



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

TUESDAY

JANUARY 22, 2013

7:00 P.M.

Attending:

*Councilor Janet Hughes
Councilor Jean Lawlis
Councilor Tom Brann
Councilor Bill Shakespeare
Councilor Carol Duprey
Councilor Shelby Wright*

*Town Attorney Thomas Russell
Town Manager Susan Lessard
Town Clerk Denise Hodsdon
State Representative Brian Duprey
Citizens*

The meeting was called to order by Mayor Hughes at 7:07 pm.

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

a. January 7, 2013

3. COMMUNICATIONS

- a. Hampden Garden Club – Thank you
- b. Mike Pullen - Application for Reappointment to Historic Preservation Commission – Referral to Planning & Development Committee
- c. Morten Syversen - Application for Reappointment to Planning Board – Referral to Planning & Development Committee
- d. Aimee Smith - Application for Reappointment to Board of Appeals – Referral to Finance & Administration Committee

4. REPORTS

- a. Services Committee Minutes – 1/14/2013
- b. Rapid Renewal Report – October, November & December 2012
- c. Lura Hoit Pool Board Minutes – 12/11/2012
- d. Dyer Library Board Minutes – 11/14/2012

Motion by Councilor Lawlis, seconded by Councilor Shakespeare to accept the Consent Agenda. Unanimous vote in favor

B. PUBLIC COMMENTS – There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. **Proposed Amendments to Town of Hampden Victualers Ordinance – Section 5 Application** – *Mayor Hughes explained that the purpose of the proposed amendments is to eliminate the requirement for Council approval on license renewals and authorize the Code Enforcement Officer to issue renewal licenses as long as there are no unresolved complaints or violations. She then opened the hearing; no one spoke in favor or opposition and there were no general comments or questions; the hearing was closed. Motion by Councilor Brann, seconded by Councilor Wright to adopt the amendments to the Victualers Ordinance as submitted. Unanimous vote in favor.*
- b. **Proposed Amendments to Town of Hampden Outdoor Wood Boiler Annual Licensing Ordinance – Article 3 Annual License Required** – *Mayor Hughes explained that the purpose of the proposed amendments is to eliminate the requirement for Council approval on license renewals and authorize the Code Enforcement Officer to issue renewal licenses as long as there are no unresolved complaints or violations. She then opened the hearing; no one spoke in favor or opposition and there were no general comments or questions; the hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Brann to adopt the revised Outdoor Wood Boiler Annual Licensing Ordinance. Unanimous vote in favor.*

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. **Services Committee Recommendations re Committee Reappointments:** - *Services Committee Chair Lawlis reported that the Services Committee recommended reappointment of all the following applicants:*
 1. **Anthony Mourkas – Library Board** – *Motion by Councilor Lawlis, seconded by Councilor Wright to reappoint Anthony Mourkas to the Library Board. Unanimous vote in favor.*
 2. **Cheri Condon – Library Board** – *Motion by Councilor Lawlis, seconded by Councilor Brann to reappoint Cheri Condon to the Library Board. Unanimous vote in favor.*
 3. **Richard Jenkins – Library Board** – *Motion by Councilor Lawlis, seconded by Councilor Shakespeare to reappoint Richard Jenkins to the Library Board. Unanimous vote in favor.*
 4. **Patrick Foley – Pool Board** – *Motion by Councilor Lawlis, seconded by Councilor Duprey to reappoint Patrick Foley to the Pool Board. Unanimous vote in favor.*
 5. **Gregory Hawkins – Pool Board** – *Motion by Councilor Lawlis, seconded by Councilor Wright to reappoint Gregory Hawkins to the Pool Board. Unanimous vote in favor.*

**TOWN OF HAMPDEN, MAINE
VICTUALERS ORDINANCE**

C-1-a

TABLE OF CONTENTS

SECTION 1 - PURPOSE.	2
SECTION 2 - LICENSE.	2
SECTION 3 - EXCEPTIONS.	2
SECTION 4 - COMPLIANCE.	2
SECTION 5 - APPLICATION	2
SECTION 6 - PENALTY.	3
SECTION 7 - SUSPENSION AND REVOCATION OF LICENSE	3
SECTION 8 - SEVERABILITY.	3

ADOPTED: Hampden Town Council April 20, 1998
Effective: May 19, 1998

AMENDED: Hampden Town Council November 17, 2003
Effective: December 17, 2003

AMENDED: Hampden Town Council May 16, 2005
Effective: June 15, 2005

1/7/2013 - Introduced for public hearing
1/22/2013 - Adopted by Town Council

The Town of Hampden hereby ordains that this Ordinance be amended as follows (deletions ~~stricken~~ and additions underlined):

**TOWN OF HAMPDEN, MAINE
VICTUALERS ORDINANCE**

Section 1. Purpose. The purpose of this Ordinance is to regulate the sale of prepared food for consumption on or off the premises.

Section 2. License. Any person who owns or operates a place where food is prepared and served to the public as a profit-making venture for consumption on or off the premises, including but not limited to a restaurant, motel and hotel, deli, movie theater, soda fountain, bakery, sandwich shop, convenience store, or outdoor facility, shall be licensed annually as a victualer in order to operate within the Town. ~~(For those licenses in effect upon passage of this Ordinance, the license will renew in the month the last license was issued).~~

At the time of application for a license or license renewal applicant shall pay a fee in accordance with the Town of Hampden Fees Ordinance. *(Amended: 11-17-03) (Amended: 05-16-05)*

Section 3 Exceptions. A public or private school, public service organization, private club, church organization, fire department or any other non-profit organization selling food or drink to raise money for a charitable cause shall be exempt from the requirements of this Ordinance. Grocery stores, except those selling food items prepared on the premises, shall also be exempt. Establishments selling food and drink only through vending machines shall also be exempt.

The Hampden Town Council shall have the authority to decide if an establishment is exempt or not. *(Amended: 05-16-05)*

Section 4. Compliance

- A. All establishments must be inspected by the code enforcement officer and the fire inspector to determine if they are in compliance with all municipal ordinances, including zoning, state life safety, ~~food~~ and liquor regulations. Failure to be in compliance with any of the foregoing shall be grounds for denial of the application. In addition, failure to allow the code enforcement officer and the fire inspector to inspect the establishment shall be grounds for denial of the application.
- B. The treasurer and tax collector must certify that all sewer user fees and personal property taxes are paid in full, as of the date of the application. Failure to meet these requirements shall be grounds for denial of the application.

Section 5. Application. *(Amended: 05-16-05)*

- A. Application forms for a victualer's license or renewal shall be on a form designed for that purpose by the Town. Victualer applications, except for renewal applications under Subsection B below, shall be advertised by publishing notices in a local newspaper and by posting notices in at least two public places, at least seven (7) days prior to the meeting. The council shall conduct a public hearing on the applications at the next scheduled council meeting, and shall make a decision within 30 days following the public hearing. Written notice of the decision shall be provided to the applicant. *(Amended: 05-16-05)*

- B. ~~Waiver of Public Hearing Requirement.~~ Notwithstanding the provisions of this section those seeking license renewal may request a waiver of the public hearing provision if their business has been licensed for five consecutive years and no violations of this article are known. The decision to grant the waiver for the public hearing is expressly granted to the Town Manager. (Amended: 05-16-05)

As long as there are no unresolved complaints or violations, licenses for renewal applications for the same owner and the same place of business may be issued by the code enforcement officer, after consultation with the fire inspector, treasurer and tax collector, upon determination of compliance with the provisions of this Ordinance. If the code enforcement officer determines that there are unresolved complaints or violations, the application shall be processed in accordance with Subsection A above.

- C. A new license, when granted, shall be valid for one year and renewed annually in the month in which the license was issued. An establishment shall at all times display its current victualer license in a place within the establishment where it can be readily viewed by any member of the public.

Section 6. Penalty.

- A. Any person found guilty of violating any provisions of this article shall be subject to a civil penalty.
- B. In addition to a civil penalty, the Town may enjoin or abate any violation of this article by appropriate action, and may also proceed to revoke the victualer's license, after a hearing on the matter.
- C. Any person operating as a victualer within the Town without a victualer's license shall be subject to a civil penalty of \$100.00 per day for all days of operation without the required license. (Amended: 05-16-05)

Section 7. Suspension or Revocation of License.

- A. *Applicability of State Regulations; Effect of Suspension or Revocation of State License.* All victualers shall be subject to all state regulations of food service establishments, such regulations being enforced by state agencies. It is not the intent of this article to establish for the town a food service regulation scheme apart from that provided under state law. Accordingly, any suspension or revocation of a state license shall be considered as a suspension or revocation, as the case may be, of the victualer's license issued under this article on the same terms as imposed by the state. (Amended: 05-16-05)
- B. *Local Suspension or Revocation of License.* The Town Council, upon notice and hearing, for cause, may at any time suspend or revoke a victualer's license issued pursuant to this article. Cause shall mean the violation of any license provision or any provision of this article, or any condition constituting a threat to the public health, safety, or welfare, including but not necessarily limited to neighborhood disruption, disorderly customers, and excessively loud or unnecessary noise that initiates complaints to or requires a response from police, fire, or other town regulatory bodies or employees. (Amended: 05-16-05)

Section 8. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

C-1-b

**TOWN OF HAMPDEN, MAINE
OUTDOOR WOOD BOILER ANNUAL LICENSING ORDINANCE**

ADOPTED: Hampden Town Council, March 19, 2007
Effective Date: April 18, 2007

AMENDED: Hampden Town Council, December 21, 2009
Effective Date: January 20, 2009

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

**OUTDOOR WOOD BOILER ANNUAL LICENSING ORDINANCE
CONTENTS**

ARTICLE		PAGE
1.	TITLE AND PURPOSE.....	2
2.	DEFINITIONS.....	2
3.	ANNUAL LICENSE REQUIRED.....	3
4.	SPECIFIC REQUIREMENT.....	4
5.	SUSPENSION OF LICENSE.....	6
6.	WAIVERS.....	7
7.	PENALTIES.....	7
8.	EFFECT ON OTHER REGULATIONS.....	8
9.	SEVERABILITY.....	8
10.	EFFECTIVE DATE.....	8

1/7/2013- Introduced for Public Hearing
1/22/2013 - Adopted by Town Council

The Town of Hampden hereby ordains that this Ordinance be amended as follows (deletions ~~stricken~~ and additions underlined):

TOWN OF HAMPDEN, MAINE
OUTDOOR WOOD BOILER ANNUAL LICENSING ORDINANCE

ARTICLE 1
TITLE AND PURPOSE

1.1. Title. This ~~chapter~~ Ordinance shall be known as the "Town of Hampden, Maine Outdoor Wood Boiler Annual Licensing Ordinance." *Amended: 12-21-09 (Note: The term "outdoor wood-fired boiler" has been changed to "outdoor wood boiler" throughout to be consistent with Chapter 150).*

1.2. Home Rule Authority. It is adopted pursuant to Municipal Home Rule Law.

1.3. Purpose. Although outdoor wood boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This Ordinance is intended to ensure that outdoor wood boilers are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town. Furthermore, this ordinance is intended to comply with the minimum standards contained in DEP Chapter 150, Control of Emissions From Outdoor Wood Boilers.

ARTICLE 2
DEFINITIONS

2.1. Definitions. As used in this ~~chapter~~ Ordinance, the following terms shall have the meanings indicated:

"Commercial outdoor wood boiler" means any outdoor wood boiler used to service a commercial establishment. *Amended: 12-21-09*

"Outdoor pellet boiler" means an outdoor wood boiler designed and warranted by the manufacturer specifically to burn pellet fuel with metered fuel and air feed and controlled combustion engineering, which is operated according to the manufacturer's specifications and burns only pellet fuel. *Amended: 12-21-09*

"Outdoor wood boiler" (also known as outdoor wood-fired hydronic heater, water stove or outdoor wood furnace) means a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture. *Amended: 12-21-09*

"Outdoor wood boiler Emission Rating" means the EPA's rating system for OWBs which rate the emissions in pounds per million BTU' or lbs/MMBtu. *Amended: 12-21-09*

"EPA Phase-One Qualified OWB" means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.60 lbs/MMBtu heat input. *Amended: 12-21-09*

“EPA Phase-Two Qualified OWB” means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.32 lbs/MMBtu heat input. *Amended: 12-21-09*

“Phase-Three Qualified OWB” means an OWB (or outdoor pellet boiler if the Town chooses to go with the DEP approach) that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limit of 0.06 lbs/MMBtu heat input. *Amended: 12-21-09*

“Non-EPA Qualified OWB” means an OWB that has received certification pursuant to the EPA Outdoor Wood-Fired Hydronic Heater Program, or such alternative certification program as may be approved by the Maine Department of Environmental Protection, that the OWB meets a particulate matter emission limits greater than 0.60 lbs/MMBtu heat input or with no certification. *Amended: 12-21-09*

“DEP Qualified OWB” means that the manufacturer of the OWB has voluntarily submitted their product for emission rating to a government other than the US government or other testing bodies as deemed acceptable by the DEP and based on the OWB’s emission report the Maine Department of Environmental Protection classifies the OWB to the corresponding EPA standard. For purposes of this ordinance applicants must provide written documentation from the DEP to show evidence that the OWB is in fact DEP qualified. *Amended: 12-21-09*

“Neighboring Residence Setback” means the minimum linear distance that an outdoor wood boiler must be sited away from the nearest dwelling that is not on the same property as the boiler. *Amended: 12-21-09*

“Nuisance” means any odor, emission, or event that prevents the reasonable use and enjoyment of one’s property. For purposes of this ordinance, an OWB shall constitute a nuisance following three or more verified complaints within any 30 day period.

“Firewood” means trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

“Setback” means the minimum linear distance that an outdoor wood boiler must be sited away from a prescribed physical location on the ground. *Amended: 12-21-09*

“Untreated lumber” means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

ARTICLE 3 ANNUAL LICENSE REQUIRED

3.1. Annual license required. In addition to any permit required under the Town’s Fire Prevention Code, no person shall cause, allow or maintain the use of an outdoor wood boiler within the Town of Hampden, Maine without first having obtained an initial annual license from the Hampden Town Council, and an annual renewal license from the Town Council or the code official responsible for enforcement of the Fire Prevention Code. Applications for annual licenses shall be made to the Town Clerk on the forms provided.

3.2. Standards for initial license. The Town Council shall issue an initial license for an outdoor wood boiler if it determines that:

3.2.1 A permit has been issued for the proposed outdoor wood boiler under the Fire Prevention Code; and

3.2.2 The proposed outdoor wood boiler complies with the requirements of Sections 4.2, 4.3, 4.4 and 4.6 of this Ordinance.

3.2.3 The Town of Hampden shall not issue an initial license for a non-EPA qualified OWB or non-Maine Department of Environmental Protection alternative certified OWB after the effective date of this amendment. *Amended: 12-21-09*

3.3. Standards for renewal license. The Town Council, except as provided in Section 3.4, shall issue a renewal license for an outdoor wood boiler if it determines that:

3.3.1. The code official responsible for enforcement of the Fire Prevention Code provides written documentation to the effect that the outdoor wood boiler is in compliance with the applicable provisions of that Code;

3.3.2 The outdoor wood boiler is in compliance with the requirements of Sections 4.2, 4.3, 4.4, and 4.6 of this Ordinance;

3.3.3. The outdoor wood boiler was operated in compliance with the requirements of Sections 4.1 and 4.5 of this Ordinance during the preceding year; and

3.3.4 None of the conditions set forth in Sections 5.1.1, 5.1.2, 5.1.3, 5.1.4, or 5.1.5 of this Ordinance occurred during the preceding year.

3.4. Annual renewal licenses issued by code official. As long as there are no unresolved complaints or violations, annual renewal licenses for an outdoor wood boiler may be issued by the code official responsible for enforcement of the Fire Prevention Code upon determination of compliance with the standards of Section 3.3. If the code official determines that there are unresolved complaints or violations, the application for the annual renewal license shall be processed by the Town Council in accordance with Section 3.3

~~3.4~~ 3.5. Existing outdoor wood boilers. Any outdoor wood boiler that was installed, connected, and operating as of the effective date of this Ordinance shall be permitted to remain, provided that the owner applies for and receives an annual license from the Town Council within 120 days of such effective date. Provided, however, that upon the effective date of this Ordinance all the provisions of this Ordinance, except Sections 4.2 *Permitted Zones*, 4.3 *Minimum Lot Size*, and 4.4 *Setbacks* in the event and to the extent that the existing outdoor wood boiler in question does not comply with the same, shall immediately apply to any existing outdoor wood boiler. Any existing outdoor wood boiler that is not in compliance with Sections 4.3 and 4.4 shall not be made more nonconforming. If the owner of an existing outdoor wood boiler does not receive a permit within one year of the effective date of this Ordinance, the outdoor wood boiler shall be removed.

**ARTICLE 4
SPECIFIC REQUIREMENTS**

4.1. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor wood boiler. Burning of any and all other materials in an outdoor wood boiler is prohibited.

4.2. Permitted zones. Outdoor wood boilers shall be permitted in all zoning districts except the Resource Protection District as shown on the Town's Zoning Map.

4.3. Minimum lot size Outdoor wood boilers shall be permitted only on lots in accordance with the following minimum lot size: *Amended: 12-21-09*

	Minimum Lot Size
Existing Non-EPA Qualified Outdoor Wood Boilers Only	3 Acres
EPA Phase-One Qualified Outdoor Wood Boilers	1 Acre
EPA Phase-Two Qualified Outdoor Wood Boilers	0.5 Acre
Phase-Three Qualified Outdoor Wood Boilers (pellet)	0.25 Acre

The applicant for a permit under this Ordinance shall demonstrate that the Commercial outdoor wood boiler or Outdoor Wood Boiler with a thermal rating greater than 350,000 Btu/hr shall be installed and operated in accordance with Chapter 150 of the Rules of the Maine Department of Environmental Protection, "Control of Emissions from Outdoor Wood Boilers," as the same may be amended from time to time.

4.4. Setbacks and Stack Height. Outdoor wood boilers shall be set back from property lines according to the following standards: *Amended: 12-21-09*

<i>4.4.1. Property Line Setback</i>	Minimum
Existing Non-EPA Qualified Outdoor Wood Boilers Only	150 Feet
EPA Phase-One Qualified Outdoor Wood Boilers	100 Feet
EPA Phase-Two Qualified Outdoor Wood Boilers	50 Feet
Phase-Three Qualified Outdoor Wood Boilers (pellet)	20 Feet

Additionally, outdoor wood boilers shall be set back from neighboring residences according to the following standards: *Amended: 12-21-09*

<i>4.4.2. Neighboring Residence Setback</i>	Minimum
Existing Non-EPA Qualified Outdoor Wood Boilers Only	200 Feet
EPA Phase-One Qualified Outdoor Wood Boilers	120 Feet
EPA Phase-Two Qualified Outdoor Wood Boilers	70 Feet
Phase-Three Qualified Outdoor Wood Boilers (pellet)	40 Feet

4.4.3. Stack Height Requirements for New Outdoor Wood Boilers and Outdoor Pellet Boilers
Amended: 12-21-09

Existing Non-EPA Qualified Outdoor Wood Boilers are not subject to this requirement. *Amended: 12-21-09*

EPA Phase-One Qualified Outdoor Wood Boilers. No person shall install or allow the installation of any EPA Phase-One Qualified Outdoor Wood Boiler unless the outdoor wood

boiler or outdoor pellet boiler: (1) has an attached stack with a minimum stack height of 10 feet above ground level; or (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler, if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler. *Amended: 12-21-09*

EPA Phase-One Qualified Outdoor Wood Boilers. No person shall operate any EPA Phase-One Qualified Outdoor Wood Boiler if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler, unless the outdoor wood boiler or outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler. *Amended: 12-21-09*

EPA Phase-Two Qualified Outdoor Wood Boilers. No person shall install or allow the installation of any EPA Phase-Two Qualified Outdoor Wood Boiler unless the outdoor wood boiler or pellet boiler: (1) has an attached stack with a minimum stack height of 10 feet above ground level; or (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler, if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler. *Amended: 12-21-09*

EPA Phase-Two Qualified Outdoor Wood Boilers. No person shall operate any EPA Phase-Two Qualified Outdoor Wood Boiler, if a neighboring residence is located less than 300 feet from the outdoor wood boiler or outdoor pellet boiler, unless the outdoor wood boiler or outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler or outdoor pellet boiler. *Amended: 12-21-09*

Phase-Three Qualified Outdoor Wood Boilers. No person shall install or allow the installation of any Phase-Three Qualified Outdoor Wood Boilers, unless the outdoor pellet boiler: (1) has an attached stack with a minimum stack height of 10 feet above ground level; or (2) has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor pellet boiler, if a neighboring residence is located less than 100 feet from the outdoor pellet boiler. *Amended: 12-21-09*

Phase-Three Qualified Outdoor Wood Boilers No person shall operate any Phase-Three Qualified Outdoor Wood Boilers, if a neighboring residence is located less than 100 feet from the outdoor pellet boiler, unless the outdoor pellet boiler has an attached stack extending two feet higher than the peak of the roof of the structure being served by the outdoor pellet boiler. *Amended: 12-21-09*

The applicant for a permit under this Ordinance shall demonstrate that the Commercial outdoor wood boiler or Outdoor Wood Boiler with a thermal rating greater than 350,000 Btu/hr shall be installed and operated in accordance with Chapter 150 of the Rules of the Maine Department of Environmental Protection, "Control of Emissions from Outdoor Wood Boilers," as the same may be amended from time to time. *Amended: 12-21-09*

4.5. Months of operation. Outdoor wood boilers shall be prohibited from operation between the dates of May 1 and October 1.

4.6. Spark arrestors and rain caps. All outdoor wood boilers shall be equipped with properly functioning spark arrestors. Use of a rain cap on the stack of an OWB is prohibited unless required by the manufacturer specifications. *Amended: 12-21-09*

4.7. Continued compliance required. If an outdoor wood boiler is installed in compliance with Sections 4.3 and 4.4, the outdoor wood boiler may not be used if the lot on which it is situated is altered so that the minimum lot size or setback(s) are no longer met.

ARTICLE 5 REVOCATION OF LICENSE

5.1. Revocation of license. A license issued pursuant to this Ordinance may, after notice and hearing, be revoked as the Town Council may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Hampden if any of the following conditions occur:

5.1.1. Emissions from the outdoor wood boiler exhibit opacity that obscures or partially obscures clear view of structures and trees that lay behind the smoke and haze on either the property where the outdoor wood boiler is located or on adjoining properties. This may be evidenced by photographs that are time dated;

5.1.2. Malodorous air contaminants from the outdoor wood boiler are detectable outside the property boundaries of the land on which the outdoor wood boiler is located. This may be evidenced by Town Public Safety Officials;

5.1.3. The emissions from the outdoor wood boiler interfere with the reasonable enjoyment of life or property;

5.1.4. The emissions from the outdoor wood boiler cause damage to vegetation or property; or

5.1.5. The emissions from the outdoor wood boiler are or may be harmful to human or animal health.

5.2. Prohibited use after revocation. If a license is revoked, the outdoor wood boiler in question shall not be used or operated.

5.3. Reinstatement of license. A revoked license may be reinstated once the condition which resulted in revocation is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in revocation of a license shall be considered a violation of this Ordinance subject to the penalties provided in *Section 7.1 Penalties for offenses* hereof.

ARTICLE 6 WAIVERS

6.1. Waivers. Where the Town Council finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this Ordinance or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the Town Council may impose such conditions and requirements as it deems reasonable and prudent. The Town Council may, at its discretion, hold a public hearing as part of its review. If the Town Council grants the waiver, a license shall be issued for the outdoor wood boiler. If the Town Council denies the waiver, the outdoor wood boiler must either be brought into compliance with this Ordinance or removed. If the Town Council does not take any action with respect to the waiver within 60 days from its receipt of an application for waiver, the waiver shall be deemed denied.

**ARTICLE 7
PENALTIES**

7.1. Penalties for offenses. Failure to comply with any of the provisions of this Ordinance shall be a violation and, upon conviction thereof, shall be subject to a civil penalty in accordance with Title 30-A M.R.S. §4452. In addition, any license issued pursuant to this Ordinance shall be revoked upon conviction of a second offense and the subject outdoor wood boiler shall not be eligible for another license. Each day that a violation occurs shall constitute a separate offense. All penalties shall inure to the benefit of the Town of Hampden. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Ordinance. Violators shall also be responsible for any and all court fees, expert witness fees, costs, and reasonable attorney fees if the Town is the prevailing party in an enforcement action.

**ARTICLE 8
EFFECT ON OTHER REGULATIONS**

8.1. Effect on other regulations. Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, Maine Department of Environmental Protection or any other federal, state, regional or local agency. Outdoor wood boilers, and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood boilers, shall be installed, operated and maintained in conformity with the manufacturer's specifications and instructions and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this Ordinance and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

**ARTICLE 9
SEVERABILITY**

9.1. Severability. Should any provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

**ARTICLE 10
EFFECTIVE DATE**

10.1. Effective Date. The effective date of this Ordinance shall be 30 days from the date of adoption by the Town Council.

6. **Cedena McAvoy – Pool Board** – *Motion by Councilor Lawlis, seconded by Mayor Hughes to reappoint Cedena McAvoy to the Pool Board. Unanimous vote in favor.*
7. **Jane Jarvi – Recreation Committee** – *Motion by Councilor Lawlis, seconded by Councilor Brann to reappoint Jane Jarvi to the Recreation Committee. Unanimous vote in favor.*

3. UNFINISHED BUSINESS

- a. **Council Introductions** – *This item was moved to the beginning of the meeting. Each Councilor, as well as the Town Manager, Town Clerk and Town Attorney, were given a few minutes to introduce themselves and say a few words about themselves. Mayor Hughes noted that State Representative Brian Duprey was present and asked him to say a few words as well.*
- b. **Ordinance Exempting Eligible Active Duty Military Personnel from Vehicle Excise Tax – Introduction for Public Hearing – Finance & Administration Committee Recommendation** – *Following a public hearing on August 6, 2012, this item had been tabled indefinitely until such time as information was provided by the Town Attorney in regard to the legislation and options the Council has to limit the exemption. Motion by Councilor Brann, seconded by Councilor Shakespeare to remove this item from the table. Unanimous vote in favor. Motion by Councilor Brann, seconded by Councilor Wright to replace the documents removed from the table with this current document C-3-b. Unanimous vote in favor. Mayor Hughes reported that the Finance & Administration Committee has reviewed the revised version of the proposed ordinance and will be recommending that the full Council not approve it; however, the proposed ordinance does need to go to public hearing. Councilor Brann introduced this item for public hearing at the next regular meeting.*

4. NEW BUSINESS

- a. **Application for renewal of Victualers License received from Wang & Lo, Inc. d/b/a Fresh Ginger Restaurant at 64 Main Road North** – *Motion by Councilor Shakespeare, seconded by Councilor Duprey to approve renewal of the victualers license for Fresh Ginger Restaurant. Unanimous vote in favor.*
- b. **Application for renewal of Liquor License received from Wang & Lo, Inc. d/b/a Fresh Ginger Restaurant at 64 Main Road North** – *Motion by Councilor Brann, seconded by Councilor Wright to approve and sign the liquor license application for Fresh Ginger Restaurant. Unanimous vote in favor.*
- c. **Kiwanis Request – Meeting Attendee** – *Manager Lessard informed the Council that the Kiwanis Club has requested that a member of the*

TOWN OF HAMPDEN, MAINE
ORDINANCE
EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL
FROM VEHICLE EXCISE TAX

Section I. Authority.

This Ordinance is enacted pursuant to 36 M.R.S. §1483-A, which expressly authorizes such ordinances.

Section 2. Excise Tax Exemption For One Vehicle: Qualifications.

One vehicle owned by a resident of this municipality who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle in this State is hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S. §1482. If a qualifying resident owns more than one vehicle, the resident shall designate the one vehicle that is to be exempt from excise tax under this Ordinance.

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For the purposes of this section, "United States Armed Forces" does not include the National Guard and the Reserves of the United States Armed Forces.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S. §814(1) (A).

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S. §1481(5) and does not include any snowmobiles as defined in 12 M.R.S. §13001.

Section 3. Effective Date: Duration.

Pursuant to Section 213(c) of the Town Charter, this Ordinance shall become effective at the expiration of 30 days after its adoption by the Town Council, and shall remain in effect unless and until it or 36 M.R.S. §1483-A is repealed.

Council attend their meetings which take place every Thursday evening. The Club feels it would be a good idea to have a liason between the Kiwanis and the Town. Following brief discussion, several Councilors said they would be willing to drop in on a meeting once in a while, but due to the time commitment for Council and committee meetings, it would be difficult for one Councilor to commit to every Kiwanis meeting. Manager Lessard will request copies of the meeting agendas.

d. Set Date for Strategic Planning/Goal Setting Meeting – *The meeting was tentatively scheduled for March 9, 2013, with a backup date of March 16th.*

e. Set Date for Skehan Center Visit – *The Council will tour the old Hampden Academy property from 5:30 to 6:30 pm on Monday, January 28th; to be followed by a brief Infrastructure Committee meeting from 6:30 to 7:00 pm; and then a special Planning & Development Committee meeting at 7:00 pm to discuss the old HA property.*

D. COMMITTEE REPORTS

Infrastructure Committee – *Councilor Wright – the next meeting will be at 6:30 pm on Monday, January 28th.*

Planning & Development Committee – *Councilor Brann – the last meeting was cancelled due to the weather and those agenda items will carry over to the next regular meeting on Wednesday, February 6th. There will be a special meeting at 7:00 pm on Monday, January 28th to discuss the old Hampden Academy property.*

Services Committee – *Councilor Lawlis – the committee met on January 14th and was updated on several items including the Papermill Road recreation area, the Recreation Department's use of the Skehan Center, the upcoming newsletter and Channel 7 programming.*

Finance & Administration Committee – *Mayor Hughes – the committee reviewed warrants and financial statements; reviewed and discussed the proposed Ordinance Exempting Eligible Active Duty Military Personnel from Vehicle Excise Tax; reviewed financial status of the marina project; and reviewed expenditures related to the old Hampden Academy property and Skehan Center. The committee also reviewed and discussed a proposal from Credere Associates to conduct a PCB Site Characterization of the old Hampden Academy property and it was decided that the Council would conduct a tour of the property before making decisions on how to proceed with marketing the property.*

E. MANAGER'S REPORT – *a copy of the Manager's Report is attached and made a part of the minutes.*

F. COUNCILORS' COMMENTS

Councilor Shakespeare *commented that he thought the Council and Staff introductions were fantastic. In reference to the Governor's budget proposals, he noted that it is going to be challenging and that the Council will need to be as creative as possible.*

MANAGER'S REPORT
January 22, 2013

Impacts – Governor's Proposed Budget

As proposed, the Budget presented by Governor LePage would result in annual revenue reductions of approximately \$1.878 million dollars. These revenue reductions include total loss of revenue sharing for a two year period, commercial excise tax being sent to the State instead of kept locally for road expenditures, a 50% reduction in the Business Equipment Tax reimbursement program for personal property, and not only flat funding of education at the curtailed amount for this year – but also the inclusion of 50% of teacher retirement to be paid at the local level. These revenue reductions would require a mil rate of \$3.36 to offset. In addition, the budget removes the State homestead exemption from all but senior citizens, and that loss would increase property taxes (at the current mil rate) by \$159.00.

If the Town flat funded its budget for 2013-2014, the impact to a property owner who was not a senior citizen with a \$200,000 property valuation would be as follows -

	2012-2013	With Proposed Budget 2013-2014	
Total Value	200,000	200,000	
Homestead	(10,000)	0	
Tax Value	190,000	200,000	
Mil Rate	.01590	.01926	
Taxes	\$3,021	\$3,852	An increase of \$831.

This budget must be reviewed by the legislature and I am hopeful that a more balanced approach will be found to address State budget difficulties.

2010-2011 Unpaid Property Tax Foreclosure

Unpaid 2010-2011 property taxes will foreclose on February 19th. At this point we do not have any 'new' accounts in that status. The accounts outstanding have a history of being outstanding until just before the foreclosure date of the oldest tax.

Cleaning Person Change – The person who has cleaned the Town Office for many years, Dallas Stewart, has taken a job with the school department and will only be doing the cleaning at the library from now on. I have retained ServiceMaster for cleaning of the Municipal Building going forward. Service Master did the cleaning for several months in 2011 when Dallas was out with an arm injury.

Extreme Cold Weather – The forecast for the remainder of the week is for extremely low temperatures and accompanying wind chills. A reminder to everyone to check on older friends, neighbors, and relatives to make sure that they are doing ok – and to keep pets inside.

Dog Licenses Reminder – A reminder that all dog licenses need to be renewed by January 31st to avoid a \$25 fine for late registration.

Transfer Station Decals – A reminder that all must obtain a 2013 transfer station decal prior to February 1st. Vehicles without decals will not be allowed access after that date.

Sewer Bills – Sewer Bills for the fourth quarter of 2012 will be sent out on January 30th.

Councilor Lawlis noted that we are all in this together and urged anyone who is uncomfortable with the State budget proposals, to contact their State representatives.

G. ADJOURNMENT - The meeting adjourned at 8:48 pm.

A handwritten signature in cursive script that reads "Denise Hodsdon".

Denise Hodsdon
Town Clerk