



HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING  
AGENDA

MONDAY

AUGUST 6, 2012

7:00 P.M.

*Attending:*

*Mayor Janet Hughes*

*Town Manager Susan Lessard*

*Councilor Tom Brann*

*Public Works Director Galen Swan*

*Councilor Jean Lawlis*

*Citizens*

*Councilor Shelby Wright*

*Councilor Kristen Hornbrook*

*Councilor Jeremy Williams*

*The meeting was called to order at 7:02 p.m. by Mayor Hughes.*

*Motion by Councilor Lawlis, seconded by Councilor Hornbrook to excuse Councilor Cushing from attendance at the meeting. Vote 5 -1 (Brann)*

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

a. October 3, 2011

3. COMMUNICATIONS

a. Town of Brownville – Thank You

b. Code Enforcement Officer/Council – Notification of Appeals Board  
Public Hearing – 8/29/2012

4. REPORTS

a. Finance & Administration Committee Minutes – 7/16/2012

b. Infrastructure Committee Minutes – 7/23/2012

*Mayor Hughes pulled item A 3 - a*

*Motion by Councilor Brann, seconded by Councilor Wright to accept the balance of the consent agenda. Vote 5-1 (Hornbrook).*

*Item A – 3- b. The Mayor read the thank you letter from the Town of Brownville for the help that Hampden provided after the major disaster in their community. Motion by Councilor Lawlis, seconded by Councilor Williams to accept item A-3-b. Unanimous vote in favor.*

B. PUBLIC COMMENTS –

*Clare Cole , 50 Sidney Boulevard, wanted to tell the Council that while she was working at the Lura Hoyt Pool she had seen a number of families with children playing at the new toddler playground. She thinks it is a great thing for Hampden and thanked the Council for approving it.*

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. *Proposed Outdoor Facilities Ordinance – Repeals existing Dorothea Dix Park Ordinance and Papermill Road Recreation Area Ordinance – Councilor Lawlis presented and read the revised language in regard to firearms, section 5.2 and dogs, section 5.9. Mayor Hughes opened the public hearing. Proponents – none. Opponents – none. Neither for nor against – none. The public hearing was closed. Motion by Councilor Wright, seconded by Councilor Lawlis to approve the Outdoor facilities ordinance. Unanimous vote in favor.*
  
- b. *Proposed Ordinance Exempting Eligible Active Duty Military Personnel from Vehicle Excise Tax – The town manager gave background on this matter, its origin from a recent legislative session, and the fact that it was difficult to assess fiscal impact because the Town has no way of knowing how many people who retain their address here are deployed elsewhere. Mayor Hughes opened the public hearing. Proponents – None. Opponents – William Shakespeare – Western Avenue. Mr. Shakespeare stated that he served four years of active duty in Vietnam and over 20 years in the active reserves as an officer. He is concerned because this ordinance covers all vehicles - not just a primary one and that the person who requested this ordinance is a lieutenant commander with a high salary and benefit package. He also stated that while he supports the military, joining it is a choice. He is concerned about senior citizens struggling to pay their taxes and that the fiscal ramifications of this could be substantial. Neither for nor against – none. The public hearing was closed. Councilor Williams believes it is appropriate to limit the exemption to those who really need it.*

*Motion by Councilor Hornbrook, seconded by Councilor Williams to adopt the ordinance.*

*Discussion –*

*At the request of Councilor Hornbrook the Town Manager explained the purpose of the legislation, which was to offer an exemption similar to one already in existence at the state level for those who live elsewhere but are stationed here and choose to register their vehicles here, and what excise tax is used for, which is to cover the cost of Public Works operations, road paving in Hampden.*

**TOWN OF HAMPDEN, MAINE  
OUTDOOR FACILITIES ORDINANCE**

C-1-a

ENACTED DATE: MONTH, XX, 2012  
EFFECTIVE DATE: MONTH, XX, 2012

CERTIFIED BY: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title Affix Seal

**TOWN OF HAMPDEN, MAINE  
OUTDOOR FACILITIES ORDINANCE  
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Adopted by Town Council: 8/6/2012

**THE TOWN OF HAMPDEN HEREBY ORDAINS THAT THE FOLLOWING  
ORDINANCE BE ADOPTED.**

**ARTICLE I.  
PURPOSE**

**1.1 Purpose.** The purpose of this Ordinance is to provide rules and regulations for the use of and conduct in outdoor facilities situated in Hampden. This Ordinance hereby repeals the Dorothea Dix Park Ordinance (adopted 10/16/89) and Papermill Road Recreation Area Ordinance (last amended 5/18/09).

**ARTICLE II.  
AUTHORITY**

**2.1 Authority.** Pursuant to the provisions of Title 30-A M.R.S. Sections 3001 and 3281-3284 and the Charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, there is hereby established an Outdoor Facilities Ordinance to be organized, administered and governed in accordance with the following provisions.

**ARTICLE III.  
APPLICABILITY**

**3.1 Applicability.** This Ordinance provides full power and authority over all outdoor facilities within the Town.

**ARTICLE IV.  
DEFINITIONS**

**4.1 Definitions.** Unless specifically defined below, words and phrases used in this Ordinance shall have the customary dictionary definitions that give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

**Alcoholic Beverage:** any beverage containing any amount of alcohol as regulated under state law.

**Controlled Substance:** any legal or illegal drug, narcotic, hallucinogen, opiate, prescription drug, or any other such substance regulated by state or federal law.

**Motorized Vehicle:** any vehicle that is propelled by an engine, including but not limited to: cars, trucks, motorcycles, snowmobiles, ATVs, OHVs, dune buggies, dirt bikes, three-wheelers, go-karts, and golf carts.

**Outdoor Facility:** any park, sports field, forest, wooded area, field, playground, or other property for which the Town of Hampden is the deeded owner.

*Parks:* Includes the following outdoor facilities: Dorothea Dix Park, Papermill Road Recreation Area, Western Avenue Recreation Area, or other areas designated as such.

*Public Safety Department:* Includes Police, Fire, and Emergency Medical Services (EMS) Departments.

*Sports Fields:* Includes the following outdoor facilities: Ball Field Road Ball Field, VFW Recreation Area, Western Avenue Recreation Area, or other areas formally designated as such by the Town Council.

*Tobacco Products:* cigars, cigarettes, chewing tobacco, snuff, or any other product containing tobacco as regulated under state law.

## **ARTICLE V. PROHIBITIONS**

**5.1 Camping.** No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping in outdoor facilities, nor shall any person leave in outdoor facilities after closing hours, any movable structures or special vehicle that could be used for such purposes. Upon prior approval of a law enforcement officer of the Town of Hampden, overnight camping may be permitted in situations involving unique circumstances.

**5.2 Discharge of Firearms.** No person shall discharge a firearm within parks or sports fields as defined herein.

5.2.1 Exceptions – The foregoing prohibition on the discharge of firearms shall not apply to the firing or discharge of firearms at any military exercise or review; nor to any military personnel or law enforcement officers in the performance of their duties or authorized training; nor to any person in the lawful defense of his or her person, family, or property. This Section shall also not prohibit discharges as part of sporting events, or ceremonial or historical events, with prior notice to the Police Chief.

**5.3 Fires.** No person shall kindle, build, maintain or use a fire except in areas designated for such purposes. All fires shall be properly extinguished before the person utilizing the same leaves the outdoor facility. Any fires shall be continuously under the care and supervision of a competent person from the time it is kindled until it is extinguished. Fires may be prohibited by the Recreation Director, Town Forester, and or employees of the Public Safety Department when, in his or her judgment, the conditions are such that any fire would represent a safety hazard.

**5.4 Wood.** No person shall cut any wood on any outdoor facility without a prior permit from the Town Forester, who shall have the discretion to deny any application for such a permit if he or she determines that the proposed activity is inconsistent with the goals of the forest management plan for the property.

**5.5 Alcoholic Beverages.** No person shall consume or be under the influence of alcoholic beverages in any outdoor facility.

**5.6 Tobacco Products.** No person shall consume or use tobacco products within any outdoor facility.

**5.7 Controlled Substances.** No person shall consume or use any controlled substance legal or illegal while within any outdoor facility, unless the person has a labeled container and proof of prescription.

**5.8 Trash.** No person shall scatter, drop or leave any debris trash or other rubbish within any outdoor facility except in receptacles provided for that purpose.

**5.9 Animals.** All animals brought into any outdoor facility shall be under the owner's control at all times so as to not interfere with the enjoyment of the outdoor facility by other members of the public, if present. No animal shall be off a leash at any time at any sports field as defined herein, or at any part of the Western Avenue Recreation Area. Owners shall pick up after their animals.

**5.10 Motor Vehicle Access.** Access to outdoor facilities by motor vehicles shall be governed by the rules for that facility contained in the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Upon prior approval of a law enforcement officer of the Town of Hampden, motor vehicle access may be permitted in situations involving unique circumstances. For specific restrictions for each outdoor facility, please refer to the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Motor vehicle access to a facility's parking area is allowed, as this section is meant to address access to parts of facilities that are not meant for motor vehicles.

**5.11 Other Vehicles Prohibited.** No person shall operate a trail bike, all terrain vehicle, snowmobile, or any other motorized recreational vehicle within any outdoor facility except for on designated trails or areas, or for purposes of maintenance or rescue.

## **ARTICLE VI. OPERATION**

**6.1 Hours & Dates of Operation.** Outdoor facilities shall be open to the public from a half hour before dawn to an hour after sunset. Outdoor facilities are open 365 days a year as weather allows. For information on reservations, which facilities are plowed during the winter, and closing times for areas with artificial lighting, please see the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Snowmobiles are permitted after dark on designated trails.

## **ARTICLE VII. ENFORCEMENT**

**7.1 Law Enforcement.** Any law enforcement officer of the Town of Hampden shall have the authority to enforce the provisions of this Ordinance and revoke the permission of any individual

to use an outdoor facility when the officer observes, or has probable cause to believe, that such individual has violated any provisions of this Ordinance, committed a civil infraction within the facility, or has violated any provision of the laws and Ordinances of the State of Maine or the Town of Hampden within the facility. The Recreation Department, Town Forester and Code Enforcement Officer also have the authority to revoke the permission of any individual to use an outdoor facility if they are found to have violated the provisions of this Ordinance.

**7.2 Enforcement Mechanism.** This Ordinance may be enforced by the institution of legal or equitable proceedings in court, including proceedings pursuant to 30-A M.R.S. §4452.

**ARTICLE VIII.  
PENALTIES**

**8.1 Penalties.** Any person, firm or corporation violating any provisions of this Ordinance shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Fifty Dollars (\$150.00) for each violation. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any fines recovered shall inure to the benefit of the Town of Hampden.

**ARTICLE IX.  
SEVERABILITY**

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

**ARTICLE X.  
EFFECTIVE DATE**

**10.1 Effective Date.** Pursuant to Section 213(c) of the Town Charter, this Ordinance shall become effective at the expiration of 30 days after its adoption by the Town Council.

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

Section I. Authority.

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

Section 2. Excise Tax Exemption: Qualifications.

Vehicles 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(s) in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. §1482.

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" includes 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.A. §814(1) (A).

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

Section 3. Effective Date: Duration.

This Ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect unless and until it or 36 M.R.S.A. §1483-A is repealed.

Tabled after Public Hearing

*Questions were raised as to whether the Town had the right under the legislation to limit the number of vehicles it could apply to or to impose income restrictions for participation.*

*Motion by Councilor Brann, seconded by Councilor Lawlis to table indefinitely until such time as we can get information from the Town Attorney in regard to the legislation and options the Council has to limit the exemption. Vote 5-1 (Hornbrook).*

## 2. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. David Caliendo – Reappointment to Board of Assessment Review – Finance & Administration Committee Recommendation – *Motion by Councilor Williams, seconded by Councilor Wright to re-appoint David Caliendo to the Board of Assessment Review. Unanimous vote in favor.*

## 3. UNFINISHED BUSINESS

- a. Donation and Naming of Map 5, Lot 48C – Nason Halpern Woods – *Councilor Brann explained that this is a 40 acre parcel off Patterson Road on which there currently exists a conservation easement. Motion by Councilor Brann, seconded by Councilor Lawlis to accept the donation from Elizabeth Halpern of (Map 5 Lot 48c) and to name it Nason Halpern Woods, contingent on legal review. Vote 5-1 (Hornbrook).*
- b. Police and Fire Contracts – *The Town Manager reported that the Finance & Administration Committee had reviewed the proposed contracts and recommended their adoption. Motion by Councilor Wright, seconded by Councilor Brann to approve the contracts with Police and Fire for three years and to authorize the Town Manager to sign on behalf of the Town Council. Unanimous vote in favor.*

## 4. NEW BUSINESS

- a. Sewer Commitment – 4/1/2012 to 6/30/2012 – *Motion by Councilor Hornbrook, seconded by Councilor Williams to approve the Sewer Commitment for the 2<sup>nd</sup> quarter as presented. Unanimous vote in favor.*
- b. Applications for Renewal of Outdoor Wood-burning Furnace Licenses
  1. Richard Golding, 156 Mayo Road – *Motion by Councilor Wright, seconded by Councilor Brann to approve. Vote 5-1 (Lawlis).*
  2. Rodney Stanhope, 540 Western Avenue – *Motion by Councilor Wright, second by Councilor Brann to approve. Unanimous vote in favor.*
  3. Scott Stanhope, 99 Emerson Mill Road – *Motion by Councilor Wright, seconded by Councilor Lawlis to approve. Unanimous vote in favor.*

- c. Application for Renewal of Victualers License – Highlands Corner Market at 557 Kennebec Road – *Motion by Councilor Williams, seconded by Councilor Wright to approve. Unanimous vote in favor.*
- d. Application for Renewal of Victualers License – Hampden Country Club at 25 Thomas Road – *Motion by Councilor Williams, seconded by Councilor Hornbrook to approve. Unanimous vote in favor.*
- e. Loader/Backhoe Bids – Infrastructure Committee and Finance & Administration Committee recommendations – *Motion by Councilor Williams, seconded by Councilor Wright to accept the bid from Nortrax for the backhoe/loader for a net cost of \$63,000 with the funds to come from Public Works Equipment reserve. Unanimous vote in favor.*
- f. Discussion of Powers and Duties of Council and Council Chair – Councilor Hornbrook – *Motion by Councilor Hornbrook, seconded by Councilor Lawlis to put the Town Council portions of the Town Charter on the Town Council agenda for open discussion.*

*Councilor Lawlis indicated that there had not been sufficient time in Finance & Administration Committee meetings to tackle these subjects and that a special meeting should be held for that purpose.*

*Councilor Williams concurred with Councilors Lawlis and Hornbrook.*

*Considerable discussion ensued on the manner in which these topics should be handled.*

*Councilor Wright called the question – vote 4 in favor, 2 opposed (Hornbrook, Williams). Motion carried.*

*Vote on the original motion 1 in favor (Hornbrook), 5 opposed. Motion failed.*

*Motion by Councilor Wright, seconded by Councilor Williams to form an ad-hoc subcommittee to discuss merits of plans to best publicize discussion of the Town Charter and then executing the selected plan. Vote 3 in favor, 3 opposed (Hornbrook, Hughes, Brann). Motion failed.*

*Motion by Mayor Hughes, seconded by Councilor Lawlis to set a date at the next Finance Committee meeting to discuss this subject.*

*Motion withdrawn.*

*Motion by Mayor Hughes, seconded by Councilor Lawlis to hold a special meeting on September 18<sup>th</sup> as a workshop to review the Town Council section of the Town Charter as it relates to Council Rules and decide how to move forward. Vote 4 in favor, 2 opposed (Hornbrook, Williams). Motion carried.*

D. COMMITTEE REPORTS

*Infrastructure – Councilor Wright reported that the Committee would be discussing lease purchase options for public works equipment at the 8/27 meeting at 6 p.m.*

*Communications – The meeting of July 31<sup>st</sup> was cancelled due to lack of a quorum. The same agenda will be used at the meeting on 8/21 at 6 p.m.*

*Planning & Development – The application for the marina project has been submitted to the State/Feds for approval. Phase II for the environmental assessment of the old Hampden Academy is underway. The draft recreation plan is being reviewed. An antique map has been donated to the town and the committee is investigating ways to fund the framing of it.*

*Services – Councilor Lawlis reminded people that there is a meeting next Monday and that she would not be present and that the Town Manager would be on vacation.*

*Finance – Mayor Hughes reported on the Finance Committee meeting held prior to the Council meeting. Items included police and fire contracts as well as the reappointment of David Caliendo to the Board of Assessment Review.*

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

F. COUNCILORS' COMMENTS

*Councilor Wright – Commended the Police Department for its handling of the tragic domestic violence deaths in Hampden last week and offered condolences to remaining family members. She also thanked the Recreation Department for the installation of the toddler playground.*

*Councilor Hornbrook – Thanked residents for showing up, reminded people that nomination papers for Town Council and School Board are now available and echoed Councilor Wright's comments on the tragedy.*

*Councilor Brann – Also concurred with the comments of Councilors Wright and Hornbrook and thanked Public Safety for their response to the tractor trailer rollover on 202/Coldbrook Road.*

*Councilor Williams – Thanked everyone for coming, congratulated the Council for the adoption of the Outdoor Facilities ordinance, reiterated the importance of transparency, and thanked the families who donated to the family of a local girl and said for people to contact Sheila Williams for information on how they can donate.*

*Mayor Hughes – Repeated the comments regarding Public Safety and the difficult issues of the prior week, reminded people that Children's day is 8/18 with a parade at 11 a.m., that Councilor Cushing would be working in the 'dunk tank' and that the Children's Day Committee could still use help. Interested persons should contact Don Darling.*

G. ADJOURNMENT - *The meeting was adjourned at 9:24 p.m.*

*Respectfully submitted,*



*Denise Hodsdon  
Town Clerk*

MANAGER'S REPORT  
Monday, August 6, 2012

Tax Commitment – The Tax Commitment will be ready for the Council to approve at the next Council meeting. Tax bills should then go out by the end of the month.

Sewer Bills – Sewer Bills went out on July 31<sup>st</sup>. Due date for those bills is August 30<sup>th</sup>.

Vacation – I will be on vacation from August 10<sup>th</sup> to August 24<sup>th</sup>. I will be attending the Council and Finance & Administration Committee meetings on August 20<sup>th</sup>, but I will not be here to staff the Services Committee meeting on August 13<sup>th</sup>. I would appreciate it if a Committee member could take minutes of that meeting. I will distribute the agenda and packet before going on vacation.

Playground – The 2-5 age group equipment has been installed at the playground adjacent to the Lura Hoyt Pool. It is already being well utilized and we have had several people remark on the fact that it was a much-needed asset for the community.

Open to the Public Sale at Hampden Academy – This coming Wednesday SAD 22 will be selling items remaining at the old Hampden academy to the general public.

Rapid Renewal – 62 people re-registered their vehicles online through the Rapid Renewal program during the month of July.

Tax Club Response – The July edition of the Hampden Highlights Newsletter had an article about the Tax Club program available to people for a monthly payment program for property taxes. According to Tax Collector, there has been considerable positive response and the numbers of program participants will more than double over last year.

Library Grant – I am happy to report that the Library has received a \$10,000 grant to replace its furnace.

Route 1A Closure – A section of Route 1A will be closed for a period of up to 7 days beginning on Monday, August 13<sup>th</sup>. Traffic will be re-routed onto Old County Road. The closure is due to the replacement of a major culvert as part of the Route 1A rebuild project that is currently in progress.

Planning Board – The Planning Board Comprehensive Plan Committee met on Wednesday, August 1<sup>st</sup> to review the 2010 Draft Comprehensive Plan. They will be reviewing the results of their work at their regular meeting on August 15<sup>th</sup>. It is anticipated that they will have a recommendation for the Council sometime in September.