting. The council shall conduct a public hearing on the applications at the next scheduled council meeting, and shall make a decision within 30 days following the public hearing. Written notice of the decision shall be provided to the applicant.
B. As long as there are no unresolved complaints or violations, licenses for renewal applications for the same owner and the same place of business may be issued by the code enforcement officer, after consultation with the fire inspector, treasurer and tax collector, upon determination of compliance with the provisions of this Ordinance. If the code enforcement officer determines that there are unresolved complaints or violations, the application shall be processed in accordance with Subsection A above. (Amended: 05-16-05; 01-22-13)

C. A new license, when granted, shall be valid for one year and renewed annually in the month in which the license was issued. An establishment shall at all times display its current victualer license in a place within the establishment where it can be readily viewed by any member of the public.

Section 6. Penalty.

A. Any person found guilty of violating any provisions of this article shall be subject to a civil penalty.

B. In addition to a civil penalty, the Town may enjoin or abate any violation of this article by appropriate action, and may also proceed to revoke the victualer’s license, after a hearing on the matter.

C. Any person operating as a victualer within the Town without a victualer’s license shall be subject to a civil penalty of $100.00 per day for all days of operation without the required license. (Amended: 05-16-05)

Section 7. Suspension or Revocation of License.

A. Applicability of State Regulations; Effect of Suspension or Revocation of State License. All victualers shall be subject to all state regulations of food service establishments, such regulations being enforced by state agencies. It is not the intent of this article to establish for the town a food service regulation scheme apart from that provided under state law. Accordingly, any suspension or revocation of a state license shall be considered as a suspension or revocation, as the case may be, of the victualer’s license issued under this article on the same terms as imposed by the state. (Amended: 05-16-05)

B. Local Suspension or Revocation of License. The Town Council, upon notice and hearing, for cause, may at any time suspend or revoke a victualer’s license issued pursuant to this article. Cause shall mean the violation of any license provision or any provision of this article, or any condition constituting a threat to the public health, safety, or welfare, including but not necessarily limited to neighborhood disruption, disorderly customers, and excessively loud or unnecessary noise that initiates complaints to or requires a response from police, fire, or other town regulatory bodies or employees. (Amended: 05-16-05)

Section 8. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.
TOWN OF HAMPDEN, MAINE

WASTE DISPOSAL FACILITY LICENSING ORDINANCE

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Amended: Hampden Town Council, November 17, 2003
Effective Date, December 17, 2003
TOWN OF HAMPDEN, MAINE
WASTE DISPOSAL FACILITY LICENSING ORDINANCE

ARTICLE 1
PURPOSE

1.1. To provide the Town of Hampden with a means of overseeing the activities of waste disposal facilities to ensure that they comply with regulations the Town deems essential to protect the health, safety, and welfare of its residents, pursuant to Title 30-A M.R.S.A. Sec. 3001 and 38 M.R.S.A. Sec. 1310-U.

1.2. To protect air, surface and groundwater and land resources of Hampden from contaminants which can reasonably be expected to accompany the activities of waste disposal facilities and thereby to preserve the quantity and quality of these resources for present and future use.

ARTICLE 2
DEFINITIONS

2.1. Disposal: The discharge, deposit, injection, dumping, spilling, leaking incineration or placing of any waste in or on any land or water, except for subsurface wastewater disposal systems regulated under the State of Maine Subsurface Wastewater Disposal Rules.

2.2. Hazardous waste: As defined in 38 M.R.S.A., Sec. 1303-C (15), means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 M.R.S.A. Sec. 1319-O. It does not include waste resulting from normal household or agricultural activities.

2.3. Liquid waste: Any waste that is determined to contain free liquids according to the Paint Filter Liquids Test (Method 9095 of E.P.A. SW-846, 3rd Edition).

2.4. Liquid waste lagoon: A facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes, special wastes, or wastes containing free liquids.

2.5. Solid waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including but not limited to: rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material, and landscape refuse. The term shall not include septic tank sludge, agricultural wastes, hazardous waste or biomedical waste.

2.6. Solid waste disposal facility: Any land area, structure, location, equipment or combination thereof used for the incineration or landfilling of solid waste or refuse-derived fuel.

2.7. Special waste: Any solid waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten public health, human safety or the environment and requires special handling, transportation and disposal procedures. Such waste shall include, but not be limited to, those wastes set forth in 38 M.R.S.A. Sec. 1303-C (34).
2.8. **Undefined Terms:** Any undefined term used in this Ordinance shall be given the definition used by the State of Maine in any statutes or regulations applicable to solid waste disposal facilities. Absent any such definition, terms not defined shall have their customary dictionary definition.

ARTICLE 3

LICENSING

3.1. No person, firm, or corporation shall locate, establish, construct, expand disposal capacity of or operate any solid waste disposal facility within the Town of Hampden without obtaining a license from the Town. Therefore, the disposal of any solid waste, liquid waste, hazardous waste, or special waste, (hereafter referred to as "waste") is strictly prohibited within the Town except at the site of a solid waste disposal facility which has secured all necessary state and local licenses and/or permits.

3.2. Said license shall not be transferable without the prior written approval of the Town Council (hereafter "Council") where the purpose and consequence of the transfer is to transfer any of the obligations of the developer as incorporated in the license. Such approval shall be granted only if the applicant or transferee demonstrates to the Council that the transferee has the technical capacity and financial ability to comply with conditions of the license and with all proposals, plans, and supporting documents contained in the application for license.

3.3. The license shall be posted on the premises.

3.4. A license issued pursuant to this Ordinance remains in effect unless modified, or unless revoked or suspended pursuant to Article 11 of this Ordinance. *(Adopted: 10/1/01)*

3.5. The Council may impose any requirement as a license condition to assure compliance with this Ordinance. *(Adopted: 10/1/01)*

ARTICLE 4

APPLICATIONS

4.1. The applicant shall have the burden of proof to demonstrate that the facility will be in full compliance with the requirements of this Ordinance.

4.2. An application for a license to locate, establish, or construct a new solid waste disposal facility or to expand the disposal capacity of an existing, duly licensed, solid waste disposal facility shall be submitted to the Council, including the following information:

a. The name and address of the applicant.

b. A complete copy of the application(s) and supporting documentation submitted to the Maine Department of Environmental Protection under the requirements of DEP's Solid Waste Management Rules (Chapter 400 et seq.), and any amendments thereto or substitutions therefore. This copy shall include all submissions required under Chapters 400-409 of the Solid Waste Management Rules.

c. Copies of any other applications for state or federal permits required for the proposed new or expanded facility, and a report on the status of any such applications. A copy of all federal or state permits issued for the facility shall also be provided to the Council.

d. If not included in 4.2.b, a description of methods to control leachate generation and movement.
e. Plans for an alternate water supply to replace private wells which could be affected by the solid waste disposal facility, including proof of the availability of an alternate source of supply, and estimates of the cost to develop this alternate source of supply (as outlined in Article 8.2).

f. General characterization of wastes proposed for disposal; estimate of the proportions of different types of waste proposed for disposal; compatibility of different wastes with each other; compatibility of wastes with the liner.

g. For good cause shown, the Council may, in its sole discretion, waive any or all of the submittal requirements of this Ordinance, or accept other documentation in lieu thereof.

The Council shall, within 30 days of the first regular Council meeting following the receipt of a license application, notify the applicant whether the application is complete. This time period may be extended by the Council for up to an additional 21 days if it is still waiting for a report from its consultant or the Landfill Oversight Committee. If the application is determined to be incomplete, the Council shall notify the applicant in writing of the specific information necessary to complete it. In reviewing applications determined to be complete, the Council may require additional relevant information which is necessary to determine whether the proposed facility fulfills the purpose of the Ordinance and its specific standards of review as listed in Articles 5 and 6.

4.3. An application for a license to locate, establish or construct a new solid waste disposal facility, or for a license to expand disposal capacity (area or volume) of an existing facility beyond that duly licensed by the State of Maine as of the effective date of this Ordinance, shall be accompanied by a fee paid in accordance with the Town of Hampden Fees Ordinance. Such fee shall be deposited in a special account designated for that application, to be used by the Council for hiring independent engineering, geological, planning, legal or other consulting services necessary to review the proposal. If the balance in this special account is drawn down to Ten Thousand Dollars ($10,000), the Council shall notify the applicant and the applicant shall deposit with the Town an additional fee in accordance with the Town of Hampden Fees Ordinance. The Council shall continue to notify the applicant and the applicant shall deposit an additional fee in accordance with the Town of Hampden Fees Ordinance with the Town whenever the balance is drawn down to Ten Thousand Dollars ($10,000). If the applicant fails to deposit the required amounts with the Town in a timely fashion, the Council may suspend its review of the application until such time as the amounts are deposited. Town shall notify the applicant in writing of any such suspension of review. The unexpended balance in the account shall be returned to the applicant after a final decision on the application is rendered. If the Council and the applicant mutually agree upon the qualifications and acceptability of all technical experts employed in the design and construction of the facility, the Council may waive all or part of this requirement, provided the public health, safety, and welfare are protected and the purposes of these regulations are met. (Amended: 11-17-03)

ARTICLE 5
STANDARDS AND REQUIREMENTS

5.1. Setbacks

A. Standards

1. The solid waste handling area of the landfill shall meet the following setbacks:

   (a) 300 feet to an adjoining property line or public street;

   (b) 250 feet from a brook or stream; and
(c) 75 feet from a freshwater wetlands greater than one acre.

2. The setback standard shall not apply to electrical transmission lines, railroad tracks or underground pipelines, whether these are held in fee or easement. However, activities in close proximity to these facilities shall not have an adverse impact on the ability to use and maintain these facilities.

3. The Council may reduce the required setbacks under A(1)(a) for solid waste handling areas where the applicant has demonstrated no other alternative exists and the existing or proposed setback will allow for an effective buffer by virtue of the limited height, mass, and visibility to the abutters or general public of the proposed expansion. In no instance shall the setback be less than 100 (one hundred) feet in width.

4. The Council may reduce the required setbacks for wetlands greater than one acre where the applicant has demonstrated no other alternative exists and the proposed design will effectively mitigate any adverse impact on the wetlands and their related habitat by virtue of the proposed gradient, surface water runoff flow, and existing and/or proposed vegetation or other methods. In no instance shall the setback be less than 25 (twenty-five) feet.

B. Submissions. Recent aerial photos taken of the site within the last year. Aerial photos shall provide complete stereo coverage within a minimum of 1,000 feet of the property boundary of the proposed landfill facility. The scale of the photographs shall be 1 inch equal to or less than 500 feet. The proposed solid waste boundary and the property boundary shall be clearly outlined on one photo. Required setback distances shall be included in appropriate site plan drawings.

5.2. Buffers

A. Standards. Vegetated buffers for the landfill shall meet the following standards, at a minimum:

1. All buffers, whether existing, planted or constructed, shall be reviewed by a licensed landscape architect to ensure they meet the intended purpose, both immediately as well as over the long term.

2. From all adjacent properties and public street(s): Provide a 200 foot buffer of natural vegetation consisting of predominantly native trees that will attain a mature height of at least sixty feet in height. At least 50% of the buffer vegetation shall be evergreen trees which will provide year round screening. Cleared openings in the buffer area to accommodate access, accessory structures, and other elements shall be kept to a minimum. Where existing vegetation does not exist, or does not meet the standards above, a planting plan must be submitted to provide a buffer not less than 10 (ten) feet in height at the time of planting, to a width of 100 feet, provided that an internal access roadway serving the landfill may be located within the 100 foot buffer along I-95, provided that in no event shall said buffer be less than 50 feet, if such location is reasonably necessary to serve the landfill and provided the applicant demonstrates that the buffer will provide adequate screening despite the location of the roadway. The foregoing buffer requirements shall not apply to adjacent properties that are used for railroad purposes. Provided, however, that the landfill shall be screened from public streets to the greatest extent practicable, using a combination of vegetation, fences, berms, and other screening devices.

3. From brooks and streams: Provide a 100 foot buffer of natural vegetation consisting of predominantly native trees and shrubs. Where existing vegetation does not exist, an appropriate
planting plan shall be submitted to provide for improvement in storm water quantity as well as wildlife habitat. Disturbance of stream banks is to be avoided.

B. Submissions.

1. A plan of the site which identifies the various elements which require buffers and indicates the location and quality of the existing buffers. Where existing vegetation does not meet the standards above, a planting plan shall be submitted to provide buffers that meet the standards. This plan shall detail the species type, size, designations of number of units and proposed locations.

2. A narrative by a landscape architect, or similarly qualified professional, describing the existing vegetation. The description shall include growth rates, physical characteristics, and ability to provide the required buffer. Where additional plantings are required, the narrative shall detail on how the proposed plantings will meet the intended buffer purpose, anticipated growth rates, and other relevant details.

5.3. Site Analysis. The applicant must provide a predevelopment site analysis which describes the natural characteristics of the site to be developed and its surroundings. The analysis shall be prepared by professionals qualified in the respective field of evaluation. The analysis, covering the following areas, will highlight the elements of the proposed site and vicinity which are conducive to the proposed project, as well as those which are limitations that will require special consideration in the development of the project. The analysis must describe how the design will compensate for the described limitations. The analysis should include adjacent features within at least 1/2 mile from the project site.

5.4. Effect on Existing Uses and Scenic Character (Amended: 8/20/01)

A. Standards. The facility may not unreasonable adversely affect existing uses and scenic character. Specifically, the facility may not:

1. Present a bird hazard to aircraft;

2. Have an unreasonable adverse effect on the preservation of historical sites;

3. Unreasonably interfere with views from established public viewing areas;

4. Generate excessive noise at the property boundary or at any protected location; or

5. Unreasonably adversely affect existing uses of property neighboring the proposed solid waste facility.

B. Submissions.

1. An analysis of the visual impact of the proposed project on the vicinity. This analysis shall include presentation of site layout, operations methodology and sequencing options considered during the design process.

2. The analysis shall include presentation of vistas and views to illustrate the analysis.
3. A description of the existing condition of the site and the vicinity around it, covering the area within 1,000 feet of the property boundary. This description shall include, at a minimum, terrain, vegetation, habitations, existing land uses, and natural resources.

5.5. Geology

A. Standards.

1. The site selected for the project must have suitable geological, geotechnical and ground and surface water characteristics and the applicant must assess the potential impacts of the project and show that the engineering of the project will appropriately protect the site and compensate for any limiting existing conditions.

2. The facility site and design must provide adequate stability, both static and seismic, and account for settlement.

B. Submissions.

1. A summary of the geological, ground and surface water, and geotechnical investigations conducted for the MDEP application. The discussion should describe the investigations conducted and the conclusions, including the limitations they present for the project, and the engineering proposed to overcome these limitations.

2. A summary of the time of travel calculations required by the MDEP application.

3. Cross-sections of the landfill and the leachate collection and leak detection system showing the most critical areas for each of the following: bedrock, groundwater (both seasonal high and low conditions), and overburden soils.

4. A summary of the stability and settlement assessments, and a description of the key elements of the Stability and Settlement Monitoring plan. This summary must clearly indicate how the monitoring will be accomplished and by whom, and how results will be analyzed, presented and mitigated. In particular, the plan must demonstrate how the Town of Hampden will be made aware when settlement and/or stability issues arise, and how it will be made aware of the proposed mitigations.

5.6. Natural Environment. (Amended: 8/26/01)

A. Standards. The facility development and operations may not unreasonably adversely affect protected natural resources and rare, threatened or endangered plant and animal species or habitats in the vicinity of the facility.

B. Submissions.

1. A narrative by qualified professionals describing wildlife habitat in the development area, including nesting, foraging, and feeding areas. Wildlife habitats in wetlands and streams should be included. Mitigation for any adverse impact on those habitats should be specifically described.

2. The narrative should also include descriptions of the flora and fauna of the existing site and the potential for and nature of impact by the proposed project. The assessment must determine if any
rare, threatened or endangered species or habitats will be impacted or are threatened by the project.

5.7. Traffic.

A. Standards.

1. The applicant must demonstrate that the traffic generated and impacted by the facility, both on and off site, will be safe and uncongested.

2. Haul routes must be on roads that can accommodate the number, weight, and types of vehicles proposed to use them.

3. On-site roads must provide safe and clearly defined traffic circulation.

4. Facility entrances and exits must have safe sight distances and provisions for safe turning.

5. Analyses must include traffic from both regular operations and construction activity.

B. Submissions.

1. A map clearly indicating the anticipated major haul routes both to and from the facility by vehicles serving or using the facility, as well as a description of the characteristics of each road including dimensions, condition, existing usage, weight limits and restrictions.

2. Any sections of roads or intersections on these routes that are congested locations, not rated to handle the weights or types of vehicles anticipated, or are high accident areas (based on MDOT inventory and analysis over the most recent three year period) must be identified on the map and in the description. Actions to mitigate potential problems posed by these restrictions should be discussed.

3. A description of the traffic to be generated by the facility, including an estimate of the number, type, weight and schedule (i.e. distribution and time of day) of all vehicles. This discussion should include the same data for existing uses of the facility, and should compare existing and proposed conditions.

4. Evidence must be provided that sight distances at the facility's proposed (and existing) entrances and exits are safe. This can include a description of the sight distances and a copy of the DOT entrance permit if applicable, or certification by a qualified professional. This review must be in conformance with Transportation and Land Development ITE, 1988), A Policy on Geometric Design of Highways and Streets (AASHTO, 1990), and Highway Design Guide (Maine Dept. of Transportation, 1990).

5. If a full traffic study is required for the project by MDEP, a copy of the study must be submitted, as well as an explanation for the issue which necessitated the full study.

6. If alternative haul routes are utilized more than occasionally (once per month), these additional routes must be submitted for review and approval by the Town.

A. Standards.

1. The proposed landfill shall provide for adequate prevention of fire and unauthorized access.

2. The proposed facility shall provide an adequate plan (equipment, methodologies, and personnel) to deal with accidental fire or arson as well as unauthorized entry and disposal of unauthorized materials.

B. Submissions.

1. The applicant must submit a fire safety plan that evaluates the potential ignition sources, their relative hazard potential, and the on-site means of controlling a fire. The plan should discuss the availability of on-site equipment, water supply, and warning systems, as well as the planned coordination with the local fire department. The applicant must obtain and submit a letter from the Public Safety Director that the proposed fire safety plan is acceptable to the department.

2. The applicant shall provide provisions for on-site security adequate to prevent unauthorized access to the facility. This plan may include gatehouse personnel, fencing, security patrols, alarm systems and limited vehicle access points.

5.9. Nuisance Control: The proposed solid waste disposal facility shall not create a nuisance to properties in the immediate area by way of noise, dust, litter, or odors.

5.9.1. Noise.

A. Standards

1. Sound Level Limits. The following hourly sound levels from routine operation of a solid waste disposal facility must be less than or equal to:

   (a) 75 dBA for daytime and nighttime hours at the facility property boundary;
   
   (b) 60 dBA for daytime hours and 50 dBA for nighttime hours at any protected location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is not predominantly commercial or industrial; or
   
   (c) 70 dBA for daytime hours and 60 dBA for nighttime hours in an area for which the zoning, or if unzoned, the existing use or use contemplated under a comprehensive plan, is predominantly commercial or industrial.

2. Alternative levels. If the applicant chooses to demonstrate by measurement that the daytime or nighttime pre-development ambient sound environment at any protected location exceeds the daytime or nighttime limits above, by at least 5 dBA, then the daytime or nighttime limits are 5 dBA more than the measured daytime or nighttime pre-development ambient hourly sound level at the location of the measurement for the corresponding time period.

3. Existing Facilities. For any protected location near an existing solid waste disposal facility, the hourly sound level limit for routine operation of the existing facility and all future expansions of that facility is the hourly sound level written above, or at the applicant's
election, the existing hourly sound level from routine operation of the facility before any expansions plus 3 dBA.

4. All equipment used in the construction of and maintenance activities at the solid waste facility must comply with applicable local and federal noise regulations, and include environmental noise control devices in proper working condition and maintained as originally provided with the equipment by its manufacturer.

5. Sounds associated with the following are exempt from the sound level limits of this section:

(a) Routine engine sounds from registered and inspected motor vehicles:
   (i) While operating on public ways, or
   (ii) That enter the facility to make a delivery or pickup and that are moving, starting or stopping, but not when they are parked with the engine running for over 60 minutes in the facility.

(b) The unamplified human voice and other sounds of natural origin.

(c) Emergency maintenance and repairs.

(d) Facility and vehicle warning signals and alarms so long as used in appropriate circumstances.

(e) Safety and protective devices installed in accordance with the devices' installation instructions.

(f) Boiler start-up, testing and maintenance operations occurring no more frequently than once per month.

(g) Major concrete pours that must extend after 7:00 p.m., when started before 3:00 p.m.

(h) Test operations of emergency equipment occurring in the daytime and no more frequently than once per week.
   (i) Snow removal, landscaping and street sweeping activities.

(j) Sound from a regulated development received at a protected location when the generator of the sound has been conveyed a noise easement for that location. This exemption shall only be for the specific noise, land and term covered by the easement.

6. For the purposes hereof, protected locations shall only include those for which the hourly sound levels from the facility will be greater than 45 dBA.

B. Submissions.

1. Sufficient evidence, including but not limited to the submissions below, which demonstrates that the proposed facility will not exceed the specified noise standard.
2. A narrative description, with associated plans, of all noise generating activities on the site both during construction and during routine operations, including description of the source, frequency, duration, and hours of occurrence. The magnitude of these noise sources should be described at the source, at the property line and at any protected location.

3. A description of all mechanisms used to mitigate the noise generated by these sources, and an analysis of the effect of each mechanism, and all mechanisms combined, on the noise level generation at the source, at the property line and at any protected location. These mechanisms may include, but are not limited to, physical barriers, additional setbacks, vegetative buffers, limitations on operational hours of certain equipment and deliveries.

5.9.2. Odor.

A. Standards.

1. The facility must control nuisance odors.

2. Proposed controls will be included in the Operations Manual, as appropriate.

3. The Response Plan (see B.6 below) shall be included in the Operations Manual and shall require the elimination or reduction to an acceptable level of nuisance odors at the property line within 48 hours of receipt of the complaint.

B. Submissions.

1. The applicant shall evaluate all potential odor sources and shall provide an effective means of reducing the off-site impact of odors generated.

2. The information provided shall include a list of potential landfill materials which have been known to produce offensive odors and the methodologies used to eliminate the odors.

3. The identification of any possible sources of nuisance odors at the facility, including frequency and duration of the presence of these sources.

4. An estimation of the area affected by the odor, based on experience in dealing with the material or process that is the source of the odor.

5. Proposed systems to control, reduce, or eliminate odors. ASTM E 679-79 can be used for guidance for control of nuisance odors. The effectiveness of these methodologies should be discussed based on experience. These methods may include prohibitions on accepting certain materials or seasonal limits.

6. Response plan for handling complaints about nuisance odors.

5.9.3. Lighting.

A. Standards.

1. Lighting at the facility shall not unreasonably alter the lighting conditions in the vicinity of the facility.
2. Proposed lighting shall be the minimum necessary to illuminate only those areas which would be adversely impacted without such illumination. Hours of lighting operation shall be minimized and all fixtures shall be shielded to allow lighting to be directed toward the desired targets and away from the surrounding properties or the sky.

3. Light levels at the property lines shall not exceed 0.5 foot candles.

**B. Submissions.** Location, bulb type, wattage, luminaire type, hours of operation and lighting diagrams for each proposed fixture in foot candles. The cumulative effect of all on-site fixtures (existing and proposed) should be analyzed and discussed as well.

### 5.9.4. Litter, Debris and Dust.

**A. Standards.**

1. The facility operations will not create litter, debris or dust on the public roads or on the properties in the vicinity of the proposed facility.

2. Proposed controls will be included in the Operations Manual, as appropriate.

3. The Response Plan (see B.4 below) will be included in the Operations Manual and will require clean-up or control action within 24 hours of receipt of the complaint.

**B. Submissions.**

1. The identification of any possible sources of litter, dust and debris at the facility.

2. Proposed specific systems to control, reduce, or eliminate litter, debris and dust. These must control litter blowing from vehicles or from the facility, debris tracked by vehicles into or out of the facility and dust generated anywhere on the site or by vehicles associated with the site, both during construction and during regular site operations.

3. Provisions for prompt clean up of accidental spills and stray cargo.

4. Response plan for handling complaints about litter, debris and dust.

### 5.10. Design Standards.

#### 5.10.1. General Standards.

**A. Standards.**

1. The height of the landfill, inclusive of final closure systems, shall not exceed 320 feet in elevation, based on United States Geological Survey National Geodetic Vertical Datum of 1929. (Amended: 10/1/01)

2. Expansions outside existing disturbed areas shall utilize appropriate grades to transition from existing landforms to man-made landforms.

3. The working area of the landfill shall utilize the smallest possible working face.
B. Submissions.

1. An analysis of the visual impact of the proposed project on the vicinity. This analysis shall include presentation of site layout, operations methodology and sequencing options considered during the design process, and a discussion of how the proposed design minimizes the visual impact to the maximum extent possible.

2. The analysis shall include presentation of vistas and views to illustrate the analysis.

3. A description of the existing condition of the site and the vicinity around it, covering the area within 1,000 feet of the property boundary. This description shall include, at a minimum, terrain, vegetation, habitations, land use, development patterns, transportation systems, natural resources, character, etc.

5.10.2. Leachate Management and Groundwater Protection.

A. Standards.

1. Landfills may not contaminate ground water beyond the solid waste boundary.

2. 

(a) Time of travel to sensitive receptors must be greater than 6 years as demonstrated by the time of travel calculations required for the MDEP application. Contaminant releases from the area within the solid waste boundary must not pose an unreasonable threat to sensitive receptors.

(b) As an alternative, the applicant may propose, and the Town Council may consider at its sole discretion, utilization of the Improvement Allowance System set forth in Chapter 401 of MDEP's Solid Waste Management Rules. Subject, however, to the following requirements:

(i) The applicant shall identify potential sensitive receptors using travel times calculated for the existing site conditions.
(ii) The total number of offsets under the System shall not exceed 3.
(iii) The allowable offsets shall be subtracted from the 6-year criteria set forth in (a) above to determine the travel time to sensitive receptors that must be provided by site conditions and imported soil.
(iv) Additional soil may be imported onto the site to augment the existing site travel times, as long as one or more of the improvement allowances set forth in the Rules are utilized.

3. 

(a) The liner, leachate collection and leak detection systems must meet the design standards in Chapter 401 of MDEP's Solid Waste Management Rules.

(b) The applicant may propose, and the Town Council may consider in its sole discretion, alternatives to the minimum design standards. Provided, however, that the applicant shall submit to the Town the documentation required by said MDEP Rules for consideration of
alternatives to the minimum design standards, which documentation must clearly and convincingly demonstrate technical equivalency of the proposed alternative.

B. Submissions.

1. If not included in the submissions required under Article 4, the application must show the following elements of the site design:

   (a) Leachate collection system
   (b) Containment ponds
   (c) Storage tanks
   (d) Connection to public sewer system, if applicable
   (e) Cross sections (sufficient to illustrate landfill design and phase development)

2. The following site grading plans must be submitted:

   (a) Existing topography
   (b) Proposed stages or phases (1 plan per 2 years minimum)
   (c) Final conditions

3. Details of the following must also be provided:

   (a) Liners
   (b) Cover materials

4. A detailed description of the each component of the base, liner, leachate collection and leak detection systems including the specifications proposed for the materials and their installation.

   (a) A detailed discussion of how the proposed design meets or exceeds the standards in Chapter 401 of the MDEP Solid Waste Management Rules.

   (b) A summary discussion of the leachate management system, including leachate generation rate estimates, conveyance and storage system design and capacity, leachate quality estimates and resultant limitations on disposal options, and contingency plans for significant failure modes (which can result in the direct discharge of leachate to the environment).

   (c) The Leachate Management Plan submitted under Chapter 401 of the MDEP Solid Waste Management Rules.

   (d) A summary of the Contaminant Transport Analysis required under Chapter 401 of the MDEP Solid Waste Management Rules.
5.10.3. Stormwater Management.

A. Standards.

1. The proposed landfill will not increase storm water runoff rates or create adverse storm water impacts downstream from the proposed project.

2. The storm water plan shall be designed so that there will be no increase in the peak flow in the post development condition during any storm up to and including the 25 year, 24 hour storm.

3. The development may not cause or increase the extent, frequency, or duration of flooding at any downstream control structures (i.e. culverts, bridges, dams, etc.).

B. Submissions.

1. A pre development/post development storm water impact analysis prepared by a professional engineer. The applicant shall demonstrate that the rate, volume, and velocity of post development stormwater flows will not create erosion on or off site or cause flooding or increased peak flows from the watershed.

2. All detailed engineering analyses, including drainage areas, flow paths, hydraulic calculations, etc. shall be provided to the Town's consulting engineers. All assumptions made in determining curve numbers, travel times, etc. must be discussed.

3. The analysis shall include the 24 hours, 2, 10, and 25 year storm events. The analysis shall evaluate the site within the watershed as well to ensure overall flow from the watershed is not increased, nor is any flooding caused or increased. The storm water system must be sized to accommodate temporary conditions such as bare ground, stock piled materials, and temporary service roads.

4. All capacity calculations for any existing and proposed drainage structures.

5. Any retention or detention structures shall be evaluated for stability based on construction methodology and materials used.

5.10.4. Soils and Erosion Control.

A. Standards.

1. The construction and operation of the facility shall not cause erosion, sedimentation or other adverse impacts to adjacent surface waters or wetlands.

2. The soils on the facility site shall be suitable for the proposed project to avoid causing unreasonable sedimentation or erosion impacts.

3. The design and implementation of erosion control measures shall be done in accordance with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices (March 1991), or any amendments thereto or replacements thereof.
B. Submissions.

1. A plan showing the locations, calculations, dimensions and installation and removal schedules for all erosion control measures, both permanent and temporary. Maintenance of all measures must be specified as well as identification of an individual who will be responsible for ensuring all erosion control measures are functioning properly.

2. A maintenance plan for all permanent measures which includes measures to ensure that sediment collected by structures do not become a source of contaminants which can impact water quality.

5.10.5. Solid Wastes.

A. Standards

1. The design and operation of the landfill must be consistent with the intended waste stream to be disposed of at the facility. These wastes must be of types which will not cause nuisances such as those set forth at Section 5.9. The amount and disposal of municipal solid waste (MSW) and front-end process residue (FEPR) or other putrescible waste at the facility must be adequately limited and/or controlled so as to not cause nuisances such as set forth in Section 5.9.

B. Submissions.

1. A description of all waste types to be disposed of at the facility, including the source, estimated volume from each source, chemical analysis of each waste, including variability and potential hazard, compatibility with engineered systems and a discussion on the composition of the leachate to be generated including the potential for "unreasonable threat to sensitive receptors" from the wastes or the leachate. The leachate quality analysis must account for the potential reaction products and consequences when wastes are mixed.


A. Standards.

1. The Operations Manual must meet all the requirements of Chapter 401 of the MDEP Solid Waste Management Rules.

2. The manual must adequately describe all procedures and mechanisms incorporated in the design to monitor, mitigate or improve the performance of the facility and the site and should include measures to ensure that all such procedures and mechanisms are actually utilized and maintained by the operations staff.

3. The manual must provide a mechanism to allow the Town to easily assess the status of required inspections, monitoring, submissions, etc.

4. The operations manual must clarify the portions of the site's operations to which it applies, updating the operations procedures as necessary for existing facilities on the site that will be incorporated into the operations of any proposed expansion (including but not limited to such elements as roads, security, scales, leachate collection, monitoring etc.).
B. Submissions.

1. The Town of Hampden must be the recipient of one of the certified copies of the Operations Manual. This copy must be maintained along with all other certified copies throughout the operational lifetime of the facility.

5.10.7. Water Quality Monitoring.

A. Standards.

1. The Water Quality Monitoring plan must be sufficient to ensure that any contamination which enters the environment from the facility will be identified in a timely manner so mitigation methods can be implemented.

B. Submissions.

1. A proposed Water Quality Monitoring plan that meets the requirements of the MDEP Solid Waste Management Rules.

2. All water quality monitoring reports must be submitted to the Town when they are submitted to MDEP, as well as all correspondence concerning the Water Quality Monitoring program.

3. Identification of potential sensitive receptors, based on a 6 year travel time for the existing site conditions.

5.10.8. Final Elevations.

A. Standards.

1. In addition to compliance with the requirements of Section 5.10.1, the solid waste disposal facility shall be designed and constructed in such a manner so as to minimize the visual impact of the final landform by creating an undulating final terrain with subtle, rolling peaks and valleys. Provided, however, that the final terrain of the facility shall not cause or permit the impoundment or ponding of surface water. The final elevation and shape of the facility shall conform to the following design parameters:

   (a) No more than 25% of the total footprint area of waste placement shall exceed 245 feet in elevation and no more than 15% of the total footprint area of waste placement shall exceed 260 feet in elevation, based on United States Geological Survey National Geodetic Vertical Datum of 1929. (Amended: 10/1/01)

   (b) The top surface of the facility shall be an undulating shape that conforms to the following requirements:

      (i) Minimum of two peaks.

      (ii) Intermediate saddle that is at least 25 feet wide and 40 feet lower than the peak elevation. (Amended: 10/1/01)

      (iii) Top slope of not less than 10%.

2. The Council may grant a variance to the foregoing parameters if the applicant can demonstrate to the satisfaction of the Council that the site specific design provides a shape
that blends naturally with the existing landforms and environment of the area and promotes runoff.

B. Submissions.

1. Plans showing the final elevations of the solid waste disposal facility, along with sufficient visual simulation materials from a variety of viewing areas to permit the Council to evaluate the effectiveness of the undulating design in minimizing the visual impact of the proposed final landform of the facility.

5.10.9. Closure.

A. Standards.

1. Approval from the Council is required to close a solid waste disposal facility. The applicant must demonstrate that the closure will be designed, constructed, monitored, and maintained to: (1) mitigate hazards posed by the facility to public health and safety or to the environment, (2) monitor the effectiveness of the closure system, and (3) function with a minimum of maintenance.

B. Submissions.

1. The applicant shall submit to the Town a complete copy of all applications, plans, studies, reports, or other documentation submitted to MDEP concerning the closure of the facility. The foregoing materials shall be submitted to the Town contemporaneous with their submission to MDEP. If not included in the foregoing submissions, the applicant shall submit plans for the final closure of the facility and post-closure monitoring, care and maintenance of the site, including information on the timing of closure, cover materials to be used, frequency and methods for groundwater, surface water, gas leachate, and cover maintenance and monitoring, and methods to control methane generation and movement post-closure.

ARTICLE 6
PROCEDURES

6.1.

A. Any application to locate, establish, construct, expand disposal capacity of or operate any solid waste disposal facility within the Town of Hampden shall be reviewed by a Landfill Oversight Committee ("LOC") consisting of three members. One member shall be appointed by the applicant, one member shall be appointed by the Town Council, and one neutral member shall be appointed by the mutual agreement of the applicant and the Town Council. LOC shall have the authority to engage the services of such professional consultants as it deems necessary or appropriate to assist it in the review and evaluation of any application. Upon referral by the Council, LOC shall review any application for completeness and issue a written recommendation to the Council on the issue of whether the application is complete. LOC shall review and evaluate any complete application, and may formulate any comments and/or suggestions concerning the application with regards to its compliance with the requirements of this Ordinance. Upon the completion of its review and evaluation of a completed application, LOC shall issue a written report to the Town Council wherein LOC shall make recommendations to the Town Council as to whether the application should be approved, denied, or approved with modifications or conditions. Any such report shall be
based on the licensing requirements of this Ordinance, and the recommendations contained in
the report shall set forth, with reference to the applicable licensing requirement(s), the
rationale and reasons for LOC's recommendations.

B. In addition to reviewing and evaluating applications, LOC shall also have the authority to monitor
and evaluate the construction and operation of any solid waste disposal facility licensed under this
Ordinance to ensure that any such facility is constructed and operated in accordance with the
requirements of this Ordinance and the requirements of any license issued by the Town Council. In
carrying out its duties hereunder, LOC shall be authorized to engage the services of such professional
consultants as it deems necessary or appropriate.

C. The applicant shall bear the costs of the member appointed by the applicant, and the Town shall bear
the costs of the member appointed by the Town Council. The costs of the neutral member and the
costs of the professional consultants retained by LOC shall be borne equally by the applicant and the
Town, and the Town may pay its share of said costs related to the review and evaluation of an
application from the application fee paid under Section 4.3 of this Ordinance. Provided, however, that
nothing contained herein shall prohibit the applicant and the Town from reaching an alternative
financing mechanism by agreement.

6.2. A hearing shall be held by the Council within ninety (90) working days of its determination that an
application is complete for a new license (i.e., a license to locate, establish or construct a new solid waste
disposal facility or to expand the disposal capacity of an existing facility) or thirty (30) working days for a
license renewal. The Council may elect to have a hearing on an application for an original license for an
existing facility, or it may consider such application without a hearing. When considering an application
for a new license or a renewal license, the Council may extend this period to no more than 180 days for a
new license and 60 days for a renewal license if more time is necessary to conduct a thorough review of
the application, or if LOC has not issued its written report to the Town Council. At the hearing, the
Council shall receive evidence on the location and operation of the proposed facility, including but not
limited to location and design, volume of traffic generated, condition of screening, proximity of
residences to the site, proximity of drinking water wells, proximity of aquifers, freshwater wetlands,
rivers, streams or brooks as defined in 38 M.R.S.A. Sec. 480-C (9), adequacy of methods to control
leachate and other factors relevant to the proposed facility and its operation.

6.3. Within thirty (30) working days of the hearing, or within thirty (30) working days after the
application is determined to be complete if there is no hearing, the Council shall issue a license only if it
finds, based on substantial evidence in the record, that:

1. The proposed facility is in compliance with all applicable regulations and ordinances of the Town of
Hampden.  (Amended 4-3-95)

2. The proposed facility meets the specific requirements set forth in this Ordinance;

3. The applicant has sufficient right, title or interest in the property for which a license is sought.

4. The applicant has sufficient financial ability to design, construct, operate, maintain, close and
accomplish post-closure care of the solid waste disposal facility.

5. The applicant has sufficient technical ability to design, construct, operate, maintain, close and
accomplish post-closure care of the solid waste disposal facility.
6. Adequate provision has been made for the containment and treatment of leachate so as to prevent ground or surface water contamination;

7. Wastes proposed for disposal are compatible with each other and the liner(s);

8. The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare, or other nuisances which could be avoided by reasonable modification of the plan;

9. The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements;

10. The facility will not have an unreasonable adverse effect on air quality.

11. The facility will not have an unreasonable adverse effect on surface water quality.

12. Adequate provision has been made for the transportation, storage, and disposal of hazardous materials as defined by state law;

13. The facility will not have an unreasonable adverse effect on other natural resources in the Town.

14. The facility will not create an unreasonable risk that a discharge to a significant ground water aquifer will occur.

15. The proposed facility will not have an adverse impact upon a classified surface water body, river, stream or brook as defined in 38 M.R.S.A. Sec. 480-C;

16. The closure and post-closure monitoring and maintenance plans shall provide adequate protection that the solid waste disposal facility will not create future health or safety hazards, and will meet the minimum standards contained in Chapters 400-401 of the State Solid Waste Management Rules of the DEP.

17. Adequate provision has been made for utilities, and the facility will not have an unreasonable adverse effect on existing or proposed utilities.

18. The applicant and the Town Council have negotiated a host community agreement satisfactory to the Town Council which, based upon the nature, size and projected impacts of the proposed facility, must include as a minimum provisions regarding the following:

(a) Improvement, maintenance and repair of local roads directly affected by traffic to and from the facility and of other infrastructural elements directly affected by the facility;

(b) Development and maintenance of adequate local emergency response capacity to accommodate the facility;

(c) Financial support for personnel or other means to provide technical assistance to the Town in interpreting data and to advise the Town on other technical issues concerning the facility; and

(d) Other issues determined on a case-specific basis by the applicant and Town to be appropriate given the nature of the proposed facility.
The license is subject to the condition precedent that the applicant actually enter into a host community agreement with the Town. The Council shall issue a written report stating its findings of fact and its decision and, if a license is issued, any conditions attached to the license which the Council finds necessary to fulfill the purposes of this Ordinance.

6.4. A license for a new solid waste disposal facility or to expand the disposal capacity of an existing, duly licensed, solid waste disposal facility shall be subject to the condition precedent that said facility receive approval from the Town's Planning Board under the Zoning Ordinance. Licenses are subject to the condition that the applicant secure and comply with all applicable federal, state, and local licenses and permits prior to and during construction and operation of the waste disposal facility.

**ARTICLE 7**

**PERFORMANCE STANDARDS AND SUPPLEMENTAL REQUIREMENTS**

7.1. The facility shall comply with all operational and performance standards included in the Maine Department of Environmental Protection’s Solid Waste Management Rules (Chapter 400 et seq.) and any amendments thereto or substitutions therefore.

7.2. Access to the disposal site shall be strictly controlled, and all access roads to public or private ways shall be secured when the facility is not open for operation to ensure that unauthorized or unsupervised dumping does not occur.

7.3. The operator shall continuously supervise the unloading of waste to ensure that only permitted wastes are handled at the facility. The operator shall maintain a record of every vehicle which brings waste to the facility, including the following information: 1) name of driver; 2) name of person, firm, or corporation which owns the vehicle; 3) license plate of vehicle; 4) type-characterization of waste; 5) source and origin of waste.

7.4. The owner or operator of the facility shall provide the Town with copies of all reports or other documentation provided to MDEP pursuant to MDEP’s Solid Waste Management Rules during the construction, operation, closure, and post-closure period of the facility, including but not limited to any annual report required by said Rules. The foregoing materials shall be submitted to the Town contemporaneous with their submission to MDEP. In addition, along with the submission of a copy of the annual report, the owner or operator of the facility shall also provide the Town with updated as-built plans of the facility prepared by a professional engineer or a professional land surveyor, which plans shall depict all construction activity that occurred at the facility from the date of the prior annual as-built plans submitted to the Town. (Amended: 10/1/01)

7.5. The owner or operator of the facility shall provide the Town with copies of all applications to dispose of special wastes at the facility, which copies shall be submitted to the Town contemporaneous with their submission to MDEP.

**ARTICLE 8**

**PERFORMANCE GUARANTEES**

8.1. The Council may, as a condition of the license, establish any reasonable requirements to ensure that the owner has the ongoing technical ability to meet state air, water, and land pollution control standards, such as:
a. Requiring the owner to employ a capable engineer or other professional who is sufficiently knowledgeable and experienced in the disciplines necessary to ensure that state air, water, and land pollution control standards are met.

b. Requiring a training program for the appropriate personnel to ensure proper installation, operation, and maintenance of pollution control equipment, and proper operation of the facility.

c. Requiring on-site inspection during construction by an independent consultant, at the developer's expense, to ensure proper execution of plans as approved, including any conditions imposed by the Council.

If an independent consultant is required by the Council the developer shall establish an account, in an amount to be determined by the Council, to provide for the hiring of engineering, geological, or other expertise to monitor and inspect construction of the facility. The unexpended balance on the account shall be returned to the applicant. As an alternative, the Council and the applicant may agree upon who the applicant will use to monitor construction.

8.2. Liability Insurance. All applicants for a new or expanded solid waste disposal facility license shall submit with the application, and annually thereafter, proof of liability insurance for sudden and accidental occurrences for the solid waste disposal facility. Coverage must be provided for bodily injury and property damage and must be provided for the active life and closure of the solid waste disposal facility. The policy and the coverage afforded thereby shall comply with the requirements of any applicable State of Maine statute or regulations, as may be amended. (Adopted: 10/1/01)

8.3. Financial Assurance for Closure and Post-Closure Care. An owner or operator of a solid waste disposal facility shall provide financial assurance sufficient to ensure that funds are available to pay for the anticipated costs of compliance with all facility closure, post-closure maintenance, and post-closure monitoring requirements of any applicable State of Maine statute or regulation, as may be amended. The financial assurance shall comply with the provisions or requirements of any applicable State of Maine statute or regulation, as may be amended. The owner or operator shall provide the Town with copies of all documentation concerning the financial assurance, including but not limited to cost computations for the amount of financial assurance required by the Department of Environmental Protection (or its successor), the mechanism(s) used to provide the financial assurance, the annual calculations of the amount of the financial assurance, and the calculations for any annual inflation adjustment. (Adopted: 10/1/01)

8.4. Financial Assurance for Corrective Action. In the event that the Maine Department of Environmental Protection requires and/or approves a corrective action plan for any known releases, violations, or environmental damage, the owner or operator of the solid waste disposal facility subject to such a plan shall provide a copy thereof to the Town, and shall also provide the Town with a copy of the financial assurance documentation submitted to MDEP for the corrective action activities required under the corrective action plan. (Adopted: 10/1/01)

ARTICLE 9
RIGHT OF ENTRY

9.1. Any duly authorized representative or agent of the Town may, upon presentation of appropriate credentials, at any reasonable time, enter and inspect the facility, obtain samples of any waste, inspect and copy any records, reports, information, or test results relating to the disposal of solid waste, take photographs, or other actions necessary to ensure compliance with the license.
9.2. An agent or representative of the Town shall be permitted to independently sample monitoring wells installed around the waste disposal facility.

ARTICLE 10
ENFORCEMENT

10.1. All provisions of this Ordinance are enforceable by the Code Enforcement Officer, the Council or its agent.

10.2. Any person who violates any provision of this Ordinance is subject to fines, if convicted, as provided in Article 12.

ARTICLE 11
REVOCATION OF LICENSE

11.1. Any license issued hereunder may be suspended or revoked, subsequent to procedures hereafter set forth by order of the Council for the following causes:

a. Violation of this Ordinance.

b. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this Ordinance.

c. Violation of any license conditions.

d. Falsehoods, misrepresentations, or omissions in the license application.

e. Failure to construct or operate the facility in accordance with the plans.

f. Failure to meet air, water and land pollution control standards.

11.2. Whenever the Council or Code Enforcement Officer determine that there has been a violation by virtue of one of the conditions listed in 11.1.a - 11.1.f, they shall give written notice of such violation to the person, firm or corporation responsible.

a. The citation shall include a description of the violation and shall allow reasonable time for remedial action.

b. The citation may contain an outline of remedial action which, if taken, will effect compliance.

c. The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or license suspension or revocation pursuant to the provisions of this Ordinance.

11.3. The Council or the Code Enforcement Officer may institute, or cause to be instituted, any and all proceedings, either legal or equitable, that may be necessary or appropriate to enforce the provisions of this Ordinance.

11.4. If the Violator does not meet the terms of the citation issued under 11.2, the Council may, after written notice and an opportunity for a hearing, suspend or revoke the license. The Council shall notify the license holder in writing of any such suspension or revocation, setting forth the reasons therefor.
11.5. Whenever it appears to the Council, after investigation, that there is a violation of this Ordinance or a condition of the license which is creating or is likely to create a substantial and immediate danger to public health or safety, the Council may suspend or revoke the license and shall notify the license holder in writing of any such suspension or revocation, setting forth the reasons therefor. In the event of such an emergency suspension or revocation, the person, firm or corporation whose license has been revoked/suspended is entitled to a public hearing conducted by the Council if the licensee requests a hearing within 7 days of the revocation/suspension. The Council shall schedule the hearing within 14 days of receiving the request. At least 7 days prior public notice of the hearing shall be given.

ARTICLE 12
PENALTIES

12.1. Civil penalties: Any person, firm, or corporation violating any of the provisions of this Ordinance or any conditions of the license shall, upon conviction, be subject to a civil penalty of not less than $100.00 nor more than $10,000.00 for each day of that violation or, if the violation relates to hazardous waste, of not more than $25,000.00 for each day of violation. The maximum civil penalty may exceed $10,000.00 for each day of that violation, but shall not exceed $25,000.00 for each day of that violation, if there has been a previous violation by the same party within the preceding 5 years. All civil penalties shall inure to the benefit of the Town of Hampden. Reasonable attorney's fees and court costs incurred by the Town in prosecuting a violation shall be awarded to the Town if the Town is the prevailing party.

ARTICLE 13
SEVERABILITY

13.1. The provisions of this Ordinance shall be severable and if any portion of it shall be held invalid, the remainder of this Ordinance and its application thereof shall not be affected.

ARTICLE 14
CONFLICT

14.1. If any provision of this Ordinance conflicts with any provisions in another municipal ordinance or state statute, the stricter provision shall apply.

ARTICLE 15
APPEAL

15.1. An aggrieved party may appeal any decision under these regulations to Superior Court within 30 days after the decision is rendered.

ARTICLE 16
EXISTING FACILITIES

16.1. The council may waive any provision of this Ordinance as it relates to the issuance of an original license to an existing facility that was duly licensed by the State of Maine as of the effective date of this Ordinance.

16.2. In the event that a waiver is granted under Section 16.1, the Council may attach reasonable conditions to the license to ensure compliance with the intents and purposes of this Ordinance. (Amended 9-4-99)
ARTICLE 17
APPLICABILITY

17.1. This Ordinance shall not abrogate the application of any other law, ordinance, or regulation (including, but not limited to, the Zoning Ordinance of the Town of Hampden and any amendments thereto or replacements therefor) to a waste disposal facility. (Amended 5/3/95)

17.2. It is the intent of this Ordinance that the provisions hereof be construed, to the extent absolutely necessary, consistent with the provisions of 38 M.R.S.A. § 1310-U. At the time of application, the applicant shall submit a detailed list identifying any requirements of this Ordinance that the applicant believes are inconsistent with the provisions of 38 M.R.S.A. § 1310-U, and stating the grounds therefor. If the Council determines that any requirement of this Ordinance is inconsistent with the provisions of 38 M.R.S.A. § 1310-U, it shall have the authority to waive any such requirements to the extent necessary to eliminate the inconsistency.

ARTICLE 18
APPLICABILITY OF AMENDMENTS

18.1. The amendments to this Ordinance adopted by the Town Council on January 25, 1999 shall be applicable to all proceedings, applications, petitions and/or proposals filed, pending, commenced or reviewed as of January 19, 1999, and to all applications, petitions and/or proposals submitted to the Town prior to said date, but which are not pending applications within the meaning of 1 M.R.S.A. § 302 as of January 19, 1999.

18.2. The amendments to this Ordinance adopted by the Town Council on February 16, 1999 shall be applicable to all proceedings, petitions and/or proposals filed, pending, commenced or reviewed as of February 1, 1999, and to all applications, petitions and/or proposals submitted to the Town prior to said date, but which are not pending applications within the meaning of 1 M.R.S.A. § 302 as of February 1, 1999.

18.3. The amendments to this Ordinance adopted by the Town Council on August 20, 2001 shall be applicable to all proceedings, applications, petitions and/or proposals filed, pending commenced or reviewed as of May 30, 2001, and to all proceedings, applications, petitions and/or proposals submitted to the Town on or prior to said date, but which were not pending applications within the meaning of 1 M.R.S.A. § 302 as of July 1, 2001.

18.4. The amendments to this Ordinance, adopted by the Town Council on October 1, 2001 shall be applicable to all proceedings, applications, petitions and/or proposals filed, pending, commenced or reviewed on or after May 30, 2001.