

# TOWN OF HAMPDEN

## Commonwealth of Massachusetts

County of Hampden

Town of Hampden

TO: Either of the Constables of the said Town of Hampden in said County:

Greeting: In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Hampden qualified to vote in Town Affairs, to meet at Thornton W. Burgess Middle School, Wilbraham Road, Hampden, on Monday, April 30, 2007 at seven o'clock in the evening, then and there to act on the following articles:

### **Article 1. TOWN REPORTS**

To hear the Annual Town Reports of all officers of the Town and any committee whose duty it may be to report at said meeting, and act thereon, or take any other action relative thereto.

### **Article 2. BUDGET**

To see if the Town will vote to fix the salary and compensation of all elective officers of the Town as provided for by Section 108 of Chapter 41, General Laws and to raise and appropriate the necessary sums to cover same, and to raise money and make appropriations to defray the expenses of the Town for the period July 1, 2007 to June 30, 2008 or take any other action relative thereto.

*Explanation: This article presents the Advisory Committee's recommendations for appropriations to fund the FY 2008 budget.*

### **Article 3. PREVIOUS BILLS**

To see if the Town will vote to authorize the payment of any departmental bills of the year FY-06 or previous years, and will vote to raise and appropriate a sum of money therefore, or take any other action relative thereto.

*Explanation: Occasionally bills are remitted for expenses incurred in prior fiscal years.*

### **Article 4. REVOLVING FUND – BOARD OF ASSESSORS**

To see if the Town of Hampden will vote to authorize the Town, acting through its Board of Assessors to establish a revolving fund, separate from the General Fund, in accordance with MA General Laws Chapter 44, Section 53E ½, for the purpose of receiving and expending monies from fees collected, said funds to be deposited with the Town Treasurer, and with payments from the fund to be expended by the Board of Assessors to defray the costs of equipment and supplies connected with public documents, said fund not to exceed \$2,500 for the fiscal year 2008, or take any other action relative thereto.

*Explanation: State law allows certain departments to set up accounts to collect and disburse fee revenues, and requires that Annual Town Meeting approve these accounts each year.*

### **Article 5. REVOLVING FUND – BOARD OF HEALTH**

To see if the Town of Hampden will vote to authorize the Town, acting through its Board of Health, to establish a revolving fund, separate from the General Fund, in accordance with MA General Laws Chapter 44, Section 53E ½, for the purpose of receiving and expending fees paid for issuance of licenses, permits and inspections, said funds to be deposited with the Town Treasurer, and with payments from the fund to be expended by the Board of Health to defray salaries of part-time employees, said fund not to exceed \$40,000 for the fiscal year 2008, or take any other action relative thereto.

*Explanation: State law allows certain departments to set up accounts to collect and disburse fee revenues, and requires that Annual Town Meeting approve these accounts each year.*

**Article 6. REVOLVING FUND – BUILDING DEPARTMENT**

To see if the Town of Hampden will vote to authorize the Town, acting through its Board of Selectmen, to establish a revolving fund for the Building Department, separate from the General Fund, in accordance with MA General Laws Chapter 44, Section 53E ½, for the purpose of receiving fees paid for issuance of building permits, inspection fees, including weights and measures, said funds to be deposited with the Town Treasurer and with payments from the fund to be expended by the Board of Selectmen to defray salaries and expenses of part-time employees of the Building Department and consultants, said fund not to exceed \$50,000 for the fiscal year 2008, or take any other action relative thereto.

*Explanation: State law allows certain departments to set up accounts to collect and disburse fee revenues, and requires that Annual Town Meeting approve these accounts each year.*

**Article 7. REVOLVING FUND – LIBRARY TRUSTEES**

To see if the Town of Hampden will vote to authorize the Town, acting through its Library Trustees, to establish a revolving fund, separate from the General Fund, in accordance with MA General Laws Chapter 44, Section 53E ½, for the purpose of receiving fines paid for overdue, lost and/or damaged materials, said funds to be deposited with the Town Treasurer, and with payments from the fund to be expended by the Library Trustees to defray the costs of repairs and supplies and to purchase books and materials, said fund not to exceed \$6,000 for the fiscal year 2008, or take any other action relative thereto.

*Explanation: State law allows certain departments to set up accounts to collect and disburse fee revenues, and requires that Annual Town Meeting approve these accounts each year.*

**Article 8. REVOLVING FUND – COUNCIL ON AGING**

To see if the Town of Hampden will vote to authorize the Town, acting through its Council on Aging, to establish a revolving fund, separate from the General Fund, in accordance with MA General Laws Chapter 44, Section 53E ½, for the purpose of receiving proceeds from classes, programs and other fees, said funds to be deposited with the Town Treasurer, and with payments from the fund to be expended by the Council on Aging to defray the costs of classes, supplies and other necessary expenses, said fund not to exceed \$30,000 for the fiscal year 2008, or take any other action relative thereto.

*Explanation: State law allows certain departments to set up accounts to collect and disburse fee revenues, and requires that Annual Town Meeting approve these accounts each year.*

**Article 9 REVOLVING FUND – TAX COLLECTOR**

To see if the Town of Hampden will vote to authorize the Town, acting through its Tax Collector to establish a revolving fund, separate from the General Fund, in accordance with MA General Laws Chapter 44, Section 53E ½ for the purpose of receiving and expending monies from charges collected, said funds to be deposited with the Town Treasurer, and with payments from the fund to be expended by the Tax Collector to defray the costs of equipment and supplies connected with public documents, said fund not to exceed \$2,500 for the fiscal year 2008, or take any other action relative thereto.

*Explanation: State law allows certain departments to set up accounts to collect and disburse fee revenues, and requires that Annual Town Meeting approve these accounts each year.*

**Article 10 ENTERPRISE FUND – TRANSFER STATION**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 44, Section 53F1/2 for purposes of establishing an enterprise fund, to be effective for Fiscal Year 2008, to receive payments from Transfer Station operations and payments of other funds approved by the Town, with expenditures from this fund (except any surplus) to be made without further appropriation by the Board of Health for purposes of operating, maintaining, and improving the Hampden Transfer Station, including recycling facilities, in the Town.

Explanation: This article would provide a special fund that would allow funds from the operation of the transfer station and recycling center to pay expenses related to the operation of the transfer station and recycling center.

**Article 11. ENTERPRISE FUND TRANSFER STATION**

To see if the Town will vote to transfer a sum of money from the Transfer Station revolving account to the Transfer Station Enterprise Fund and/or General Fund.

Explanation: The revolving account that was used for the transfer station would be closed out and its fund split between the Enterprise Fund and the General Fund.

**Article 12. COMMUNITY PRESERVATION COMMITTEE**

To see if the Town will vote to hear the report and recommendations of the Community Preservation Committee, which include transfer requests, or take any other action relative thereto.

Explanation: In 2001 the town voted by ballot to accept the Community Preservation Act (CPA). The CPA provides funding through a property tax surcharge and state contribution toward projects related to open space preservation, historic preservation and affordable housing. The act provided for establishment of a local Community Preservation Committee to review projects and recommend utilization of CPA receipts to Town Meeting. This article addresses the committee's report and asks Town Meeting to act on it, including appropriations recommended by the committee.

**Article 13. HIGHWAY STATE AID**

To see if the Town will vote to accept a sum of money from the Commonwealth of Massachusetts under the provisions of local aid fund distribution, the General Laws Chapter 90, Section 34, and be allowed to borrow in anticipation of reimbursement, or take any other action relative thereto.

Explanation: The article is self explanatory.

**Article 14. HIGHWAY**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund the replacement of a Highway truck, or take any other action relative thereto.

Explanation: Estimated cost \$28,000-\$30,000

**Article 15. HIGHWAY**

To see if the Town will vote to appropriate a sum of money to be raised by borrowing, contingent on the passage of a referendum question pursuant to G.L. c.59, Section 21C(k), or otherwise, to fund road, intersection and drainage improvements and reconstruction, consisting of the resurfacing thereof with bituminous concrete or other road material, including leveling, structural overlays, utility adjustments, minor drainage improvements and curbing, the replacement of culverts and for design, permitting, appraisals, permanent and temporary easements, construction and services during construction and project contingency, or take any other action relative thereto.

Explanation: The Board of Selectmen is proposing a \$1.5 million bond for various road projects. It will require a Yes vote at the Town Meeting and a Yes vote at the Town Election to pass.

**Article 16. TOWN HOUSE**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund the replacement of the generator in the Town House, or take any other action relative thereto.

Explanation: *Estimated cost is \$46,000*

**Article 17. TOWN HOUSE REPAIRS**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund repairs at the Town House, or take any other action relative thereto.

Explanation: *Further work on the Town House is needed to repair water damage, as well as window repair work on the second floor. Projected cost to be approximately \$30,000 .*

**Article 18. STORMWATER**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money for the second 5-year plan of the Stormwater Phase II runoff compliance plan with any associated costs for the Town of Hampden, as required by the EPA and DEP, or take any other action relative thereto.

Explanation: *The cost estimate for the State mandated program is \$23,500.*

**Article 19. GENERAL BYLAW - STORMWATER**

To see if the Town will vote to amend the Town General Bylaws by adding the following section to Chapter XIV, attached as Exhibit A, " Chapter XIV (A): Erosion and Sediment Control for Stormwater Management" or take any other action relative thereto.

Explanation: *As described in the exhibits attached.*

**Article 20. CONSERVATION FUND**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money for the Conservation Fund, said fund to be used for the purpose of acquiring available land for the Town for conservation purposes, if said purchase is voted upon and approved at Annual or Special Town Meeting prior to such purchase, or take any other action relative thereto.

Explanation: *This article is self explanatory*

**Article 21. LIBRARY ADDITIONAL STATE AID**

To see if the Town will vote that in Fiscal Year 2007, if State aid for the Library is received, this money will be made available for Library Trustees to use at their discretion, or take any other action relative thereto.

Explanation: *Town Meeting approval is required to permit the Library Trustees to accept State Aid for the Library use.*

**Article 22. ASSESSORS**

To see if the Town will vote to raise and appropriate or transfer from the Overlay Reserve Account or available funds, a sum of money to the Assessor's Stabilization Fund to meet all Department of Revenue mandated programs.

Explanation: *In 2006, the Town established a Stabilization Account specifically for the Assessors revaluation and field list expenditures.*

**Article 23. ASSESSOR**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money for the mandated full list and measure of all real estate and personal property in the Town, or take any other action relative thereto.

Explanation: \$12,000 is needed to complete the required Full List and Measure of all properties in Hampden.

**Article 24. DARE PROGRAM**

To see if the Town will vote to raise and appropriate and/or transfer from available funds, a sum of money to fund the DARE program at Thornton W. Burgess School, or take any other action relative thereto.

Explanation: Estimated cost \$6,000-8,000

**Article 25. ZONING BYLAW – RIDGELINE/HILLSIDE**

To see if the Town will vote to amend the Zoning Bylaws, attached as Exhibit B, or take any other action relative thereto.

Explanation: As described in the exhibits attached.

**Article 28. GENERAL BYLAW - RIGHT TO FARM**

To see if the Town will vote to amend the Town General Bylaws, by adding the following, attached as Exhibit C, Chapter XV - Right to Farm, or take any other action relative thereto.

Explanation: As described in the exhibits attached.

**Article 29. ZONING BYLAW**

To see if the Town will amend the existing Hampden Zoning Bylaw, Section 7.15 Flexible Residential Open Space Development (FROSD) Bylaw, attached as Exhibit D, or take any other action relative thereto.

Explanation: As described in the exhibits attached.

**Article 30. RESERVE FUND**

To see if the Town will vote to raise and appropriate a sum of money for the Reserve Fund, or take any other action relative thereto.

Explanation: Under State law, the Town is allowed to maintain a Reserve Fund to meet "unforeseen and extraordinary" costs that arise during the year. The Selectmen and Finance Committee must approve transfers from the Reserve Fund.

**Article 31. STABILIZATION FUND**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to the Stabilization Fund, or take any other action relative thereto.

Explanation: This article would appropriate money into the Stabilization Fund to help meet the town's reserve targets.

**Article 32. REDUCING TAX RATE**

To see if the Town will vote to transfer from unappropriated available funds in the treasury a sum of money for the purpose of reducing the tax rate for Fiscal Year 2008, or take any other action relative thereto.

Explanation: The article is self explanatory.

And you are further required to notify and warn the inhabitants of the Town of Hampden qualified to vote in elections of Town Officers to meet at the Hampden Town House, 625 Main Street, Hampden, on Monday the 1st day of May, 2007 AD at eight o' clock in the forenoon, then and there to give in their votes on one ballot to the election officers of said Town for the following officers, to wit:

- |  |  |
|--|--|
| To choose for the term of one year the following:    | 1 Moderator  |
| To choose for the term of two years the following:   | 1 Planning Board member  |
| To choose for the term of three years the following: | 1 Selectmen<br>1 Town Clerk<br>1 Tax Collector<br>1 Treasurer<br>1 Assessor<br>1 Library Trustee<br>1 Cemetery Commissioner<br>1 Park Commissioner<br>3 Constables |
| To choose for the term of five years the following:  | 1 Planning Board member  |

Also, to choose all other necessary Town Officers.

Also to vote the following ballot question:

1. Shall the Town of Hampden be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds to be issued in order to finance the cost of road, intersection and drainage improvements and reconstruction, consisting of the resurfacing thereof with bituminous concrete or other road material, including leveling, structural overlays, utility adjustments, minor drainage improvements and curbing, the replacement of culverts and for design, permitting, appraisals, permanent and temporary easements, construction and services during construction and project contingency?

And you are directed to serve this Warrant by posting and attested copy thereof at each of the five places designated by the Town. Hereof fail not, and make due return of this Warrant with your doings thereon, to the Town Clerk at or before the time of meeting aforesaid. Given under our hands this \_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Duane E. Mosier, Chairman

\_\_\_\_\_  
John D. Flynn

\_\_\_\_\_  
Richard R. Green

Board of Selectmen

I, Arthur Booth, Constable for the Town of Hampden, have on this date posted copies of the warrant for the Town Meeting to be held on April 30, 2007 at 7:00 pm in all five places as designated by the Town of Hampden.

Arthur Booth  
Constable, Town of Hampden

## **EXHIBIT A**

### **CHAPTER XIV (A) Erosion and Sediment Control for Stormwater Management**

#### **SECTION 1. PURPOSE AND AUTHORITY**

##### **1. Purpose**

A. The purpose of this bylaw is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of Hampden by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff.

B. The proper management of stormwater runoff will meet the following objectives:

1. Reduce the adverse water quality impacts of stormwater discharges to rivers, lakes, reservoirs and streams in order to attain federal water quality standards;
2. Prevent the discharge of pollutants, including hazardous chemicals, into stormwater runoff;
3. Minimize the volume and rate of stormwater which is discharged, to rivers, streams, reservoirs, and lakes that flows from any site during and following development;
4. Prevent erosion and sedimentation from land development, and reduce stream channel erosion caused by increased runoff;
5. Provide for the recharge of groundwater aquifers and maintain the base flow of streams;
6. Provide stormwater facilities that are attractive, maintain the natural integrity of the environment, and are designed to protect public safety;
7. Maintain or reduce pre-development runoff characteristics after development to the extent feasible;
8. Minimize damage to public and private property from flooding;
9. Ensure that these management controls are properly maintained.

##### **2. Authority**

The Board of Selectman, its employees or agents are designated to enforce this bylaw. The Board of Selectman shall delegate Town agencies to administer, implement and enforce this bylaw. These agencies shall be herein referred to as "Designated Agent" by powers delegated in writing by the Board of Selectmen.

#### **SECTION 2. DEFINITIONS**

The following definitions describe the meaning of the terms used in this Ordinance:

**Authorized Enforcement Agency:** The Board of Selectmen, its employees or agents designated to enforce this ordinance.

"Adverse impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

"Best Management Practices (BMP)" are structural or biological devices that temporarily store or treat urban stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be non-structural practices that reduce pollutants at their source. BMPs are described in a stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended. An unofficial copy can be obtained at <http://www.mass.gov/dep/water/laws/swmpolv2.pdf>).

"Construction activity" is disturbance of the ground by removal of vegetative surface cover or topsoil, grading, excavation, clearing or filling.

"Design storm" is a rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate to a BMP.

"Detention" is the temporary storage of storm runoff in a BMP, which is used to control the peak discharge rates, and which provides gravity settling of pollutants.

"Disturbance" is any land clearing, grading, bulldozing, digging or similar activities.

"Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline.

"Drywell" is similar to an infiltration trench but smaller with inflow from a pipe; commonly covered with soil and used for drainage areas of less than 1 acre such as roadside inlets and rooftops runoff.

"Easement" means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

"Flow attenuation" means prolonging the flow time of runoff to reduce the peak discharge.

"Hydrology model" may include one of the following:

- TR-20, a watershed hydrology model developed by the Natural Resources Conservation Service act that is used to route a design storm hydrograph through a pond;
- TR 55, or Technical Release 55, "Urban Hydrology for Small Watersheds" is a publication developed by the Natural Resources Conservation Service to calculate stormwater runoff and an aid in designing detention basins;
- Hydrocad.

"Impervious surfaces" are areas, such as pavement or rooftops, which prevent the infiltration of water into the soil.

"Infiltration" is the downward movement of water from the surface to the subsoil.

"Infiltration trench" is a stormwater management excavation filled with aggregate which removes both soluble and particulate pollutants. Trenches are not intended to trap coarse sediments.

"Outfall" is the terminus of a storm drain or other stormwater structure where the contents are released.

"Peak discharge" is the maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm event

"Permeable soils" are soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as NRCS hydrologic soil types A and B.

"Person" is any individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public corporation or body, the Commonwealth or political subdivision thereof.

"Retention" is the holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

"Start of construction" is the first land-disturbing activity associated with a development, including land preparation such as: clearing, grading and filling; installation of streets and walkways; excavation for basements; footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

"Swale" is a natural depression or wide shallow ditch used to temporarily store, route, or filter runoff.

### **SECTION 3. APPLICABILITY**

#### **1. Applicability**

Prior to the issuance of any site plan approval or development permit for any proposed development listed below, a stormwater management permit, or a waiver of the requirement for a stormwater management permit, must be approved by the applicable Special Permit Granting Authority. No person shall, on or after the effective date of the ordinance, initiate any land clearing, land grading, earth moving or development activities without first complying with this ordinance. The following uses and activities shall be required to submit drainage reports, plans, construction drawings, specifications and as-constructed information in conformance with the requirements of this ordinance:

- A. Multi-family residential developments involving four or more units;
- B. Any new commercial, industrial, and institutional structures under the same ownership, with at least 5,000 square feet of gross floor area, 10,000 square feet of impervious surface, or that require 10 or more parking spaces.
- C. Redevelopment or additions to existing commercial, industrial, and institutional uses which result in an additional impervious surface area or gross floor area of greater than 5,000 square feet, or which results in an increase of 10 or more parking spaces.
- D. Subdivisions and construction activities of any kind disturbing greater than 40,000 square feet.
- E. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs one or more acres.

## 2. Exemptions

To prevent the adverse impacts of stormwater runoff, the stormwater performance standards in Section 6 must be met at new development sites. These standards apply to construction activities as described under Section 3.1. The following activities are exempt from the requirements for submittal and approval of a stormwater management plan under Section 4, but must comply with the stormwater performance standards in Section 6:

- A. Any agricultural activity which is consistent with an approved soil conservation plan prepared or approved by the Natural Resource Conservation Service;
- B. Any logging which is consistent with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Environmental Management;
- C. Additions or modifications to existing single family structures;
- D. Developments that do not disturb more than 40,000 square feet of land, provided that they are not part of a larger common development plan;
- E. Repairs to any stormwater treatment system deemed necessary by the Designated Agent;
- F. Any emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Highway Department; and
- G. Single family residential uses disturbing less than 40,000 square feet.

## 3. Stormwater Design Manual

A stormwater design manual, Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended) is hereby incorporated by reference as part of this ordinance, and shall furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this ordinance.

This manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience, at the discretion of the Hampden Designated Agent or Massachusetts Department of Environmental Protection. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

## SECTION 4. PERMIT PROCEDURES AND REQUIREMENTS

### 1. Permit Required

No land owner or land operator shall receive any of the building, grading, or other land development permits required for land disturbance activities, and no land owner shall commence land disturbance activities, without approval of a Stormwater Management Permit from the Designated Authority and meeting the requirements of this ordinance.

### 2. Application Requirements

**Application for approval of a Stormwater Management Permit shall include the following:**

- A. A stormwater management plan or an application for waiver shall be submitted to the Designated Agent for review and approval for any proposed development specified in

Section 3.1. Three copies of the stormwater management plan shall be submitted, and clearly labeled, along with other documents required in this bylaw for site plan review. The plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire development. The plan shall serve as the basis for all subsequent construction.

- B. An erosion and sediment control plan, which shall contain sufficient information to describe the nature and purpose of the proposed development.
- C. A maintenance agreement
- D. A non-refundable permit review fee

The applicant may request, and the Designated Agent may grant, a waiver from any information requirements it judges to be unnecessary to the review of a particular plan

### **3. Procedures for Review and Approval of Stormwater Permits**

- A. The procedures for review and approval of stormwater management permits shall be consistent with review procedures of Town Boards, as appropriate for the use.
- B. The Designated Agent shall refer copies of the stormwater management permits to the Town Engineer or designated representative for review, and shall consider any comments submitted by the Town Engineer or representative during the review period. Within 21 days of receipt of a complete application the Designated Agent shall complete a review and render a decision on the permit.

### **4. Criteria for Review of Stormwater Permits**

In addition to other criteria used by the Designated Agent in making permit decisions, for the uses specified in this bylaw, the Agent must also find that the Stormwater Management Plan submitted with the permit application meets the following criteria:

- A. the Stormwater Management Plan and the Erosion and Sediment Control Plan are consistent with the Purposes and Objectives of this Bylaw in Section 1;
- B. the Stormwater Management Plan meets the Performance Standards described in Section 6;
- C. the Erosion and Sediment Control plan must meet the Design Requirements in Section 7.

### **5. Designated Agent Action**

The Designated Agent's action, rendered in writing, shall consist of either:

- a. Approval of the Stormwater Management Permit Application based upon determination that the proposed plan meets the purposes in Section 1 and the standards in Section 6 and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this by-law;

- b. Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the Board which will ensure that the project meets the purposes in Section 1 and the standards in Section 6 and adequately protects water resources, set forth in this by-law;
- c. Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the purposes in Section 1 and the standards in 6 or adequately protect water resources, as set forth in this by-law.

Failure of the Board to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without Board action, the Board must issue a Stormwater Management Permit.

## **6. Inspections**

No plan will be approved without adequate provision for inspection of the property before development activity commences. The applicant shall arrange with the Designated Agent for scheduling the following inspections:

- A. Initial inspection: prior to approval of any plan
- B. Erosion Control Inspections: after site clearing, rough grading and final grading to ensure erosion control practices are in accord with the plan.
- C. Bury inspection: prior to backfilling of any underground drainage or stormwater conveyance structures;
- D. Final Inspection: when all work, including construction of stormwater management facilities and landscaping have been completed. Final inspection shall include a full inspection of all stormwater pipes installed provided by the applicant.

The Designated Agent shall inspect the work and either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved plan. Any portion of the work which does not comply shall be promptly corrected by the applicant or the applicant will be subject to the bonding provisions of Section 9 or the penalty provisions of Section 10. The Town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.

## **7. Right-of-Entry for Inspection**

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, the filing of an application shall be deemed as the property owner's permission to the Designated Agent for the right to enter the property at reasonable times and in a reasonable manner for the purpose of the inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

## **8. Application Review Fees**

The fee for review of any land development application shall be based on the amount of land to be disturbed and site complexity. The fee structure shall be established by the Hampden Board of Selectman. All of the monetary contributions shall be credited to the General Fund, and shall be made prior to issuance of any building permit for development.

## **SECTION 5. THE STORMWATER MANAGEMENT AND EROSION CONTROL PLAN**

### **1. Contents of the Stormwater Management and Erosion Control Plan**

The application for a stormwater management permit shall consist of submittal of a stormwater management and erosion control plan, prepared by a professional engineer licensed by the Commonwealth of Massachusetts, which meets the design requirements provided by this Ordinance. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources; and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The Plan must be designed to meet the Massachusetts Stormwater Management Standards as set forth in Section 6 of this ordinance and the DEP Stormwater Management Handbook Volumes I and II. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The minimum information submitted for support of a stormwater management plan shall be as follows:

- A. A locus map,
- B. The existing zoning, and land use at the site,
- C. The proposed land use,
- D. The location(s) of existing and proposed easements,
- E. The location of existing and proposed utilities,
- F. The site's existing & proposed topography with contours at 2 foot intervals,
- G. The existing site hydrology,
- H. A description & delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which storm water flows.
- I. A delineation of 100-year flood plains, if applicable
- J. Estimated seasonal high groundwater elevation (November to April) in areas to be used for storm water retention, detention, or infiltration.
- K. The existing and proposed vegetation and ground surfaces with runoff coefficient for each,
- L. A drainage area map showing pre and post construction watershed boundaries, drainage area and storm water flow paths,
- M. A description and drawings of all components of the proposed drainage system including:
  - (1) locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
  - (2) all measures for the detention, retention or infiltration of water,
  - (3) all measures for the protection of water quality,
  - (4) the structural details for all components of the proposed drainage systems and storm water management facilities,
  - (5) notes on drawings specifying materials to be used, construction specifications, and typicals, and
  - (6) expected hydrology with supporting calculations.
  - (7) proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
  - (8) a description of construction and waste materials expected to be stored on-site, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill prevention and response.
  - (9) timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.

(10) a maintenance schedule for the period of construction.

## **SECTION 6. STORMWATER MANAGEMENT PERFORMANCE STANDARDS**

### **1. Minimum Control Requirements**

Projects must meet the Standards of the Massachusetts Stormwater Management Policy. These Standards are:

- A. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or water of the Commonwealth.
- B. Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
- C. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.
- D. For new development, stormwater management systems must be designed to remove 80% of the average annual load (post development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:
  - (1) Suitable nonstructural practices for source control and pollution prevention are implemented;
  - (2) Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
  - (3) Stormwater management BMPs are maintained as designed.
- E. Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (see Stormwater Management Volume I: Stormwater Policy Handbook). The use of infiltration practices without pretreatment is prohibited.
- F. Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (see Stormwater Management Volume I: Stormwater Policy Handbook). Critical areas are Outstanding Resource Waters (ORWs), swimming beaches, cold water fisheries and recharge areas for public water supplies.
- G. Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable. However, if it is not practicable to meet all the Standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.
- H. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
- I. All stormwater management systems must have an operation and maintenance plan to ensure that systems function as designed.

When the proposed discharge may have an impact upon a sensitive receptor, including streams or storm sewers, the Designated Agent may require an increase in these minimum requirements, based on existing stormwater system capacity.

## **2. Stormwater Management Measures**

- A. Stormwater management measures shall be required to satisfy the minimum control requirements and shall be implemented in the following order of preference:
  - 1. Infiltration, flow attenuation, and pollutant removal of runoff on-site to existing areas with grass, trees, and similar vegetation and through the use of open vegetated swales and natural depressions;
  - 2. Use of stormwater on-site to replace water used in industrial processes or for irrigation;
  - 3. Stormwater detention structures for the temporary storage of runoff which is designed so as not to create a permanent pool of water; and
  - 4. Stormwater retention structures for the permanent storage of runoff by means of a permanent pool of water.
  - 5. Retention and evaporation of stormwater on rooftops or in parking lots;
- B. Infiltration practices shall be utilized to reduce runoff volume increases. A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for rejecting each practice based on site conditions.
- C. Best Management Practices shall be employed to minimize pollutants in stormwater runoff prior to discharge into a separate storm drainage system or water body.
- D. All stormwater management facilities shall be designed to provide an emergency overflow system, and incorporate measures to provide a non-erosive velocity of flow along its length and at any outfall.
- E. The designed release rate of any stormwater structure shall be modified if any increase in flooding or stream channel erosion would result at a downstream dam, highway, structure, or normal point of restricted stream flow.

## **3. Specific Design Criteria**

Additional policy, criteria, and information including specifications and design standards may be found in the Stormwater Design Manual.

### **A. Infiltration systems**

- 1. Infiltration systems shall be equipped with clean stone and or filter fabric adjacent to the soil or other sediment removal mechanisms;
- 2. Infiltration systems greater than 3 feet deep shall be located at least 10 feet from basement walls;
- 3. Due to the potential for groundwater contamination from dry wells, they shall not be an acceptable method for management runoff containing pollutants;
- 4. Infiltration systems designed to handle runoff from commercial or industrial impervious parking areas shall be a minimum of 100 feet from any drinking water supply well;

5. Infiltration systems shall not be used as sediment control basins during construction unless specific plans are included to restore or improve the basin surface;
  6. Infiltration basins shall be constructed with a three foot minimum separation between the bottom of the structure and the seasonal high groundwater elevation, as determined by a certified soil evaluator; and
  7. Provisions shall be made for safe overflow passage, in the event of a storm which exceeds the capacity of an infiltration system.
- B. Retention and detention ponds shall be designed and constructed in accordance with the criteria of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).
- C. The applicant shall give consideration in any plan to incorporating the use of natural topography and land cover such as natural swales, and depressions as they exist prior to development to the degree that they can accommodate the additional flow of water.
- D. The Designated Agent shall give preference to the use of swales in place of the traditional use of curbs and gutters based on a case by case review of stormwater management plans.
- E. The applicant shall consider public safety in the design of any stormwater facilities. The banks of detention, retention, and infiltration basins shall be sloped at a gentle grade into the water as a safeguard against personal injury, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore. Basins shall have a 4:1 slope to a depth two feet below the control elevation. Side slopes must be stabilized and planted with vegetation to prevent erosion and provide pollutant removal. The banks of detention and retention areas shall be designed with sinuous rather than straight shorelines so that the length of the shoreline is maximized, thus offering more space for the growth of vegetation;
- F. Where a stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners a easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any such rights.
- G. All applicants for projects which involve the storage or use of hazardous chemicals shall incorporate handling and storage "best management practices" that prevent such chemicals from contaminating runoff discharged from a site into infiltration systems, receiving water bodies or storm drains, and shall include a list of such chemicals in the application
- H. Runoff from parking lots shall be treated by oil and water separators or other controls to remove oil and sediment;
- I. The basic design criteria methodologies, and construction specifications, subject to the approval of the Town Engineer, shall be those generally found in the most current edition of the Stormwater Management, Volume Two: Stormwater Technical Handbook (March, 1997, Mass. Department of Environmental Protection, as updated or amended).

## **SECTION 7. DESIGN REQUIREMENTS FOR EROSION AND SEDIMENT CONTROL PLAN**

### **1. The design requirements of the Erosion and Sediment Control Plan are:**

- A. Minimize total area of disturbance
- B. Sequence activities to minimize simultaneous areas of disturbance.
- C. Minimize peak rate of runoff in accordance with the MA DEP Stormwater Policy.
- D. Minimize soil erosion and control sedimentation during construction. Prevention of erosion is preferred over sedimentation control.
- E. Divert uncontaminated water around disturbed areas
- F. Maximize groundwater recharge.
- G. Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturers specifications and good engineering practices
- H. Prevent off-site transport of sediment.
- I. Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project).
- J. Comply with applicable Federal, State and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control
- K. Prevent adverse impact from the proposed activities to habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species.
- L. Institute interim and permanent stabilization measures. The measures shall be instituted on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site.
- M. Properly manage on-site construction and waste materials.
- N. Prevent off-site vehicle tracking of sediments.

## **SECTION 8. MAINTENANCE**

### **1. Operation, Maintenance and Inspection Agreement**

- A. Prior to issuance of any building permit for which stormwater management is required, the Designated Agent shall require the applicant or owner to execute an operation, maintenance and inspection agreement binding on all subsequent owners of land served by the private stormwater management facility. The agreement shall be designed to ensure that water quality standards are met in all seasons and throughout the life of the

system. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town or its authorized representative and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any provision established. The agreement shall include:

- (1) The name(s) of the owner(s) for all components of the system.
- (2) Maintenance agreements that specify:
  - (a) The names and addresses of the person(s) responsible for operation and maintenance.
  - (b) The person(s) responsible for financing maintenance and emergency repairs.
  - (c) A detailed Maintenance Schedule for all drainage structures, including swales and ponds.
  - (d) A list of easements with the purpose and location of each.
  - (e) The signature(s) of the owner(s).
- (3) Stormwater management easements as necessary for:
  - (a) Access for facility inspections and maintenance.
  - (b) Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
  - (c) Direct maintenance access by heavy equipment to structures requiring regular cleanout.
- (4) Stormwater management easement requirements:
  - (a) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
  - (b) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Town.
  - (c) Easements shall be recorded with the Registry of Deeds prior to issuance of a Certificate of Completion.
- (5) Changes to Operation and Maintenance Plans
  - (a) The owner(s) of the stormwater management system must notify the Designated Agent of changes in ownership or assignment of financial responsibility.
  - (b) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the Designated Agent and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties must include owner(s), persons with financial responsibility, and persons with operational responsibility.

B. The agreement shall be recorded by the applicant and/or owner in the land records of the Registry of Deeds.

C. The agreement shall also provide that, if after notice by the Town Engineer to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within thirty days, the Designated Agent may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties.

## **2. Maintenance Responsibility**

A. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control

measures and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

- B. A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall be legally responsible to perform the maintenance. This maintenance schedule shall be printed on the stormwater management plan.
- C. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall submit, by February 1<sup>st</sup> of each calendar year, an annual report to the Board of Selectman, detailing maintenance and inspection activities conducted in conjunction with the stormwater management facilities.

### **SECTION 9. PERFORMANCE BOND**

The Designated Agent shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Designated Agent prior to the issuance of any building permit for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this Ordinance and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town Engineer, submission of "As-built" plans, and certification of completion by the Designated Agent of the stormwater management facilities being in compliance with the approved plan and the provisions of this Ordinance.

### **SECTION 10. ENFORCEMENT AND PENALTIES**

#### **1. Violations**

Any development activity that has commenced or is conducted contrary to this Ordinance may be restrained by injunction or otherwise abated in a manner provided by law.

#### **2. Notice of Violation**

When the Designated Agent determines that an activity is not being carried out in accordance with the requirements of this Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- A. the name and address of the owner applicant;
- B. the address when available or the description of the building, structure, or land upon which the violation is occurring;
- C. a statement specifying the nature of the violation;
- D. a description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the completion of such remedial action;
- E. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- F. a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

- 3. Stop Work Orders**  
Persons receiving a notice of violations will be required to halt all construction activities. This “stop work order” will be in effect until the Designated Agent confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Ordinance.
- 4. Criminal and Civil Penalties**  
Any person who violates any provision of this ordinance, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300.00 for each day such violation occurs or continues or subject to a civil penalty, which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.
- 5. Non-Criminal Disposition**  
As an alternative to criminal prosecution or civil action, the Town of Hampden may elect to utilize the non-criminal disposition procedure set forth in the Town of Hampden General Bylaws, Chapter XI. The Designated Agent shall be the enforcing entity. Each day or part thereof that such violation occurs or continues shall constitute a separate offense, applicable penalties to apply.
- 6. Restoration of Lands**  
Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Designated Agent may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- 7. Holds on Occupancy Permits**  
Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted by the Designated Agent.

#### ***SECTION 11. SEVERABILITY***

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

## EXHIBIT B

### TOWN OF HAMPDEN

Amended 8/9/06, 11/22/06

(Note: text with a ~~strike through~~ is text proposed to be deleted; ***bold italic*** text is proposed new text)

#### 6.10 Ridgeline and Hillside Overlay District

##### 6.101 Purpose

The purpose of this bylaw is to promote the health, safety and general welfare of the Town by:

1. Insuring that any development that takes place within the Ridgeline and Hillside District preserves and protects critical natural resource areas, minimizes visual impact of man-made features and enhances the economic values of the properties located therein;
2. Minimizing the removal of native vegetation, especially large timber, and regulating the excavation and alteration of land in order to minimize any danger of erosion, flooding or pollution of the ground or surface water supply (public or private) within the district or any adjacent low lying areas;
3. Insuring that all proposed development activities do not reduce property values within the district or adjacent to by unnecessarily detracting from the visual setting or obstructing significant views;
4. To protect historically existing physical features and the preservation and development of linkages from one open space area to another.

##### 6.102 Overlay District

The Ridgeline and Hillside District is an overlay district; therefore the underlying zoning provisions for this area still apply. If there is any conflict between this bylaw and any other, the more restrictive shall apply.

##### 6.103 District Delineation

1. ***The Ridgeline and Hillside Overlay District includes all land in the Town of Hampden as delineated on the map entitled "Ridgeline and Hillside Overlay District, Town of Hampden, Massachusetts" dated 1990 on file with the Town Clerk.***
2. The Ridgeline and Hillside District By-Law shall be applied to sensitive mountains or steep slope areas of scenic and natural resource value.
3. The Ridgeline and Hillside District is intended to include those mountain or upland areas which have one or more of the following characteristics:
  - a. Steep slopes averaging 15% or greater for 200 feet;
  - b. Unique landforms, including bedrock outcrops, till-covered hills, geological rarities, cliffs, or other unusual topographic features;
  - c. Any land at an elevation of 600 or more feet above sea level.

## 6.104 Uses

1. Permitted Uses
  - a. Agricultural production, including but not limited to raising of crops, livestock, poultry, nurseries, orchards, hay;
  - b. Recreational uses, provided there is minimal disruption of wildlife habitat;
  - c. Maintenance and repair usual and necessary for continuance of an existing use;
  - d. Conservation of water, plants, and wildlife, including the raising and management of wildlife;
  - e. Uses permitted under M.G.L. Chapter 40a, Section 3 with limitations imposed therein.

## 6.105 Prohibited Uses

1. All uses not permitted in "Section 6.104-1 (Permitted Uses) or Section 6.106 (Work Permitted with Ridgeline and District Review) shall be deemed prohibited.
2. Clear cutting of trees and vegetation shall be prohibited.

## 6.106 Work Permitted with Ridgeline and Hillside District Review

1. The following uses shall be permitted, subject to Ridgeline and Hillside District Review of project site plans prior to the issuance of a building permit or Special Permit or approval of a definitive plan under the Massachusetts Subdivision Control Law:
  - a. Any construction or significant alteration of any dwelling or other structure, if any such action affects the exterior appearance. A significant alteration is defined as any alteration which increases the assessed value of 15%, or which adds to the height of a structure, or which substantially alters the visual profile of the property or structures thereon;
  - b. Any commercial or industrial use allowed by Special Permit in the underlying district;
  - c. Any subdivision which required approval under the Massachusetts Subdivision Control Law, M.G.L. Chapter 40;
  - d. The Board may waive any or all requirements of the Ridgeline and Hillside District Review for dwelling additions, and or accessory buildings of 400 square feet or less.
  - e. ***The removal, filling, excavation or alteration of earthen materials or the construction of an access road, if such action changes pre-existing drainage characteristics or sedimentation patterns, or alters the topographic or visual profile of the property.***
2. No work, including clearing or removal of vegetation, grading or construction, shall be undertaken in the Ridgeline and Hillside District, without prior review and approval by the Ridgeline and Hillside Review Board, except for:
  - a. Agricultural activities;
  - b. Work incidental to construction on the premises under a currently valid Building Permit;
  - c. Selective cutting of trees or vegetation for normal maintenance or noncommercial purposes on less than one half acre of land, provided that no additional cutting shall be done on the parcel, or on adjoining parcels in common ownership, for a period of two years;
  - d. Selective cutting of an amount not exceeding twenty-five thousand board feet or fifty cords on any parcel of land at any one time, specified in a Forest Cutting Plan approved in accordance with the Massachusetts Forest Cutting Practices Act (M.G.L. Chapter 132, sections 40-46). ***Any areas excluded from the forest cutting plan must be delineated and identified as part of the Ridgeline and Hillside Application.***

**e. Selection cutting**

**6.107 Ridgeline and Hillside Development Standards**

Buildings and landscaping are to be designed and located on the site to blend with the natural terrain and vegetation, and to preserve the scenic character of the site, conforming to the following standards:

1. Building Characteristics

- a. ~~Building height shall not exceed thirty-five (35) feet.~~
- b. ~~Exposed foundation walls shall not exceed two (2) feet above the proposed finished grade.~~
  - a. Building, alterations, additions, or structures should be placed downgrade of the ridgeline where possible **and shall be located in a manner as not to break the view or exceed the elevation of the ridgeline as viewed from public vantage points.**
  - b. ~~Building materials~~ **Roof lines, foundations, and roof surfaces** shall blend with the natural landscape as **viewed from public vantage points.**

2. Landscaping

- a. Removal of native vegetation, especially large timber, shall be minimized and the replacement of vegetation and landscaping shall be generally compatible with the vegetation of the designated area.
- b. Trees may only be removed for location and construction of streets, driveways or structures. Selective clearing for views is permitted where the viewshed is obstructed by dense vegetation.
- c. Retaining walls, of natural materials only, may be used to create usable yard space in the side and rear yard.
- d. Landscaping and plantings shall be utilized to screen major buildings in open or prominent areas from significant views, both when installed and when mature.

3. Grading

Any grading or earth moving operation is to be planned and executed in such a manner that final contours appear to be consistent with the existing terrain, both on and adjacent to the site.

4. Prevention of Water Pollution and Flooding

- a. Storage and/or transmission of petroleum or other refined petroleum products is prohibited except within buildings which they will heat or in quantities of 50 gallons or less. Petroleum products stored within a building shall be placed on a diked or impermeable surface to prevent spills or leaks from reaching groundwater.
- b. All run-off from impervious surfaces shall be recharged on the site by being diverted to storm water infiltration basins covered with natural vegetation. Storm water infiltration basins must be designed to handle a 25-year storm. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner. **Post development runoff shall not exceed pre-development levels.**

5. Prevention of Erosion and Sedimentation

- a. ~~No area or areas totaling two (2) acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled six (6) inches or more so as to destroy existing vegetation unless in conjunction with 1. agricultural activity or unless necessarily 2. work incidental to construction on the premises under a currently valid building permit or unless 3. work within streets which are either public or designated on an approved subdivision plan. stripped area or areas which are allowed by special permit shall remain through the winter without a or unless a special permit is approved by the Zoning Board of Appeals on the condition that run-off will be controlled, erosion avoided and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No temporary cover or winter rye or similar plant materials being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.~~
- b. Sediment and erosion control measures shall be employed to minimize such impacts during and after construction, in accordance with guidelines established by the U.S. Soil Conservation Service "Guidelines for Soil and Water Conversation in Urbanizing Areas of Massachusetts."

6. Utilities

- a. Utilities shall be constructed and routed underground except in those situations where natural features prevent the underground siting or where safety considerations necessitate above ground construction and routing. The Review Board may waive this requirement.
- b. Above ground utilities shall be constructed and routed to minimize detrimental effects on the visual setting.

7. Site Planning

In the building of more than one structure, variable setbacks, multiple orientations, and other site planning techniques shall be incorporated in order to avoid the appearance of a solid line of development.

8. Accessory Structures

Construction of a tower, satellite dish, windmill, any type of antenna, or other installation shall not obstruct the view of a public way, or from a public way, or from an abutter's dwelling.

### **6.108 Regulatory Body**

The Ridgeline and Hillside District Review Board is a sub-committee of the Planning Board members. In the absence of such a board, the Planning Board shall administer this Bylaw.

### **6.109 Procedures For Review by the Ridgeline and Hillside District Review Board**

1. Prior to undertaking any work in the Ridgeline and Hillside District, including clearing and removal of vegetation, grading or construction, and prior to applying for a Building Permit, landowners must submit an application for Ridgeline and Hillside Review to the Ridgeline and Hillside Review Board. The Building Inspector shall not accept an application for a Building Permit without an attached Ridgeline and Hillside Review application, which has been reviewed by the Ridgeline and Hillside Review Board.
2. The Ridgeline and Hillside District Review Board shall review the application and return its recommendations in writing to the Building Inspector within thirty-five (35) days of the

receipt of the application. If the application for Ridgeline and Hillside District Review is associated with an application for a variance, special permit, or subdivision review, the Ridgeline and Hillside District Review Board shall immediately transmit their recommendations to the Planning Board or Zoning Board of Appeals as appropriate.

3. If the Ridgeline and Hillside District Review Board does not submit its recommendations to the Building Inspector within thirty-five (35) days, such failure to act shall constitute approval of the application.
4. The Ridgeline and Hillside District Review Board's action shall be advisory to the Planning Board and shall consist of either:
  - a. A determination that the proposed project will constitute a suitable development and is in compliance with the criteria set forth in the Bylaw;
  - b. Approval subject to conditions, modifications, and restrictions as the Ridgeline and Hillside District Review Board may deem necessary.
5. The Building Inspector, Planning Board, and Zoning Board of Appeals shall, in making their permit granting decision, give due consideration to the Ridgeline and Hillside District Review Board's recommendations, and shall communicate all subsequent decisions to said Board.

#### **6.1091 Ridgeline and Hillside District Review Applications**

To facilitate siting and design of building sensitively related to the natural setting, applications for the Ridgeline and Hillside District Review of proposed development in the district must be accompanied by the following:

1. Plot Plan
2. View Points - Photographs of the development site taken from points along the street, together with a map indicating the distance between these points and the site.
3. Placement, height and physical characteristics of all existing and proposed buildings and structures located on the development site ***including building envelopes if so required.***
4. ***Vegetation – Existing and proposed vegetation, all proposed landscaping improvements including plans depicting the type, bulk, and height of trees and shrubs.***
5. ***Measures to be undertaken during and after construction to prevent erosion, sedimentation, flooding or water pollution.***
6. ***All applications are subject to site inspections; therefore all proposed buildings and driveways are to be staked.***
7. ***Any other information that is necessary for the proper consideration of the application.***

#### **6.1092 Exceptions for Additions to Single Family Residences**

Any addition, enlargement, extension, restoration of single family residences or construction of accessory buildings to any single family residences which have been actually and completely

constructed prior to the adoption of Section 6.10 shall be exempt from the provisions of Section 6.10.

#### **6.1093 Waiver of Compliance**

***It is recognized that there will be numerous instances of development within said district which do not conflict with any of the goals of this Bylaw and that a waiver should therefore be promptly and expeditiously granted by the Planning Board. Such waiver may be granted where the proposed development is not extensive enough or intrusive enough to justify intervention under this Bylaw, or where the land in question being developed is located in an area of the District which does not require the protection of this Bylaw because of topography or other considerations. It is expressly intended that said waivers may be partially or fully granted with a minimum of expense and delay to the applicant.***

***To simplify the procedure for determination in cases where an applicant believes he or she is entitled to a waiver as to some or all of the filing requirements, the applicant may submit to the Planning Board such information as the Board shall require in order to determine whether or not the provisions of the Bylaw require a detailed submission. If the Planning Board, after a review of the information presented by the Applicant, is satisfied that the provisions of this Bylaw do not require further action hereunder, a waiver shall be promptly issued.***

#### **6.1094 Definitions**

***Ridge, Prominent: A ridge location that is visible from a major arterial, secondary, or collector street, which is seen as a distinct edge against a backdrop of land.***

***Ridgeline: A line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.***

***Ridgeline Development: Development on the crest of a hill which has the potential to create a silhouette or other substantially adverse impact when viewed from a common public viewing area.***

***Hillside: Land having an average grade of 15% or greater for 200 feet.***

***Selection Cutting: The cutting of trees selected individually or in small groups while protecting those that are free of deformities and disease. Its purpose is to ensure that the forest contains trees of all ages. It also improves the health of the stand and releases space for young trees to grow.***

***Selective Cutting: A system of cutting in which trees, usually the largest, or small groups of such trees are removed for commercial production or to encourage reproduction under the remaining stand in the openings.***

***Clear Cutting: The cutting of all trees on a site.***

#### **6.1095 Severability**

***If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.***

## EXHIBIT C

### RIGHT TO FARM BY-LAW

Draft 01/10/06, Revised 04/11/06, 9/12/06, 10/05/06

#### Section 1 **Legislative Purpose and Intent**

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter III, Section 125A and Chapter 128 Section IA. We the citizens of the Town of Hampden restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Hampden by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-Law shall apply to all jurisdictional areas within the Town.

#### Section 2 **Definitions**

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of agriculture, or accessory thereto.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

farming in all its branches and the cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities; growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations; raising of livestock including, but not limited to, horses, poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following: operation and transportation of slow-moving farm equipment over roads within the Town; control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals; application of manure, fertilizers and pesticides; conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm; processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto; maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and on-farm relocation of earth and the clearing of ground for farming operations.

#### Section 3 **Right To Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Hampden. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be

caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply especially to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

#### Section 4 Posting of Right to Farm Bylaw

The Board of Selectmen shall post the right to farm declaration on town bulletin boards annually to run contiguous with the posting of the annual Town Meeting. Furthermore, the right to farm declaration will be included as part of the town bylaws which are posted on the Town of Hampden's Website: [www.hampden.org](http://www.hampden.org).

#### Section 5 Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board. The Select Board shall review and facilitate the resolution of the grievance.

#### Section 6 Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Hampden hereby declares the provisions of this By-law to be severable.

## EXHIBIT D

### ZONING BYLAW

#### 7.15 Flexible Residential Open Space Development

##### 7.15.1 FROSD Allowed By Special Permit Right

Flexible Residential Open Space Development (FROSD) in accordance with this bylaw shall be allowed by Special Permit right from the Planning Board in Residence Zones R-4 and R-6, except not in the Floodplain District and not in the Interim Wellhead Protection Area (IWPA) or Zone II areas for water supply wells in Hampden. Flexible residential open space development (FROSD) shall mean a residential development in which single family residences are clustered together, adjacent to permanently preserved open space, which shall, to the extent feasible, be located along public roads or on farmland. Any person creating five or more lots available for residential use in the R-4 or R-6 Districts, whether or not by subdivision, may apply for a special permit under this section. Definitive FROSD Subdivision Plan approval under this section. FROSD shall be encouraged within the town.

##### 7.15.2 Purposes

The purposes of flexible residential open space development are to:

1. Allow for greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of the development is no greater than what is normally allowed in the district;
2. Encourage the permanent preservation of open space, agricultural lands and other natural resources and encourage a less sprawling form of development that consumes less open land;
3. Maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands;
4. Facilitate the construction of streets, utilities and public services in a more economical and efficient manner;
5. Ensure that residential developments respect the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic areas, and rural character;
6. Encourage development out of view from the road, and promote alternatives to strip residential development lining roadsides in the town.
7. Provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival.

##### 7.15.3 Net Developable Area

1. The net developable area of a parcel for FROSD development shall be the total area of all lots shown to be developable under the Town of Hampden Subdivision Regulations and Zoning Bylaw, and shall be calculated by the following procedure:

- a. Percolation tests, in conformity with Title V, 310 CMR 15.00-15.99 as amended shall be conducted under the supervision of the Board of Health, for all lots in the total acreage of the property which would be developed in a standard subdivision layout. The area of those lots which is determined to be not suitable for on-site sewage disposal shall be subtracted from the developable area of the total parcel.
- b. Under the supervision of the Conservation Commission, the total acreage of all wetlands, in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, shall be identified and their area subtracted from the developable area of the total parcel.

#### 7.15.4 Flexible Area in FROSD

1. Individual lot areas may be as small as the minimum lot sizes shown for FROSD in Table 1 of this section, provided that the average size for all FROSD lots created, including any land reserved as open space, shall be no smaller than the required average FROSD lot size, shown in Table 1 of this section.
2. The total number of building lots which can be created from any parcel shall be determined by dividing the net developable area (see Section 7.15.3) by the required average FROSD lot size shown in Table 1.
3. All land not used for building lots shall be placed in permanent open space in accordance with Section 7.15.3 of this bylaw, but not less than 40% of the total parcel net developable area.

#### 7.15.5 Flexible Frontage in FROSD

1. The frontage of the parcel from which the lots of a FROSD are created (whether or not by subdivision) shall equal or exceed 60 feet for each lot created in the FROSD, as shown in the Table of FROSD Dimensional Requirements (Table 1 of this section). For example, to create a six-lot FROSD in the R-6 Zone, the parcel must have a minimum of 360 foot contiguous frontage along a public way. The minimum frontage for a tract on which a FROSD is proposed shall be a contiguous one-hundred (100) feet and provide safe access for a right-of-way of at least fifty (50) feet.
2. Provided that all other requirements of this bylaw are met, there shall be no frontage required for individual lots within a FROSD, with the exception described in Section 7.15.5-3 below. Each lot shall have adequate access on a public way or a common driveway which meets the standards in this Section.
3. To the extent feasible, all buildings shall be located out of view from any road, and protected open space shall be located adjacent to public ways. Any building lot which fronts on an existing public road shall have the frontage normally required in the zoning district, as noted in the Table 7.2, "Lot Area, Frontage, Set-back and Building Coverage".

#### 7.15.6 Other Dimensional Requirements

1. All lots within a FROSD shall meet the front, rear and side yard requirements specified in Table 1 of this section.

2. All residential structures and accessory uses shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width which shall include trees and shall be kept in a natural or landscaped condition.

#### 7.15.7 Site Design Standards

1. Each structure shall be integrated into the existing landscape on the property so as to minimize its visual impact through use of vegetative and structural screening, landscaping, grading, and placement on or into the surface of the lot.
2. Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archaeological sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops,
3. All buildings, roads and driveways shall be located away from soils which are most suitable for agriculture (based on U.S. Soil Natural Resources Conservation Service classifications for prime farmland soils and soils of state and local importance) to the maximum practical extent. This provision does not apply to the location of on-site septic disposal facilities which must be placed in soils meeting the Massachusetts Environmental Code.
4. All buildings, homes, and structures shall be located a minimum of 100 feet from agricultural land and shall be separated from agricultural uses by a 75-foot wide buffer strip of trees and fencing sufficient to minimize conflicts between farming operations and residences. If needed, this buffer area may be used for septic systems, as noted in Section 7.15.8-1.

#### 7.15.8 Utility Requirements

##### 1. On-site Sewage Disposal

The following standards shall apply to developments requiring on-site sewage disposal:

- a. The applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the special permit FROSD application.
- b. All FROSD developments must meet the minimum state Environmental Code (Title V) requirements for minimum setbacks between private water supply wells and septic tanks or soil absorption systems (310 CMR 15.211). In order to meet Title V setback requirements, private water supply wells may be located on common open space, in accordance with the requirements in Section 7.15.8-2.
- c. All FROSD developments must meet the minimum state Environmental Code (Title V) requirements for nitrogen loading limitations (310 CMR 15.214-15.217). For FROSD developments with individual lot sizes less than 40,000 square feet, applicants must meet the following standards:
  - (1) Applicants must designate, on a plan, specific areas of common open space as "nitrogen credit land", based on the following equation:  $(40,000 \text{ square feet} \times \text{number of lots}) - \text{total square feet in proposed FROSD lots} = \text{square feet of required nitrogen credit land in common open space}$
  - (2) Nitrogen credit land must meet DEP qualifications contained in "Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading 310 CMR 15.16" including, but not limited, to the following qualifications:
    - Must be restricted to prohibit man-made sources of nitrogen, including sewage discharge, nitrogen-based fertilizer or raising and grazing of livestock;

- Must be restricted to prohibit artificially rendered imperviousness (i.e. paved streets, paved parking lots, buildings, structures, etc.);
  - Not within a Velocity Zone or Regulatory Floodway identified by FEMA;
  - Not under surface water;
  - Not already being used as nitrogen credit land.
- (3) All designated nitrogen credit land must be permanently restricted from further development under a "Grant of Title 5 Nitrogen Loading Restriction and Easement on Nitrogen Credit Land.

After approval of a Special Permit Definitive FROSD Subdivision Plan under this bylaw, applicants must apply to the Board of Health and the Mass. Department of Environmental Protection (DEP) for an aggregate determination of nitrogen loading under 310 CMR 15.216.

d. It is required that septic systems be installed on individually-owned lots.

## 2. Water Supply

- a. In order to meet state requirements for separation distances between drinking water wells and septic systems, drinking water supply wells may be located in the common open space for a FROSD, provided that the provisions of Section 7.15.10 for a homeowner's association are met.

### 7.15.9 Common Open Space

#### 1. Common Open Space Requirements

- a. A minimum of 40% of the total development parcel must be permanently protected as common open space. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.
- b. Watercourses, lakes, ponds, wetlands and steep slopes over 25% may not be included in common open space calculations.

#### 2. Land Protection Methods for Common Open Space

- a. All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for recreation, conservation, forestry or agricultural uses which preserve the land in essentially its natural condition, by the following method:
  - (1) The land shall be owned by a homeowner's association, with a permanent conservation easement or deed restriction must be conveyed to the Town with Town approval or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space. At a minimum, such an easement or restriction shall require the use of management practices that ensure existing fields or pastures, if any, will be plowed or mowed at least once every year.
  - b. Further subdivision of common open land or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited. Structures or buildings accessory to recreation, conservation, or agricultural use may be erected but shall not exceed five percent coverage of such common open space.

### 7.15.10 Homeowner's Association

- 1. A non-profit, homeowners association shall be established, requiring membership of each lot owner in the FROSD. The association shall be responsible for the permanent maintenance of

all common lands, common open space, recreational and thoroughfare facilities, except drinking water wells. If any drinking water well is located on common open space, the homeowners shall own the well and be responsible for any maintenance or related costs associated with their well. A homeowner's association agreement or covenant shall be submitted with the special permit application guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampden County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development.

#### 7.15.11 Special Permit and Subdivision Approval Procedures

1. Applicants for FROSD Special Permits shall follow the Special Permit procedures specified in Section 10 of the Hampden Subdivision Regulations Zoning Bylaw.
2. Relationship to Subdivision Control Preliminary Subdivision Plan
  - a. To promote better communication and avoid misunderstanding, applicants are encouraged to submit a Preliminary Subdivision Plan for review by the Planning Board prior to application for a Special Permit Definitive FROSD Subdivision Plan. Such Preliminary Plans shall comply with the Town's Subdivision Control regulations. The applicant is strongly encouraged to submit a FROSD preliminary subdivision plan.
  - b. Planning Board approval of a special permit for a FROSD shall not be deemed an approval under the Subdivision Control Law. Insofar as the development constitutes a subdivision, plans must be submitted, reviewed and approved in accordance with the Subdivision Rules and Regulations of the Planning Board of the Town of Hampden. However, in order to facilitate processing, the Planning Board shall, insofar as practical under law, adopt regulations establishing procedures for submission and review of a combined Special Permit application and Definitive Subdivision Plan, including a combined public hearing.
  - c. Applicants are required to submit five (5) copies of a preliminary plan and a definitive plan for the entire tract to be considered for a FROSD, containing the information required under the Subdivision Rules and Regulations of the Planning Board of the Town of Hampden.
3. Special Permit Application Contents
  - a. The special permit application shall include all contents required in of the Hampden Zoning bylaw, as well as a description of all proposed dwelling units, amenities, and the proposed ownership and use of open space.

#### 4. Environmental Impact Statement

The Planning Board may require the submittal of an environmental impact statement (EIS), in accordance with of this bylaw, at the time that the special permit Definitive FROSD Subdivision Plan application is filed.

#### 5. Reviewing agencies

The Planning Board shall submit copies of the special permit application and related documents to the Board of Health, the Conservation Commission and the Town Engineer for an advisory opinion in accordance With MGL C.40A, to the extent possible.

#### 6. Additional Criteria for Evaluation of Special Permit FROSD Applications

In addition to the Special Permit criteria in Section 10 of the Hampden Zoning Bylaw, No special permit approval for FROSD shall be issued unless the application therefore complies substantially with the following additional criteria:

- a. The FROSD shall be consistent with the purposes stated in Section 10 of this bylaw.
- b. The FROSD shall create permanent open space. All land within the FROSD not in use, for building lots shall be protected as permanent open space.
- c. The portion of a parcel placed in open space shall, to the greatest extent possible, be that which is most valuable or productive as a natural resource, wildlife habitat, farmland, or forestry land.
- d. The FROSD shall result in the creation of less curb cuts or vehicular access points to a public way than would reasonably be expected to occur under Standard ANR or Subdivision Development.
- e. The FROSD shall result in no net increase in density of dwellings on the parcel over the density which could reasonably be expected to occur on the parcel under Standard ANR or Subdivision Development.
- f. The FROSD shall have no more impact on immediate abutters and the surrounding neighborhood than would a conventional subdivision plan.
- g. All dwellings shall, to the greatest extent possible, be located out of view from any road unless valuable natural resources or farmland located to the rear of the property render building in view of the road more desirable.

#### 7. Special Permit Additional Conditions

The Planning Board may set forth conditions in its decision, including, but not limited to the following:

- a. Granting of a covenant or easement to ensure that existing fields or pastures will be plowed or mowed periodically with attention given to the requirements of existing animal and plant species.
- b. Granting of an easement providing and defining rights of public access.
- c. Measures to ensure the maintenance of scenic views and vistas.
- d. Specific approval of the uses allowed in designated open space and recreational areas, including the requirement that, before construction of any recreational structures such as tennis courts, swimming pools or accessory clubhouses, plans shall be submitted to the Planning Board for site plan approval. Recreational structures shall not exceed two percent (2%) of the total required common open space.
- e. Changes to site designs to better protect natural resources.

8. Terms of Special Permit FROSD Approval

Any Special Permit approval for FROSD shall state clearly the terms by which the development shall meet the above-listed criteria. The Special Permit approval granted shall state the acreage and location of open space provided, shall identify the natural resources or farmland to be protected and any specific measures to be taken for their protection;

Zone	Min. Lot Area for Standard Subdivision (sq. ft.)	FROSD Min. Lot Area (sq. ft.)	FROSD Average Lot Area (sq. ft.) <sup>2</sup>	FROSD Min. Open Space (percent)	Min. Frontage for Standard Subdivision (ft.)	FROSD Min. Frontage for Individual Lots (ft.)	FROSD Min. Frontage for Total Dev. Parcel (ft.) <sup>3</sup>	FROSD Min. Front Setback (ft.)	FROSD Min. Rear Setback (ft.)	FROSD Min. Side Setback (ft.)	FROSD Min. Distance Between Buildings (ft.)	FROSD Maximum Impervious Surface Coverage of Buildable Land (percent)	Maximum Building Height (ft.)
R-4	40,000	24,000 <sup>1</sup>	40,000	40	170	None	100 60 per lot	40	40	10	20	25	35
R-6	60,000	36,000 <sup>1</sup>	60,000	40	200	None	100 60 per lot	40	50	10	20	25	35

shall specify the number and location of dwellings and curb cuts.

Table 1:  
Dimensional and Density Requirements  
Flexible Residential/Open Space Development  
Town of Hampden

1 All FROSD developments must meet minimum state Environmental Code (Title V) requirements, as described in Section 7.15.8.

2 Calculations for average lot areas shall include common open space, as described in Section 7.15.4.

3 The frontage of the parcel from which the lot of a FROSD is created shall equal or exceed at least 60 feet per developable lot created in the R-4 district and the R-6 district.

