

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 28, 2014 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, 2014 to June 30, 2015 or take any other action relative thereto.

Article 3. PREVIOUS BILLS

To see if the Town will vote to authorize the payment of any departmental bills of Fiscal Year 2013 or previous years, and will vote to raise and appropriate a sum of money therefor, or take any other action relative thereto.

Article 4. REVOLVING FUNDS FOR FISCAL YEAR 2015

To see if the town will vote to establish the following revolving funds, in accordance with General Laws Chapter 44, Section 53E1/2, separate from the general fund and deposited with the Town Treasurer for the Town departments, sources of receipts, purposes of payment and in the maximum amounts as set forth below, or take any other action relative thereto.

Board of Assessors: Fees collected to defray the costs of equipment and supplies connected with public documents. \$2,500

Board of Health: Fees collected for issuance of licenses, permits and inspections to defray salaries of part-time employees. \$40,000

Building Department: Fees collected for issuance of building permits, inspection fees, including weights and measures to defray salaries and expenses of part-time employees of the Building Department and consultants. \$90,000

Library Trustees: Fines collected for overdue, lost and/or damaged materials to defray the costs of repairs and supplies, to purchase books and library materials and to pay wages for part time employees. \$6,000

Council on Aging: Proceeds from classes, programs and other fees to defray the costs of classes, supplies and other necessary expenses. \$30,000

Tax Collector: Monies from charges collected to defray the costs of equipment and supplies connected to public documents. \$2,500

Fire Department: Monies from charges collected to defray operational/training expenses and the costs of the permitting and inspection program and to defray salaries of part-time employees. \$10,000

Cemetery Commission: Monies from charges collected to defray the costs for grave maintenance. \$24,000

Article 5. REVOLVING FUND REPORTS

To see if the Town will vote to receive from each of those boards, departments and officers having charge of a revolving fund a report showing the total amount of receipts and expenditures for each revolving fund for Fiscal Year 2013 and for Fiscal Year 2014 through December 31, 2013 and also showing the amount of any increase, if any, in spending authority granted by the Selectmen and the Advisory Committee with respect to such revolving fund during Fiscal Year 2013 and Fiscal Year 2014, to date, or take any other action relative thereto.

Article 6. ENTERPRISE FUND TRANSFER STATION

To see if the town will vote to appropriate a sum of money from anticipated transfer station revenues and/or raise and appropriate from available funds for the purpose of funding the Transfer Station Enterprise Fund for Fiscal Year 2015, or take any other action relative thereto.

Article 7. COMMUNITY PRESERVATION COMMITTEE

To see if the Town will vote to appropriate or reserve from the Community Preservation Annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in fiscal year 2015 with each item to be considered a separate appropriation, or take any other action relative thereto.

Article 8. COMMUNITY PRESERVATION ACT

To see if the Town will vote to revoke its acceptance of General Laws Chapter 44B, Sections 3 to 7 (the Community Preservation Act) as adopted pursuant to Article 18 at the Annual Town Meeting on April 30, 2001 and to present such revocation to the voters of the town, or take any other action relative thereto.

Article 9. 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 an Annual or Special Town Meeting prior to such purchase, or take any other action relative thereto.

Article 10. 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.

Article 11. LIBRARY ADDITIONAL STATE AID

To see if the Town will vote that in Fiscal Year 2015, 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.

Article 12. ASSESSORS

To see if the Town will vote to raise and appropriate and/or transfer from available funds to the Assessor's Stabilization fund to meet all Department of Revenue mandated programs, or take any other action relative thereto.

Article 13. ASSESSORS

To see if the Town will transfer from the Assessor's Stabilization Fund a sum of money for the FY2015 Department of Revenue mandated triennial update.

Article 14 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.

Article 15. SCHOOL RESOURCE OFFICER

To see if the Town will vote to raise and appropriate and/or transfer from available funds, a sum of money to fund the School Resource Officer for FY14 at Minnechaug Regional High School, or take any other action relative thereto.

Article 16. FIRE DEPARTMENT SCOTT PACKS

To see if the Town will vote to raise and appropriate and/or transfer from available funds, or authorize the treasurer to borrow a sum of money to purchase nineteen (19) Self Contained Breathing Apparatus for the Fire Department , or take any other action relative thereto.

Article 17. FIRE DEPARTMENT AIR BOTTLE REFILL UPGRADE

To see if the Town will vote to raise and appropriate and/or transfer from available funds, or authorize the treasurer to borrow a sum of money to upgrade the existing air refilling system to handle new air cylinders, or take any other action relative thereto.

Article 18. POLICE DEPARTMENT DEFIBRILLATORS

To see if the Town will vote to raise and appropriate an/d/or transfer from available funds, or authorize the treasurer to borrow a sum of money to purchase ten (10) Lifepak defibrillator units for various locations, or take any other action relative thereto.

Article 19. PARKS AND RECREATION

To see if the Town will vote to raise and appropriate and/or transfer from available funds, a sum of money to replace the existing playscape at Memorial Park, or take any other action relative thereto.

Article 20. PARKS AND RECREATION

To see if the Town will vote to raise and appropriate and/or transfer from available funds, a sum of money to construct an additional pavilion at Memorial Park, or take any other action relative thereto.

Article 21. NEW WELL FOR FEDERATED CHURCH

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to cover the cost to remediate the salt infiltration at the Federated Church and Rectory, or take any other action relative thereto.

Article 22. WATER REMEDIATION FOR MAIN STREET

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to cover the cost to remediate the salt infiltration at 593, 601 and 613 Main Street, or take any other action relative thereto.

Article 23. POLICE STATION BUILDING

To see if the Town will vote to raise and appropriate a sum of money to be raised by borrowing, contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by General Laws Chapter 59, Section 21C (Proposition 2 ½) for the construction of a Police Station located on Allen Street in Hampden, or take any other action relative thereto.

Article 24. AUTHORIZE AGREEMENT FOR GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION

To see if the Town will vote pursuant to the provisions of MGL c.59, s.38H, to approve an agreement negotiated by the Board of Selectmen between the town and Minnechaug Solar, LLC for the taxation of real and personal property comprising the solar photovoltaic energy generating facility to be developed on the Kibbe Property on Somers Road, or take any other action relative thereto.

Article 25. ZONING BYLAW

To see if the Town will vote to amend the Zoning Bylaw of the Town by adding as new Section 6.12 - Medical Marijuana Bylaw, that would provide as follows, and further to amend the Table of Contents to replace Section 6.12, "Medical Marijuana Bylaw", or take any other action relative thereto:

MEDICAL MARIJUANA BYLAW

The following should be added to the DEFINITIONS section of Town of Hampden Zoning Bylaw:

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes,

dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

Off-Site Medical Marijuana Dispensary (OMMD)– A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

Permitted Districts

The following should be added as principal uses to the Town of Hampden’s TABLE OF USE REGULATIONS.

Medical Marijuana Treatment Center/Registered Marijuana Dispensary

- Limited Industrial by Special Permit with Site Plan Approval from the Planning Board (SPB-PA)

Off-Site Medical Marijuana Dispensary

- Limited Industrial by Special Permit with Site Plan Approval from the Planning Board (SPB-PA)

Section 6.12 Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD)

1. Purposes.

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Hampden.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (hereafter referred to as MDPH).

2. Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Registered Marijuana Dispensaries and Off- Site Medical Marijuana Dispensaries:

a. Use:

- i. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
- ii. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
- iii. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- iv. RMD facilities that can demonstrate that they comply with the agricultural exemption under M.G.L. Chapter 40A, Section 3 must still apply for Site Plan Approval.
- v. The processing and dispensing of MIP as defined under MDPH regulations shall be subject to the town's Board of Health of Health. [NOTE: This is to ensure edible products infused with marijuana are produced and sold as any other food item.]

b. Physical Requirements:

- i. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- ii. No outside storage is permitted.

iii. No OMMD Facility shall have a gross floor area in excess of 2,500 square feet.

iv. Ventilation – all RMD and OMMD facilities shall be ventilated in such a manner that no:

1. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
2. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

v. Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.

vi. Security plans, including the delivery of marijuana to the facility, for the RMD or OMMD, as the case may be, shall be supplied to and shall be subject to the prior approval of the Town's Police Department, which may be granted or withheld in the Police Department's sole discretion.

c. Location:

i. No RMD and OMMD facility shall be located on a parcel which is within fifteen hundred (1,500) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:

1. a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or
2. another RMD or OMMD facility, except that this limitation shall not apply in Industrial zones

ii. No RMD or OMMD facility shall be located on a lot which abuts a residential use (including commercial residential uses such as hotels, motels, lodging houses, etc.) or residential zoning district.

- iii. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories

d. Reporting Requirements.

- i. All Special Permit and Site Plan Approval holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key- holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated immediately to keep it current and accurate.
- ii. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority (in cases where a Special permit or Site Plan Approval was granted) shall be notified in writing by an RMD or OMMD facility owner/operator/ manager:
 - 1. A minimum of 30 days prior to any change in ownership or management of that facility
 - 2. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD; and immediately upon the loss of registration under MDPH regulations..
- iii. Permitted RMD and OMMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
- iv. The owner or manager is required to respond by phone or email within twenty-four hours of contact by a city official concerning their RMD or OMMD at the phone number or email address provided to the Town as the contact for the business.

e. Issuance/Transfer/Discontinuance of Use

- i. Special Permits/Site Plan Approvals shall be issued to the RMD's or

- OMMD's CEO or President.
- ii. Special Permits/Site Plan Approvals shall be issued for a specific site/parcel
 - iii. Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel
 - iv. Special Permits/Site plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or OMMD, and shall lapse:
 - 1. If the permit holder ceases operation of the RMD, and/or
 - 2. The permit holder's registration by MDPH expires or is terminated
 - v. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing immediately upon such lapse cessation, discontinuance or expiration.
 - vi. An RMD or OMMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration or ceasing its operation.

3. Application Requirements

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or OMMD facility shall include the following:

- a. The name and address of each owner of the RMD or OMMD facility/operation;
- b. A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD or OMMD facility, and its owner/operators qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.
- c. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement;
- d. A notarized statement signed by the RMD or OMMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly- situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;
- e. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- f. A detailed floor plan identifying the areas available and functional uses (including square footage)

- g. All signage being proposed for the facility.
- h. A traffic study to establish the RMD or OMMD impacts at peak demand times.
- i. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.
- j. A security plan incorporating the requirements of Section 2(b)(vi), including marijuana delivery details, subject to the review of the Police Department.

4. Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

- a. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.;
- b. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- c. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- d. That the RMD or OMMD project meets a demonstrated need
- e. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured.
- f. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

5. Applicant Approval by Board of Selectmen

Any permit or approval granted by the Planning Board hereunder shall be subject to the condition subsequent that the applicant has the demonstrated expertise and experience in municipalities of a similar size and character to ensure that the applicant's operations will not adversely affect the Town and its inhabitants.

Article 26. RESERVE FUND

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

Article 27. GENERAL 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 General Stabilization Fund, or take any other action relative thereto.

Article 28. REDUCING TAX RATE

To see if the Town will vote to transfer from the General Stabilization Fund a sum of money for the purpose of reducing the tax rate for Fiscal Year 2015, or take any other action relative thereto.

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, May 5, 2014 AD at seven 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:

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| <i>To choose for the term of one year the following:</i> | <i>1 Moderator
1 Planning Board member
1 Park Commissioner</i> |
| <i>To choose for the term of two years the following:</i> | <i>1 Housing Authority member</i> |
| <i>To choose for the term of three years the following:</i> | <i>1 Selectman
1 Assessor
1 Library Trustee
1 Cemetery Commissioner
2 Park Commissioners</i> |
| <i>To choose for the term of five years the following:</i> | <i>1 Planning Board member
1 Housing Authority Member</i> |

Also, to choose all other necessary Town Officers.

Also to vote the following ballot questions:

- 1) Shall the Town of Hampden be allowed to exempt from provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds to be issued in order to design, construct, furnish and landscape a new police station to be located on Allen Street in Hampden, Massachusetts?

- 2) Shall the Town of Hampden vote to revoke its acceptance of General Laws Chapter 44B, Sections 3 to 7, (the Community Preservation Act) as adopted pursuant to Article 18 at the Annual Town Meeting on April 30, 2001?

