

TOWN COUNCIL MINUTES

December 20, 2010

The regularly scheduled meeting of the Hampden Town Council was held on Monday, December 20, 2010 at the municipal building council chambers and was called to order by Mayor Arnett at 7:00 p.m.

Attendance: Councilors: Mayor Matthew Arnett; Andre Cushing, William Shakespeare, Jean Lawlis, Janet Hughes and Kristen Hornbrook; Thomas Brann was excused

Town Manager: Susan Lessard

Town Counsel: Attorney Russell was absent

Department Heads/Staff: None

Citizens

A. CONSENT AGENDA

Motion by Councilor Cushing, seconded by Councilor Shakespeare to accept the Consent Agenda – unanimous vote in favor.

Motion by Councilor Shakespeare, seconded by Councilor Hughes to excuse Councilor Brann – unanimous vote in favor.

B. PUBLIC COMMENTS

Sally Leete of 344 Main Road North had some comments and questions about the ordinances regarding medical marijuana facilities. She commented that she would not be in favor of any such facility being located in Hampden. She was advised that there would be public hearings for both the moratorium ordinance and the zoning ordinance amendments and that the public would be invited to make comments at that time.

C. POLICY AGENDA

1. PUBLIC HEARINGS

There were none.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

a. PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATIONS FOR APPOINTMENT:

1. LESLIE MUSERO – NEW APPOINTMENT – PLANNING BOARD

2. J. KELLEY WILTBANK – NEW APPOINTMENT – PLANNING BOARD

Councilor Lawlis reported that the Planning & Development Committee interviewed both applicants and is recommending appointment of both. She moved to appoint Leslie Mushero and J. Kelley Wiltbank as Associate Members of the Planning Board; motion seconded by Councilor Shakespeare and vote was unanimously in favor.

b. REAPPOINTMENT OF DENISE HODSDON AS REGISTRAR OF VOTERS

Motion by Councilor Shakespeare, seconded by Councilor Cushing to reappoint Denise Hodsdon as Registrar of Voters – unanimous vote in favor.

3. UNFINISHED BUSINESS

a. MEDICAL MARIJUANA MORATORIUM ORDINANCE – INTRODUCTION FOR PUBLIC HEARING

Councilor Hughes explained that the previous 180-day moratorium expired on December 4th and the new moratorium would be for another 120 days retroactive to December 4, 2010. Councilor Hughes introduced the ordinance for public hearing at the next meeting.

b. ZONING ORDINANCE TEXT AMENDMENT re MEDICAL MARIJUANA DISPENSARY – REFERRAL TO PLANNING BOARD

Councilor Hughes referred the proposed amendment to the Planning Board for their review and comment.

c. ZONING ORDINANCE TEXT AMENDMENT re DAY CARE PROVISIONS – INTRODUCTION FOR PUBLIC HEARING

Councilor Hughes explained that the purpose of this amendment is to allow home day care facilities to utilize a separate building common to the lot and she introduced this item for public hearing at the next meeting.

d. ZONING ORDINANCE TEXT AMENDMENT re COMMERCIAL SERVICE DISTRICT (Relative to Proposed Mobile Home Park Ordinance Amendments) – REFERRAL TO PLANNING BOARD

Councilor Hughes referred this item to the Planning Board.

4. NEW BUSINESS

a. LIBRARY CIRCULATION DESK PROJECT

Manager Lessard noted that this item had been discussed by the Finance and Administration Committee earlier in the evening and needed to be added to the agenda for Council action. Motion by Councilor Cushing,



C-3-a

Denise Hodsdon <clerk@hampdenmaine.gov>

Medical Marijuana Moratorium

Thomas A. Russell <tar@frrlegal.com>
To: Denise Hodsdon <clerk@hampdenmaine.gov>
Cc: Susan Lessard <lightlady_1@yahoo.com>

Tue, Dec 14, 2010 at 4:28 PM

Denise: Attached is a revised Moratorium Ordinance for introduction at the 12/20 Council meeting. I've made it retroactive to 12/4, the date of expiration of the prior ordinance. I also made its duration for 120 days, instead of the full 180 days authorized by the statute. Please let me know if you have any questions or comments, or desire any changes. I will be on vacation from noon on 12/20 thru 12/29, so will not be able to attend the Council meeting on 12/20. Tom

From: Denise Hodsdon [mailto:clerk@hampdenmaine.gov]
Sent: Tuesday, December 14, 2010 8:39 AM
To: Tom Russell
Subject: Medical Marijuana Moratorium

[Quoted text hidden]

 Marijuana moratorium ordinance 121410.doc
36K

1/20/2010
Introduced for public hearing on 1/3/2010

Ordinance, Enacting a Moratorium on Medical Marijuana Dispensaries and Sites of Marijuana Cultivation

WHEREAS, a referendum was passed by the Maine voters liberalizing the laws relating to Marijuana Dispensaries; and

WHEREAS, the State of Maine Department of Health and Human Services adopted emergency Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), effective May 5, 2010; and

WHEREAS, the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services, has issued a Request for Applications for non-profit corporations to become dispensaries for growing and dispensing marijuana to registered patients under the Maine Medical Use of Marijuana Act (Title 22 M.R.S. §§2421-2430-A); and

WHEREAS, the potential location of Marijuana Dispensaries and Sites of Marijuana Cultivation in the Town of Hampden raises legitimate and substantial questions and concerns about the impact of such facilities on the Town of Hampden, including questions of the adequacy of streets for additional traffic; the compatibility of Marijuana Dispensaries and Sites of Marijuana Cultivation within existing residential and commercial zones; the potential adverse health and safety effects of the Marijuana Dispensaries and Sites of Marijuana Cultivation on the community; the possibility of illicit sale and use of illegal drugs, misuse of prescribed marijuana, associated criminal activity, and drug related deaths; and the increased burden on the Hampden Police Department; and

WHEREAS, marijuana is illegal to possess under federal law; and

WHEREAS, the State of Maine allows the possession of certain amounts of marijuana, and

WHEREAS, the current Hampden Zoning Ordinance and Comprehensive Plan do not adequately address the concerns listed above; and

WHEREAS, the possible effects of the location of Marijuana Dispensaries and Sites of Marijuana Cultivation has implications for the health, safety and welfare of the Town of Hampden and its citizens; such implications include, but are not limited to, the location of such Marijuana Dispensaries and Sites of Marijuana Cultivation proximate to schools, residential areas, and public ways; and

WHEREAS, the Town of Hampden needs a reasonable amount of time to study the Zoning Ordinance and Comprehensive Plan to determine the implications of future proposed Marijuana Dispensaries and Sites of Marijuana Cultivation and to develop reasonable regulations governing the location and operations of such treatment facilities; and

WHEREAS, the Town of Hampden, under its home rule authority and its police power, has the authority to impose reasonable restrictions, conditions, and limitations on such a facility; and

WHEREAS, the Council members for the Town of Hampden, through the advice of the Hampden Planning Board and staff, shall study the Hampden Zoning Ordinance to determine the land use implications of Marijuana Dispensaries and Sites of Marijuana Cultivation and consider what locations and conditions of approval might be appropriate for such facilities and such cultivation; and

12/20/2010: Introduced for public hearing on 1/3/2010

WHEREAS, the existing Comprehensive Plan, Zoning Ordinance, and other applicable laws and regulations, if any, are not adequate to prevent serious public harm by the development of Marijuana Dispensaries and Sites of Marijuana Cultivation in the Town of Hampden; and

WHEREAS, the Town of Hampden has developed proposed amendments to its Zoning Ordinance to address the foregoing matters, but its Moratorium on Marijuana Dispensaries and Sites of Marijuana Cultivation enacted on June 21, 2010 expired prior to the full consideration of the proposed amendments by the Planning Board and the Town Council, and before the adoption of the final amendments to the Ordinance by the Town Council; and

WHEREAS, the Moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of Marijuana Dispensaries and Sites of Marijuana Cultivation being located in the Town of Hampden and to permit the Town adequate time to review and adopt the proposed amendments to its Zoning Ordinance; and

WHEREAS, it is anticipated that review, development and adoption of proposed amendments to the Zoning Ordinance will take another one hundred twenty (120) days;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAMPDEN THAT THE FOLLOWING ORDINANCE ENACTING A MORATORIUM ON MARIJUANA DISPENSARIES AND SITES OF MARIJUANA CULTIVATION BE ENACTED:

1. Applicability and Purpose: This moratorium shall apply to Marijuana Dispensaries and Sites of Marijuana Cultivation, as defined below, that may be proposed to be located within the Town of Hampden.
2. Prohibition: During the time this Ordinance is applicable, no officer, official, employee, office, board, or agency of the Town of Hampden shall accept, process, approve, deny, or in any other way act upon any application for a building permit, certificate of occupancy, site plan review, conditional use plan review and/or any other permits or approvals related to such use. No person or organization shall develop or operate Marijuana Dispensaries or Sites of Marijuana Cultivation within the Town of Hampden on or after December 4, 2010.
3. Enforcement, violation, and penalties: If Marijuana Dispensaries or Sites Marijuana Cultivation is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate offense for this purpose. The Town shall be entitled to all rights available to it in law and equity, including its reasonable attorney fees and costs in prosecuting any violations.
4. Definitions: As used in this Ordinance, the following terms have the following meanings:
 - a. "Marijuana" shall have the definition set forth in Title 17-A M.R.S.A. Section 1101 (1) and 10-144 CMR Chapter 122, Section 1.15.
 - b. "Marijuana Dispensaries" means one or more marijuana dispensary, facility or location, whether fixed or mobile, where marijuana is made available to or distributed to any person or entity authorized to receive it under Maine Law.

- c. "Sites of Marijuana Cultivation" means one or more sites at which marijuana may be cultivated for the specific purpose of making marijuana available to or distributed to any person or entity authorized to receive it under Maine Law.
5. Date: This Ordinance shall apply retroactively to December 4, 2010 and shall remain in effect for a period of one hundred twenty (120) days after said date, unless extended, repealed, or modified by the Hampden Town Council.
6. Pending proceedings: Notwithstanding the provisions of Title 1 M.R.S. § 302, this Ordinance shall apply to any proposal to establish Marijuana Dispensaries or Sites of Marijuana Cultivation, whether or not an application or proceeding to establish said uses would be deemed a pending proceeding under Title 1 M.R.S. § 302.
7. Action by the Town Council and Planning Board: During the applicable period of this Ordinance, the Planning Board and staff shall expeditiously act to review the implications of such Marijuana Dispensaries and Sites of Marijuana Cultivation on, among other things, the health, safety, welfare, traffic, law enforcement, land use, aesthetic, property value, and environmental impacts on the Town of Hampden and its citizens. During the Moratorium, the Town will hold at least one public hearing and receive input from interested parties.
8. Severability: Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

C-3-b



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendments for Medical Marijuana Dispensary
DATE: November 18, 2010

Please be advised that the Planning and Development Committee has voted to recommend that the draft Zoning Ordinance amendments pertaining to medical marijuana be referred to the Planning Board for public hearing.

The Town Council will recall that you referred this item to the Planning and Development Committee for review and recommendation. This is a draft set of amendments to the Zoning Ordinance creating *Article 4.24 Performance Standards for Medical Marijuana Registered Dispensaries And Medical Marijuana Cultivation Facilities*. The draft regulation on Medical Marijuana Dispensary and/or Cultivation Facility is in keeping with Brewer's new ordinance but with a greater set back of 1,000 feet from the following: school, church, residence, lots located in a Residential A District, Residential B District or Rural District, licensed daycare facility, methadone clinic, juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center or program, athletic field, park, playground or recreation facility. The use is contemplated only in the Industrial District, Industrial Park District and Commercial Service District. Given the required setbacks the use will be essentially relegated to the northeast corner of town bounded by Route 202, Coldbrook Road and the Town line bordering Bangor and Hermon.

The draft contains the recommendations of Town Attorney, Tom Russell who made a couple of changes to improve the clarity of the draft amendment and added a definition for "marijuana" which refers the reader to the statute.

On June 21, 2010 the Town Council approved a six-month moratorium on medical marijuana dispensaries. The Council may wish to extend the moratorium until the draft regulation can take effect.

12/20/2010: Referred to Planning Board

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Zoning Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 3
REGULATIONS PERTAINING TO INDIVIDUAL ZONES

3.1. Industrial Park District

3.1.1. Purpose - This district is established to provide a location for fully serviced industrial development. It is intended that land within this district will be protected from encroachment of non-industrial uses, however, the district also contemplates planned business parks with a more diverse mixture of uses and development standards implemented in a closely managed context. *(Amended 2-20-01)*

3.1.2. Permitted Uses (Subject to Site Plan or Subdivision Review) – Manufacturing, compounding, assembling, packing, treatment, warehousing, wholesaling of goods and products, research and testing operations, take-out restaurant, business park, essential service, wireless telecommunications facilities (subject to *Section 4.22*), consulting operations, public or private utility service providers and their related operation, service and maintenance activities, accessory uses or buildings, and other industrial operations, but not including excavation, gravel pit and quarry activities, which conform to all performance standards in this Ordinance. *(Amended 2-20-01, 10-01-01, 12-6-04, 12-17-07)*

In addition to the permitted uses set forth above, permitted uses within a Business Park may also include the following: Office and service businesses, government and institutional uses, places of assembly such as hotel and conference center, bar in conjunction with hotel or conference center, small restaurant, sit down restaurant, retail sales not exceeding 5,000 sq. ft. gross floor area per retail business space or module, accessory uses or structures, day care facilities, essential services, buildings necessary for essential services. A master plan for a Business Park must be prepared by a State of Maine registered engineer, landscape architect, or architect, submitted, and approved by the Planning Board as part of the subdivision review and approval process. The master plan shall indicate the full build-out of the subdivision including but not limited to: building footprint, building height, impervious surface, stormwater management, architectural guidelines, traffic, and other items that the Planning Board may require. The plan shall:

1. Depict the land area designated for the Business Park use.
2. Depict the lotting of the Business Park subdivision. *(Amended 12-17-07)*
3. Establish the overall development criteria for the Business Park.
4. Propose covenants governing use and the appearance, size, and physical location of the building and other necessary site improvements. *(Amended 2-20-01, 12-6-04, 10-01-07)*

3.1.3. Conditional Uses (Subject to Site Plan Review) – Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to Article 4.24). Stockpiles (subject to Article 4.9) not accessory to excavation, gravel pit and quarry activities, living quarters for security personnel, buildings necessary for essential services, buildings greater in height than thirty-five (35) feet. (Amended 3-5-88, 6-15-92, 12-17-07)

3.1.4. Lot Dimensions

| | Typical | Business Park as described in 3.1.2. only |
|----------------------------|--------------|---|
| Minimum Lot Area | - 1 acre | - 20,000 sq. ft. |
| Minimum Road Frontage | - 200 feet | - 50 feet |
| Minimum Setbacks: | | |
| Street Yard | - 50 feet | - 20 feet |
| Other Yards | - 50 feet | - 20 feet |
| Maximum Lot Coverage | - 25 percent | - 30 percent |
| Maximum Impervious Surface | - 60 percent | - 70 percent |

(Amended 2-20-01, 12-6-04)

3.1.5. Special District Regulations - In addition to the general regulations in Article 4 of this Ordinance, the following specific requirements shall be applicable to the Industrial Park District:

1. When necessary to store or keep articles, goods and materials in the open, the area shall be limited to the rear two thirds of the property. Where necessary to protect the visual amenities of the Industrial Park, the planning board may require screening, as defined, around areas designed for the keeping of articles, goods, or materials where they are exposed to the public view.
2. Buildings in this district shall not be used for any of the following purposes: storage of junk, automobile wrecking, operation of a mine or quarry, rendering plant, or any business having appearance, odor, or noise characteristics detrimental to other businesses in the park, the future of the park, the neighborhood, or the Town of Hampden.
3. Notwithstanding other requirements in this section any structure which requires access to rail service shall not be required to setback from the railroad siding.
4. In order to protect the integrity of the industrial park, to insure that it is developed in a manner which fits harmoniously with the surrounding environment, and to prevent erosion, the planning board may require landscaping, with lawn, trees, or shrubs, of the front setback. It may also require landscaping of a buffer strip of up to twenty (20) feet on the side and rear lot lines. In such cases, an occupancy permit shall not be issued until the landscaping is complete or until a certified check for the amount of one hundred twenty-five (125%) percent of any unfinished work is accepted by the Town Manager.

(Amended 6-15-92)

3.2. Industrial District

3.2.1. *Purpose* - These areas are set aside for non-service intensive industrial uses which do not require the amenities of an industrial park and which would fit into the surrounding rural area with ease. Industries needing public sewer or water are not expected to locate in these areas.

3.2.2. *Permitted Uses (Subject to Site Plan Review)* - Facilities for manufacturing, compounding, processing, packaging, essential service, wireless telecommunications facilities (subject to *Section 4.22*), treatment or warehousing of goods and products, wholesale distribution, take out restaurant, retail sales where such activities are part of and accessory to an industrial use, such facilities having less than five thousand (5,000) square feet of gross floor area, and accessory uses and structures. Excavation, gravel pit and quarry activities are not permitted in the district. (Amended: 10-01-01, 12-6-04, 12-17-07)

3.2.3. *Conditional Uses (Subject to Site Plan Review) - Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to Article 4.24)* - Facilities for manufacturing, compounding, processing, packaging, treatment, buildings necessary for essential services, or warehousing of goods and products, wholesale distribution, retail sales where such activities are part of and accessory to an industrial use, such facilities having more than five thousand (5,000) square feet of gross floor area. Stockpiles (subject to *Article 4.9*), but not including excavation, gravel pit and quarry activities. Accessory uses or structures, building or living quarters for security personnel. (Amended: 12-17-07)

3.2.4. Lot Dimensions

| | | |
|-------------------------|---|------------|
| Minimum Lot Area | - | 2 acres |
| Minimum Road Frontage | - | 150 feet |
| Minimum Setbacks: | | |
| Street Yard | - | 50 feet |
| Other Yards | - | 35 feet |
| Maximum Ground Coverage | - | 25 percent |
| Maximum Building Height | - | 35 feet |

3.2.5. Special District Regulations

1. Notwithstanding the above requirements any structure which requires access to rail service shall not be required to setback from the railroad siding.
2. In order to provide for harmonious development and preserve the rural character the Planning Board may require additional buffers beyond that required in *Article 4.7.11*. (Amended 8-17-92)

3.3. Commercial Service District

3.3.1. *Purpose* - This district is intended for the location of heavy commercial uses, wholesale uses, office buildings, automotive type of uses such as sales and service, convenience stores and commercial service type of uses. In general this area is devoted to service or wholesale uses.

3.3.2. *Permitted Uses (Subject to Site Plan Review)* - Any retail or service business, hotel and motels, business or professional offices, take-out restaurant, small restaurant, sit-down restaurant, automobile service, place of assembly, outdoor recreation and accessory uses or structures. Essential service and buildings for essential service, single family dwellings in existence on the date of this amendment. (Amended 12-6-04)

3.3.3. *Conditional Uses (Subject to Site Plan Review)* - Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to Article 4.24). Fast-food restaurant, outdoor dining restaurant, tavern, bar, dance hall, commercial school, drive-thru business, wholesale distribution, truck terminal, light industrial operations (but not including excavation, gravel pit and quarry activities) which do not exceed 10,000 square feet, such as warehousing assembly or fabrication. Functionally water-dependent uses along the Penobscot River. Any establishment which provides in excess of 5,000 square feet of outdoor display or storage of goods or equipment. Stockpiles (subject to Article 4.9) not accessory to excavation, gravel pit and quarry activities. (Amended 4-7-03, 12-6-04, 12-17-07, 03-01-10)

3.3.4. Lot Dimensions

| | | |
|-------------------------|---|----------------|
| Minimum Lot Area | - | 20,000 sq. ft. |
| Minimum Road Frontage | - | 100 feet |
| Minimum Setbacks: | | |
| Street Yard | - | 40 feet |
| Other Yards | - | 30 feet |
| Maximum Ground Coverage | - | 25 percent |
| Maximum Building Height | - | 35 feet |

3.3.5. Special District Regulations

1. Where a commercial or industrial use abuts any residential use or residential district, the other yard setback shall be double where it abuts the residential property.
2. Notwithstanding the maximum building height regulations in Article 3.3.4. building height may be up to 50 feet under the following standards. Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each yard setback requirement. (Amended 03-01-10)

EXAMPLE: A 48 foot tall building is proposed. By subtracting the base Commercial Service District maximum building height from the proposed height the following is the result $48' - 35' = 13'$.

Then add that amount to each yard or setback.

| Setback Type | Base Setbacks: | Total Setback |
|--------------|----------------|---------------|
| Street Yard | - 40 feet | 53 feet |
| Other Yard | - 30 feet | 43 feet |

3. Notwithstanding other requirements in this section any structure which requires access to rail service shall not be required to setback from the railroad siding. *(Amended 8-17-92, 10-4-93)*
4. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 feet and no part of the vehicle queue shall be located within 100 feet of a residential structure. *(Amended 12-6-04)*
5. Sale or consumption of alcoholic beverages is prohibited for outdoor dining restaurant uses in conjunction with take-out restaurants and fast-food restaurants. *(Amended 12-6-04)*
6. Outdoor dining areas proposed for outdoor dining restaurant uses shall be clearly delineated on a site plan including barriers required under M.R.S.A. *Title 28-A*. Outdoor dining restaurant uses proposing outdoor consumption of alcoholic beverages shall comply with M.R.S.A. *Title 28-A: LIQUORS §1051. Licenses generally* which requires that outside areas be controlled by barriers and by signs prohibiting consumption beyond the barriers. *(Amended 12-6-04)*
7. Notwithstanding the maximum building height regulations buildings used for functionally water-dependent uses along the Penobscot River are not subject to the maximum building height standard in Article 3.3.4. or 3.3.5.2. provided the lot area for such a use is at least five acres in size. *(Amended 03-01-10)*

4.7. Off-Street Parking, Loading, Drive-Thru Design and Bufferyard Requirements – The purpose of this section is to provide minimum standards and design guidelines for off-street parking, and loading areas, drive-thru businesses and bufferyards. *(Amended: 10-12-04)*

4.7.1. Parking Basic Requirement - No use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged, unless there is provided for such extension, construction or enlargement, off-street parking spaces in accordance with the following parking requirements. No required parking space shall serve more than one use. Parking areas with more than five (5) parking spaces shall be so arranged that vehicles can be turned around within such area and are prevented from backing into the street.

4.7.1.1. Minimum Off-Street Parking Space Requirements. The following are the minimum number of off-street parking spaces that may be provided for each of the uses stated. *(Amended: 10-12-04)*

1. Elderly housing; one (1) space per dwelling unit plus one (1) additional space for every ten (10) dwelling units or fraction thereof.
2. Congregate care facility; one (1) space per dwelling unit.
3. All other dwellings; two (2) spaces for each dwelling unit.
4. Hotels, motels, tourist homes, rooming houses, bed and breakfast establishment; one (1) space per guest room.

5. Hospital or nursing home; one (1) space per three (3) patient beds.
6. Restaurant parking space requirement is based on the following formula:
 - A. Divide the total seats by three. Where seating is provided by bench, booth or picnic table a seat shall be considered two linear feet.
 - B. Divide the total restaurant sq. ft. floor area by 75 sq. ft.

Restaurant minimum parking spaces shall be the sum of A plus B divided by 2.
Parking shall also be provided for outdoor seating in excess of 12 outdoor seats at one parking space per three seats. (*Amended: 10-12-04*)

7. Other places of assembly such as churches, theaters, funeral homes, auction houses and galleries, where seating can be determined; one (1) space per three (3) seats or one (1) space per six (6) linear feet of bench space. Where seating cannot be determined; one (1) space per one hundred-fifty (150) sq. ft. of gross floor area.
8. Office use; one (1) space per two hundred-fifty (250) sq. ft. gross floor area.
9. Retail and service businesses; one (1) space per two hundred (200) sq. ft. gross floor area (minimum of five [5] spaces).
10. Industrial use, wholesale, warehouse, manufacturing plant; three-quarters (3/4) of a space per employee (minimum of five [5] spaces).
11. Golf course including miniature golf; one and one half (1.5) spaces per hole.
12. Marina; one (1) space per berth, ten (10) spaces per boat launching ramp.
13. Campgrounds, tenting areas, and recreational vehicle parks; one and one half (1.5) spaces per camp site.
14. Preschool facility; one (1) space per three (3) students. (*Amended: 8-22-94*)
15. Auto service; four (4) spaces per service bay (non drive thru service) Drive thru service; two (2) spaces per service bay.
16. Outdoor display and sales such as automobiles, farm equipment, heavy machinery, boats, recreational vehicles; one (1) space per five thousand (5,000) sq. ft. of display area.
17. Uses not listed in this schedule; the standard shall be determined by the planning board based on the most similar use listed or on other available adopted zoning ordinance or published sources of parking standards.
18. Notwithstanding these Minimum Off-Street Parking Space Requirements a site development established prior to the adoption of this ordinance for which a change of use is proposed shall meet parking space requirements for the new use to the maximum practical extent as determined by the Code Enforcement Officer provided that at least 75 percent of the required parking spaces are provided. This provision

shall apply to both on-site and off-site parking spaces. Determination of the number of parking spaces in parking lots where spaces are not delineated shall be based on the traditional usage of the lot. It is not the intent of this regulation to retroactively apply current parking location, setback and design standards to site developments established prior to the adoption of this ordinance. *(Amended: 10-12-04)*

19. For medical a marijuana dispensary, five (5) spaces per one thousand (1,000) square feet total floor area, plus one additional space for every two (2) employees.

4.24 Performance Standards for Medical Marijuana Registered Dispensaries And Medical Marijuana Cultivation Facilities

4.24.1 Adequacy of Building for the Subject Use. The property and building for a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall be adequate to accommodate sufficient interior space so as not to have outside patient queuing on sidewalks, parking areas, and other areas outside of the building(s). A letter of compliance from the Town of Hampden Code Enforcement Officer shall be submitted to the Planning Board as part of the site plan application. The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered patients and the registered primary caregiver of each registered patient). Any Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall adhere to the laws of the State of Maine and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time, and to Ordinances and Codes of the Town of Hampden, as the same may be amended from time to time.

4.24.2. Required Setbacks From Schools, Churches, Residences, Daycare Facilities and Methadone Clinics. No Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall be located within 1,000 feet of the property line upon which the Dispensary and/or Facility is or are located and the nearest property line of any of the following, which is or are in existence when an application for a Medical Marijuana Registered Dispensary and or Medical Marijuana Cultivation Facility is made:

4.24.2.1. Preexisting public or private school.

4.24.2.2. Preexisting church or other facility for religious worship.

4.24.2.3. Preexisting residence or lot located in a Residential A District, Residential B District or Rural District;

4.24.2.4. Preexisting licensed daycare facility, or

4.24.2.5. Preexisting methadone clinic, juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center or program,

4.24.2.6. Preexisting athletic field, park, playground or recreation facility

4.24.3. Maximum Number of Subject Use Within the Town of Hampden. No more than one (1) Medical Marijuana Registered Facility and/or one (1) Marijuana Cultivation Facility shall be located in the Town of Hampden. If both a Medical Marijuana Registered Dispensary and a Medical Marijuana Cultivation Facility are located in Hampden, they shall be located on the same property that shall be under common ownership.

4.24.4. Hours of Operation. A Medical Marijuana Registered Dispensary shall only be open for business between the hours of 8:00 a.m. and 8:00 p.m. daily.

4.24.5. Signs and Advertising. Medical Marijuana Registered Dispensary and/or Medical Cultivation Facility shall conform to the provisions of Article 4.8 Signs of this Ordinance. In addition thereto, any freestanding or sign attached to building(s) in which the Dispensary and/or Facility is located in shall clearly state that it is a Medical Marijuana Dispensary and/or Medical Cultivation Facility. There shall be no signage in any window and or door, except for the hours of operation. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.

4.24.6. Security Requirements for Subject Use. Security measures at a Medical Marijuana Registered Dispensary and /or Medical Marijuana Cultivation Facility shall include the following at a very minimum:

4.24.6.1. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week to monitor all entrances, along with the interior and exterior of the Dispensary and/or Facility, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property;

4.24.6.2. Door and window intrusion, robbery and burglary alarm systems with an audible on-site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communications;

4.24.6.3. A safe affixed to the building in which it is located that is suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the Dispensary and/or Facility;

4.24.6.4. Exterior lighting that illuminates all exterior walls of the licensed Dispensary and/or Facility and

4.24.6.5. Deadbolt locks on all exterior doors and locks or bars on any other access point.

All security recordings shall be preserved for thirty (30) days by the management of the licensed Dispensary and/or Facility.

4.24.7. Consumption, Ingestion Or Inhalation Of Medical Marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the property of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility is prohibited; provided, however, that a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility employee who is a registered patient, as that term is defined in 22 M.R.S.A. Section 2422(12), as the same may be amended from time to time, may consume medical marijuana inside the building(s) on the licensed property, if such consumption occurs via oral consumption and not by smoking. For purposes of this subsection, the term "licensed property" shall include the lot or parcel of the land upon

which the Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility are located.

4.24.8. Visibility Of Activities: Control Of Emissions: Disposal Plan for Subject Use. Visibility of activities: control of emissions: disposal plan for a Medical Marijuana Registered Facility and/or Medical Marijuana Cultivation Facility shall be as follows:

4.24.8.1. All activities of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility, including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors.

4.24.8.2. No marijuana or paraphernalia shall be displayed or kept in a Dispensary or Facility so as to be visible from outside the building (s).

4.24.8.3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Dispensary and/or Facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

4.24.8.4. Any Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall have in place an operation plan for proper disposal of marijuana related byproducts.

4.24.8.5. Class II Bufferyards in accordance with Article 4.7.4 Screening/Bufferyards shall be provided along each lot line or at least along each line of the developed area of buildings and parking areas.

4.24.9. Limitations of Food Products. No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Registered Dispensary except in compliance with all operation and other requirements of state and local law and regulation, including without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

4.24.10. Compliance With State and Local Law. A Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.

ARTICLE 7
DEFINITIONS

7.1. Construction Language - In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure" and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

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

Marijuana: Marijuana shall have the definition set forth in Title 17-A M.R.S.A. Section 1101(1) and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122, Section 1.15), as the same may be amended from time to time.

Medical Marijuana Registered Dispensary: Medical Marijuana Registered Dispensary means a not-for-profit entity as defined under Title 22 M.R.S.A. Section 2422 and registered pursuant to Title 22 M.R.S.A. Section 2428 and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the Dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. Any Medical Marijuana Registered Dispensary shall be further defined in, and shall adhere to, the laws of the State of Maine and to the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

Medical Marijuana Cultivation Facility: Medical Marijuana Cultivation Facility means a building owned or operated by a not-for-profit entity registered pursuant to the laws of the State of Maine and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that is used for the cultivation or storage of marijuana for the Medical Marijuana Registered Dispensary licensed by the State of Maine for Penquis District 6. Any Marijuana Cultivation Facility shall be further defined in, and shall adhere to, the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

C-3-C



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendment: Day Care Provisions
DATE: October 14, 2010

At the October 13, 2010 Planning Board Meeting the Board voted unanimously to return this item to the Council with an "ought-to-pass" recommendation with two friendly amendments to 4.19.3. Performance Standards. Item 7 was amended to add punctuation and to add the phrase "operating the facilities":

7. Day Care Facility. Notwithstanding the definition of Day Care Facility, when located in a commercial or industrial district this use is not required to be operated within a dwelling or by a person residing on the premises. Notwithstanding the definition of Day Care Facility, when located in a Rural District this use may be operated within a separate building on a lot common to a dwelling in which a person or persons *operating the facilities* reside.

Item 8 was amended to require written comment from Hampden Public Safety to identify any child safety issues. This might include but not be limited to known sex offenders in the immediate area.

8. *As part of the review process written comment shall be obtained from Hampden Public Safety to identify any child safety issues.*

12/20/2010: Introduced for Public Hearing on 1/3/2011

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Zoning Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 3
REGULATIONS PERTAINING TO INDIVIDUAL ZONES

3.9. Rural District

3.9.1. Purpose - The intent of this district is to protect and promote the rural use and character of the area, to provide for traditional agricultural and open space uses, and to provide for low density residential development where appropriate. It is intended that much of the residential development occurring in this district will be either dispersed in nature or, where the developer chooses, will be clustered with extensive open space surrounding the development. *(Amended: 12-18-95)*

3.9.2. Permitted Uses (Subject to Site Plan Review where applicable) - Agriculture, forestry, single family dwelling, certified manufactured home, two family dwelling, three or four family dwelling when serviced by public sewer and water, home day care (subject to *Section 4.19*), accessory use, golf course or other outdoor recreational facilities, home occupation (subject to *Article 4.10*), cluster subdivisions, essential service, and wireless telecommunications facilities (subject to *Section 4.22*). *(Amended: 9-19-83, 8-22-94, 12-18-95, 10-01-01, 6-3-02, 03-21-05)*

3.9.3. Conditional Uses (Subject to Site Plan Review) - Daycare facility, child care center (subject to *Section 4.19*), nursing home, non-profit school, public schools, church, non-profit club, hospital or clinic, mobile home park (subject to *Section 4.13*), campground, cemetery, buildings and parking for recreational facilities, processing agricultural products which are not accessory to an agricultural use, processing and excavation, gravel pit and quarry activities (subject to *Article 4.23 Excavations, Gravel Pits and Quarries*), stockpiles (subject to *Article 4.9*) not accessory to excavation, gravel pit and quarry activities, commercial nursery, indoor recreational facilities, boarding of animals; to include training and grooming, veterinary hospital, buildings necessary for essential services, community facility (including solid waste facility), Customary Rural Business (subject to *Section 4.20*). *(Amended: 8-22-94, 12/18/95, 12-2-96, 1-21-97, 03-21-05, 12-17-07)*

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Zoning Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

4.19. Day Care Provisions

4.19.1. Purpose - In order to provide suitable day care opportunities in all areas of Hampden without adversely impacting the peaceful enjoyment of residential neighborhoods, day care facilities of all types which provide for the supervision and care of children under the age of sixteen shall comply with the following provisions.

4.19.2. Day Care Types:

1. Home Day Care
2. Day Care Facility
3. Child Care Center

4.19.3. Performance Standards

1. Density: ~~Home Day Care and~~ Day Care Facilities shall not exceed a density of 12 children per acre.
2. Outside Outdoor Play Area: Outside play areas proposed as part of Home Day Care, and Day Care Facility Facilities or Child Care Center which provide outside play areas, such play areas shall be fenced and no closer than 25 feet to any adjacent property lines.
3. Hours of Operation: Home Day Care and Day Care Facilities located in the Residential A, Residential B or Rural Districts shall not operate between the hours of 6:00 pm and 6:00 am.
4. Parking: Home Day Care, and Day Care Facilities and Child Care Centers shall provide one off-street parking space per four (4) children plus one (1) space per employee who does not reside on the premises.
5. Signs: Home Day Care shall not display any outdoor signage. Day Care Facilities located in the Residential A, Residential B or Rural Districts may have an unlighted sign not to exceed two (2) square feet.
6. Employees: Day Care Facilities located in the Residential A, Residential B or Rural Districts may employ one (1) person who does not reside on the premises. *(Amended: 8-22-94)*
7. Day Care Facility. Notwithstanding the definition of Day Care Facility, when located in a commercial or industrial district this use is not required to be operated within a dwelling or by a person residing on the premises. Notwithstanding the definition of Day Care Facility, when located in a Rural District this use may be operated within a separate building on a lot common to a dwelling in which a person or persons operating the facilities reside.

8. As part of the review process written comment shall be obtained from Hampden Public Safety to identify any child safety issues.

4.19.4. Approvals Required.

1. Home Day Care. Home Day Care shall be subject to Article 5.3.2 Certificate of Compliance regulations.
2. Day Care Facility. Day Care Facility located in the Residential B or Rural Districts shall be subject to Planning Board approval pursuant to Article 4.1.9.1 Site Sketch.
3. Child Care Center. All Child Care Centers operated as Service Businesses shall require Site Plan Approval pursuant to Article 4.1 Site Plan Review. Child Care Center operated as accessory to a church or community building does not require site plan review.

(Please note that day care is regulated by the State of Maine Title 22: HEALTH AND WELFARE Subtitle 6: FACILITIES FOR CHILDREN AND ADULTS Chapter 1673: CHILD CARE FACILITIES HEADING: PL 2001, C. 645, §5 (RPR) §8301-A. Licensure of child care facilities; certification of family child care providers).

Article 7, Definitions is not to be amended but simply a reference page.

ARTICLE 7
DEFINITIONS

7.1. Construction Language - In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure" and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

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

Accessory use or structure: A use or structure of a nature customarily incidental and subordinate to those of the principal use or structure. For residential uses, accessory structures shall not be used as habitable space. (Amended: 11-18-02)

Business or professional office: An enclosed place of business where the primary activity is the collection, manipulation, evaluation, recording and dissemination of information. Office uses may include service businesses whereby there is no storage, sales, service, or repair of goods and products.

Child Care Center: A building or buildings in which a person or persons maintains or otherwise carries out a program, for any part of the day, providing care and protection for 3 or more children. Child Care Centers, with or without consideration for the services rendered, may be operated as a service business or within a church or community building. (Amended: 8-22-94)

Day Care Facility: A dwelling in which a person or persons residing on the premises provides or maintains a regular program for consideration, for any part of the day, providing care and protection for four to twelve children. (Amended: 8-22-94)

Group development: Two (2) or more primary uses or structures on one (1) lot/parcel.

Home Day Care: A dwelling in which a person or persons residing on the premises provides or maintains a regular program for consideration, for any part of the day, providing care and protection for up to three children. (Amended: 8-22-94)

Preschool: A service business whereby an instructional program is provided for compensation to three (3) or more children between the ages of one (1) and five (5) years.

Principal building: The primary use to which the premises is devoted, and the main purpose for which the premises exists.

C-3-d



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Mobile Home Park Ordinance Amendment for Location of Utility Structures and Non-combustible Utility Structures and associated Zoning Text Amendments for the Commercial Service District.
DATE: November 18, 2010

Please be advised that the Planning and Development Committee has recommended that the subject set of items be recommended for approval with the Zoning Ordinance amendment element being referred to the Planning Board and that the Mobile Home Park Ordinance amendment being set for Council public hearing (at the appropriate time).

You will recall that the Town Council referred this item to the Committee at the written request of the Hampden Trailer Park. The Committee discussed the fact that tenants of the Hampden Trailer Park have no storage room and the result is certain possessions are left outdoors which would more appropriately be stored in a shed. The basic effect of the Mobile Home Park Ordinance amendments are that the separation requirement for utility structures from mobile homes now set at ten feet be relaxed to five feet and be of a non-combustible design. The effect of the Zoning Ordinance amendments is to relax the side and rear yard setback requirement for small sheds to five feet (similar to that already allowed in residential districts). The Fire Department has reviewed this question and recommended that the smaller non-combustible storage buildings can be safely sited five feet from the mobile homes. The attached draft regulations contain their suggestions.

12/20/2010 - Referred Zoning Ordinance Amendment to Planning Board

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Mobile Home Park Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 1
GENERAL PROVISIONS

1.1. Title. This Ordinance shall be known as the "Mobile Home Park Ordinance of the Town of Hampden, Maine," and shall be referred to herein as the "Ordinance."

1.2. Authority. This Ordinance is enacted under the authority granted to the Town by the constitution and statutes of the State of Maine.

1.3. Purposes. The purposes of this Ordinance are:

1. To promote the public health, safety and welfare of the residents of the Town;
2. To establish standards for mobile homes located in mobile home parks;
3. To establish standards for the maintenance and operation of mobile home parks;
4. To establish standards for the maintenance and occupancy of mobile homes and mobile home lots located in mobile home parks; and
5. To establish a licensing and enforcement mechanism for mobile home parks.

1.4. Applicability. The provision of this Ordinance shall apply to all mobile home parks, and the mobile homes located within mobile home parks, as defined by this Ordinance and by Title 30-A M.R.S.A. § 4358, located within the Town of Hampden on or after May 1, 2004.

1.5. Conflict With Other Ordinances. Whenever the requirements of this Ordinance are in conflict with the requirements of any other rule, regulation, ordinance, or statute, the more restrictive requirement shall prevail, unless otherwise prohibited by state law or expressly provided for in this Ordinance.

1.6. Definitions. For the purposes of this Ordinance, the following definitions shall apply:

Accessory Structure: A structure of a nature customarily incidental or subordinate to the principal structure.

Code Enforcement Officer: A person or persons appointed by the Town Manager to administer and enforce Town Ordinances. The term shall also include Building Inspector, Fire Inspector, Local Plumbing Inspector and the like, if applicable.

Licensee: The mobile home park owner or the applicant for a mobile home park license.

Mobile Home: Two types of mobile homes are included in this definition:

1. *Certified mobile home.* Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein. This term shall also include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Codes 5401, et seq.
2. *Non-certified mobile homes:* Those units constructed prior to June 15, 1976, meaning structures, transportable in one (1) or more sections, which are eight (8) body feet or more in width and are thirty-two (32) body feet or more in length, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

Mobile Home Owner: A person having ownership and/or legal control of a mobile home herein after referred to as home owner.

Mobile Home Park: A parcel of land under unified ownership approved by the Town for the placement thereon of three or more mobile homes.

Mobile Home Park Lot: The area of land on which an individual mobile home is situated within a mobile home park and which is reserved for use by the occupants of that mobile home.

Mobile Home Park Owner: A person having ownership and/or legal control of a mobile home park herein after referred to as Park Owner.

Mobile Home Stand: The part of an individual mobile home lot which has been constructed and reserved for the placement thereon of a mobile home.

Person: An individual, partnership, corporation, limited liability company, limited liability partnership, trust or any other form of legal entity recognized under the laws of the State of Maine.

Structure: Anything constructed or erected, the use of which requires a location on the ground or attachment to something located on the ground, including, but not limited to, buildings and mobile homes.

Utility Structure: A structure located on a mobile home lot not exceeding 150 sq. ft. and located on a mobile home lot which is designated and used for the storage and use of personal property of the mobile home occupants.

Non-Combustible Utility Structure: A metal structure not exceeding 100 sq. ft. floor area located on a mobile home lot which is designated and used for the storage and use of personal property of the mobile home occupants.

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Mobile Home Park Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 5
OBLIGATIONS OF PARK OWNERS.

- 5.1. The Park Owner shall provide the occupants of the mobile home park with a copy of this Ordinance, and inform the occupants of their duties and responsibilities under this Ordinance.
- 5.2. The Park Owner shall operate the mobile home park, or cause the same to be operated, in compliance with this Ordinance, and shall provide adequate supervision to maintain the park, its facilities, improvements, and equipment in good repair and in a clean and sanitary condition, as well as in compliance with all state and local laws, regulations, or ordinances.
- 5.3. The Park Owner shall maintain all streets, roadways and driveways in the mobile home park in good repair, and shall keep the same clear of snow, ice, standing water, and debris. In addition, the streets and roadways in the mobile home park shall be constructed and maintained so as to comply with the "Fire Lane" requirements of the Town of Hampden Fire Prevention Code.
- 5.4. The Park Owner shall maintain the mobile home park in a clean, orderly, safe and sanitary condition at all times.
- 5.5. The Park Owner shall remove any abandoned, burned, dilapidated, or abandoned mobile home from the mobile home park within ten business days of a notice from the Code Enforcement Officer.
- 5.6. The Park Owner shall not permit the presence or any accumulation of any (1) abandoned, unregistered or un-inspected motor vehicles, or parts thereof, or (2) discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment; household appliances; furniture; discarded, scrap or junked lumber; old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste or scrap iron, steel or other scrap ferrous or nonferrous material, or other solid waste or debris in the mobile home park, whether on the streets or other common areas under the control of the Park Owner or on the individual mobile home lots.
- 5.7. The Park Owner shall be responsible for the proper placement of each mobile home on its mobile home stand, which includes securing its stability and installing all utility connections. Owner shall also be responsible for the disconnection of all utilities prior to the departure of a mobile home from the park.
- 5.8. The Park Owner shall conspicuously post a copy of the license in Park Owner's office or on the premises of the mobile home park at all times.
- 5.9. The Park Owner shall notify the Code Enforcement Officer and Tax Assessor, in writing, of the arrival or impending departure of any mobile home or any change of ownership that occurs within the park.
- 5.10. The Park Owner shall make adequate provision for the storage, collection, and lawful disposal of all refuse from the mobile home park, and shall take adequate measures to prevent the creation of health

hazards, rodent harborage, insect breeding areas, accident hazards, or air, water, or ground pollution. All refuse and garbage shall be bagged in plastic garbage bags by the homeowner or occupant for storage in fully and tightly enclosed, watertight, rodent-proof containers, which shall be provided by Owner in sufficient number and capacity to prevent any refuse or garbage from overflowing. Satisfactory container racks or holders shall be provided by the Owner and shall be located not more than 150 feet from any mobile home lot, or the Park Owner shall cooperate with the Code Enforcement Officer to establish mutually agreed upon locations.

5.11. The Park Owner shall bring all nonconforming non-certified mobile homes into compliance with the safety standards of Article 8. The Code Enforcement Officer may, as part of a conditional license, enter into a schedule of compliance with the Owner.

5.12. The Park Owner shall provide adequate supervision to ensure that the mobile home park, mobile home lot, mobile homes, and the owners or occupants of mobile homes comply with the provisions of this Ordinance. Owner shall include provisions in rental agreements requiring that individual owners or occupants of mobile homes shall comply with the provisions of this Ordinance, and Owner shall be obligated to pursue legal remedies for any breach of those requirements.

5.13. The Park Owner shall cooperate fully with the Code Enforcement Officer in the administration and enforcement of this Ordinance, including providing assistance in gaining access to mobile homes for the required inspections. The Park Owner shall co-apply with mobile home owners and or occupants for any building permit for a utility structure or non-combustible utility structure and shall insure that the location selected for such structures minimizes any negative impacts on safety and egress.

5.14. The Park Owner shall not assign or transfer the license without the prior approval of the Code Enforcement Officer. Any assignment or transfer shall be subject to the condition that the transferee agree in writing to abide by the terms and conditions of the license and this Ordinance.

5.15. The owner(s) of the land on which the mobile home park is located shall be ultimately responsible for compliance with this Ordinance, and shall remain responsible therefore regardless of the fact that this Ordinance may also place certain responsibilities on the license holder, or mobile home owners and/or occupants. This shall be so regardless of any agreements between the owners of the land and the license holder or owner/occupants of mobile homes as to which parties shall assume such responsibility.

ARTICLE 6 OBLIGATIONS OF MOBILE HOME OWNERS OR OCCUPANTS.

6.1. It shall be the duty of the owners or occupants of mobile homes in a mobile home park to give the Code Enforcement Officer access to the mobile homes at reasonable times for the purpose of conducting an inspection thereof to determine satisfactory compliance with the requirements of this Ordinance.

6.2. The owners or occupants of mobile homes in a mobile home park shall comply with all applicable requirements of this Ordinance, and shall maintain his/her mobile home, mobile home lot, and any facilities, improvements, or equipment, in good repair and in a clean and sanitary condition. The home owner or occupant shall not cause or permit the presence or accumulation of the items specified in Article 5.6 on his/her mobile home lot, or at any other location within the mobile home park.

6.3. No home owner or occupant shall allow animals in his/her custody to run at large, or commit any nuisance, within the mobile home park.

6.4. No home owner or occupant shall permit his/her mobile home to be occupied by a greater number of

persons than that for which it was designed.

6.5. The space directly beneath each mobile home shall be kept clean and free from refuse, or other combustible materials.

6.6. No home owner or occupant shall permit the parking of vehicles or the storage of personal property so as to interfere with access to the lots or mobile homes in the mobile home park by other owners or occupants, or especially with access by emergency vehicles or personnel.

6.7. No home owner or occupant shall locate or use a utility structure or non-combustible utility structure on his/her lot unless it is located ~~no closer than 10 feet to any mobile home or other utility structure, and is made of noncombustible materials. In addition, said structure shall not exceed 150 square feet in area and 10 feet in height.~~ In accordance with the standards found in Article 8.3.18 of this ordinance and they have first receiving a Building Permit from the Town of Hampden. Home owners and occupants shall co-apply with Park Owners for a building permit for a utility structure or non-combustible utility structure and the Park Owner shall insure that the location selected for such structures minimizes any negative impacts on safety and egress.

6.8. No home owner or occupant shall dispose of any garbage or refuse except by first bagging the garbage or refuse into a plastic garbage bag and the placing them into provided facilities in a clean and sanitary manner.

6.9. The individual owner of a non-certified mobile home shall be responsible for bringing the mobile home into compliance with the safety standards set forth in Article 8. The Code Enforcement Officer is authorized to enter into a schedule of compliance with such a home owner.

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Zoning Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

3.3. Commercial Service District

3.3.1. Purpose - This district is intended for the location of heavy commercial uses, wholesale uses, office buildings, automotive type of uses such as sales and service, convenience stores and commercial service type of uses. In general this area is devoted to service or wholesale uses.

3.3.2. Permitted Uses (Subject to Site Plan Review) - Any retail or service business, hotel and motels, business or professional offices, take-out restaurant, small restaurant, sit-down restaurant, automobile service, place of assembly, outdoor recreation and accessory uses or structures. Essential service and buildings for essential service, single family dwellings in existence on the date of this amendment. *(Amended 12-6-04)*

3.3.3. Conditional Uses (Subject to Site Plan Review) - Fast-food restaurant, outdoor dining restaurant, tavern, bar, dance hall, commercial school, drive-thru business, wholesale distribution, truck terminal, light industrial operations (but not including excavation, gravel pit and quarry activities) which do not exceed 10,000 square feet, such as warehousing assembly or fabrication. Functionally water-dependent uses along the Penobscot River. Any establishment which provides in excess of 5,000 square feet of outdoor display or storage of goods or equipment. Stockpiles (subject to *Article 4.9*) not accessory to excavation, gravel pit and quarry activities. *(Amended 4-7-03, 12-6-04, 12-17-07, 03-01-10)*

3.3.4. Lot Dimensions

| | | |
|-------------------------|---|----------------|
| Minimum Lot Area | - | 20,000 sq. ft. |
| Minimum Road Frontage | - | 100 feet |
| Minimum Setbacks: | | |
| Street Yard | - | 40 feet |
| Other Yards | - | 30 feet |
| Maximum Ground Coverage | - | 25 percent |
| Maximum Building Height | - | 35 feet |

3.3.5. Special District Regulations

1. Where a commercial or industrial use abuts any residential use or residential district, the other yard setback shall be double where it abuts the residential property.
2. Notwithstanding the maximum building height regulations in Article 3.3.4, building height may be up to 50 feet under the following standards. Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each yard setback requirement. *(Amended 03-01-10)*

EXAMPLE: A 48 foot tall building is proposed. By subtracting the base Commercial Service District maximum building height from the proposed height the following is the result $48' - 35' = 13'$.

Then add that amount to each yard or setback.

| Setback Type | Base Setbacks: | Total Setback |
|--------------|----------------|---------------|
| Street Yard | - 40 feet | 53 feet |
| Other Yard | - 30 feet | 43 feet |

3. Notwithstanding other requirements in this section any structure which requires access to rail service shall not be required to setback from the railroad siding. *(Amended 8-17-92, 10-4-93)*
4. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 feet and no part of the vehicle queue shall be located within 100 feet of a residential structure. *(Amended 12-6-04)*
5. Sale or consumption of alcoholic beverages is prohibited for outdoor dining restaurant uses in conjunction with take-out restaurants and fast-food restaurants. *(Amended 12-6-04)*
6. Outdoor dining areas proposed for outdoor dining restaurant uses shall be clearly delineated on a site plan including barriers required under M.R.S.A. *Title 28-A*. Outdoor dining restaurant uses proposing outdoor consumption of alcoholic beverages shall comply with M.R.S.A. *Title 28-A: LIQUORS §1051. Licenses generally* which requires that outside areas be controlled by barriers and by signs prohibiting consumption beyond the barriers. *(Amended 12-6-04)*
7. Notwithstanding the maximum building height regulations buildings used for functionally water-dependent uses along the Penobscot River are not subject to the maximum building height standard in Article 3.3.4. or 3.3.5.2. provided the lot area for such a use is at least five acres in size. *(Amended 03-01-10)*
8. Notwithstanding the above requirements, residential use accessory structures which are not attached to a residential principal building may be located on a lot in accordance with the following:

| | |
|---|------------------------------|
| <u>Accessory Structures Ground Floor Area</u> | <u>Up to 150 Square Feet</u> |
| <u>Maximum Height</u> | <u>- 16 Feet</u> |
| <u>Minimum Other Yard</u> | <u>- 5 Feet</u> |

Once located in accordance with the foregoing requirements, said accessory structures shall not be attached to a principal building unless said structures are in compliance with the Other Yard requirement of the District.

seconded by Councilor Lawlis to add the Library Circulation Desk Project to the agenda under New Business – unanimous vote in favor.

Manager Lessard reported that the Library has received a \$25,000 grant for a new circulation desk area and the restructuring of two other areas within the library. The grant does not include sufficient funds to allow for necessary wiring to replace dated electrical lines and for data lines in the circulation desk area. The Finance and Administration Committee recommends using up to \$5,000 from the Library Reserve account for this purpose.

Councilor Lawlis reported that the Services Committee has discussed the project and recommends accepting the \$25,000 grant. Motion by Councilor Lawlis, seconded by Councilor Shakespeare to accept the grant – unanimous vote in favor.

Motion by Councilor Lawlis, seconded by Councilor Shakespeare to authorize to use of up to \$5,000.00 from the Library Reserve for the purpose of upgrading the electrical and data line service within the building relative to this project – unanimous vote in favor.

D. COMMITTEE REPORTS

Councilor Shakespeare reminded the Council that there will be no Infrastructure Committee meeting this month.

Councilor Lawlis reported that the Services Committee had a brief meeting on December 15th. There has not been a lot of activity on the part of some of the sub-committees, but they will be meeting again in January. The Committee did go over a list of priorities and she suggested that anyone interested should review the minutes of the previous meeting which include a lot of detail regarding those priorities.

Councilor Hughes noted that several of the Planning & Development Committee agenda items have already been discussed tonight. At the last meeting the Committee focused on discussion of the Comprehensive Plan Implementation Committee and it was decided that the Comp Plan Implementation meetings should be separate from the Planning & Development Committee meetings. It was suggested that they be held on the third Wednesday of each month. Coming up at the end of January is the BEAR program and meetings with those businesses and residents that are located in the Commercial Service District. The next meeting is scheduled for January 5th.

Manager Lessard reported that the Finance Committee signed the Treasurer's Warrants; reviewed the financial statements for November; discussed the Library's circulation desk project and the Council's upcoming strategic planning session scheduled for January 22nd at the White House Best Western Inn.

E. MANAGER'S REPORT

Manager Lessard's report was a summation of the items that the Council worked on in 2010 and she remarked that it was again a busy and productive year. A copy of the report is attached hereto.

Manager Lessard also reported that she was invited to lunch at Pine Tree Landfill today to celebrate that the last construction vehicle left the landfill today. She commented that that the landfill is no longer the bone of contention that it was ten years ago as we have worked in a positive productive way to bring closure to the facility.

F. COUNCILOR'S COMMENTS

Councilors Hughes, Hornbrook and Shakespeare wished everyone a Merry Christmas and Happy New Year.

Councilor Cushing reflected on the landfill activities and the positive aspects that have evolved – approximately \$2,500,000 in additional revenue to the community, which has allowed us to do some very positive things. It has also provided a business that was in a somewhat contentious relationship with the Town to see this as an opportunity to maintain a gas-to-energy facility, the only one in the State of Maine. He commented that we are very fortunate to have a manager whose style was to find solutions to problems in a positive way.

Councilor Cushing also reported that the Legislature held a special session last week and he had the privilege of having Tristan and Noah Gardner from Hampden come down and sing the National Anthem. He said they did Hampden proud.

Councilor Lawlis said she is excited about the opportunity to work on the implementation of the Comprehensive Plan and work collectively as a community with some exciting conceptual ideas. She wished everyone a Merry Christmas.

Councilor Arnett reported that the Council hosted a workshop on land use planning related to the Comprehensive Plan and invited Randall Arendt, a nationally known planner, to come make presentations at a luncheon of Hampden Business Association and at the workshop that evening. Mayor Arnett also extended wishes for a wonderful Christmas holiday.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:00 p.m.



Denise Hodsdon
Town Clerk

TOWN MANAGER'S

ANNUAL REPORT

2010

2010 was once again a busy and productive year. From January through December, the Council has dealt with the following items. While this list is only a few pages long, many items on it required extensive Council Committee work prior to final action and items such as the town budget took many months to complete.

- Revamped fees for the Library
- Elected a Mayor and Deputy Mayor and made Committee Assignments
- Assisted in the selection of a new Town Assessor
- Amended the Public Ways Ordinance
- Amended the Zoning Ordinance re: Animal Definitions
- Appointed a School Board Member to fill a vacancy
- Revised the Shoreland Zoning Ordinance
- Adopted a Streetlight Request Policy
- Amended the Zoning Ordinance regarding Conditional Uses in the Commercial Services District
- Adopted the Comprehensive Plan after many meetings, hearings, and approval by the State Planning Office
- Amended the Zoning Ordinance regarding the definition of Institutional Building
- Made an Arbor Day Proclamation and received Tree City USA status for the 3rd year
- Participated in the Regional Spring Clean-up Project
- Granted the Town Manager a new contract
- Completed the Mayo Road Reconstruction project
- Sold two lots in the Business Park
- Accepted a grant for replacement of boilers at the Municipal Building
- Approved the BEAR program
- Began discussions of a Dog Park for Hampden
- Authorized expenditures for capital equipment for Police, Fire, Public Works Departments including a new cruiser purchase, purchase of a replacement loader and truck for public works and a power stretcher for the public safety department
- Received a grant of \$5,000 from Hannaford for Fire Equipment
- Paved 8 miles of roadways in Hampden
- Funded a contribution to the Destination Imagination Team
- Recognized Brian & Cindy Carlisle and Justin Russell for their contributions to the Library programs

- Submitted a grant application for sidewalk construction on Western Avenue
- Amended the Zoning Ordinance regarding Rural District Uses
- Worked on a Marina land swap with Hamlin Marine
- Provided testimony for the BAT fare increase proposal from the City of Bangor
- Approved a Forest Management Plan for Dorothea Dix Park
- Saw the final closure of the Pine Tree Landfill completed. The last construction vehicle left the property on 12/20/2010.
- Reviewed and approved a budget for fiscal year 2010/2011 that allowed the mil rate to remain the same as the prior year.
- Sponsored a workshop with a nationally recognized conservation planner for Hampden Council and Committee members regarding Comprehensive Plan implementation.
- Adopted a six month moratorium for marijuana cultivation and dispensing activities
- Added Harmony Hall and the Garden Club to the list of Outside Agency funding considerations
- Assisted Goodwill Riders Snowmobile Club with roof replacement of the old fire station on outer Western Avenue.
- Sold two old Fire Trucks once the new truck was received
- Adopted a PACE Ordinance to allow residents to take advantage of funding available for energy improvements through Efficiency Maine.
- Collaborated with Winterport and Newburgh in regard to concerns over the re-use of the soon-to-be former Hampden Academy site.
- Approved granting of wetland mitigation property for the new School project in return for \$50,000 in trail development funding
- Published four quarterly newsletters
- Approved an upgrade to digital for Cable television equipment for the Town
- Hosted a Candidate's forum for all candidates for local offices as well as those for State Offices for Senate District 33 and House District 39
- Created an Economic Development video featuring the Angler's Restaurant project
- Accepted Urban/Rural Transportation Improvement Funds from MDOT
- Adopted a vision statement for Dorothea Dix Park
- Issued a resolve supporting extension of the Pilot Truck Weight Increase Project
-
- Adopted updates to the General Assistance Ordinance Appendices
- Approved four quarters of Sewer Commitments
- Authorized participation in Landowner Appreciation Day
- Assisted the Hampden Garden Club with submission of a Historic Preservation Grant
- Issued a Games of Chance permission letter for the VFW
- Issued a Games of Chance permission letter for the Kiwanis

- Granted a Sewer Easement to Gary Mock for location of a private line on Elm Street West
- Accepted a sewer manhole on the property of Katahdin Trust that will serve both that business and Rite Aid.
- Introduced Amendments to the Day Care Provisions of the Zoning Ordinance for Public Hearing
- Approved 20 victualer's licenses for local businesses
- Approved 5 liquor license applications

Respectfully submitted,
Susan Lessard
Town Manager