

Town of Hampden
Planning and Development Committee
Wednesday August 1, 2018, 6:00 pm
Council Chambers
Agenda

1. Approval of June 20, 2018 Minutes
2. Committee Applications: None
3. Updates:
 - A. MRC/Fiberight
 - B. Staff Report
4. Old Business: None
5. New Business:
 - A. Discussion of amendments to Mobile Home Ordinance at the request of Ryan M. of Lighthouse Asset Management, LLC – request to reduce the required separation between mobile homes to allow 14 foot wide homes to replace existing narrower homes.
 - B. Discussion of issues related to recent changes in state laws for both adult use and medical marijuana, including potential moratorium related to medical caregiver retail stores and emergency ordinance related to the number of marijuana plants that can be grown on a single property for personal adult use.
6. Zoning Considerations/Discussion: None
7. Citizens Initiatives
8. Public Comments
9. Committee Member Comments
10. Adjourn



Town of Hampden
Planning and Development Committee
 Wednesday June 20, 2018, 6:00 pm
 Municipal Building Council Chambers
Minutes - Draft

Attending:

Committee/Council

David Ryder - Chair
 Dennis Marble
 Ivan McPike
 Terry McAvoy
 Mark Cormier
 Stephen Wilde

Staff

Karen Cullen, Town Planner
 Myles Block, Code Enforcement Officer
 Jim Chandler, Town Manager

Public

Chairman Ryder called the meeting to order at 6:01 pm.

1. Minutes for the June 6, 2018 meeting – **Motion** to approve as submitted made by Mayor McPike; second by Councilor McAvoy; carried 6/0/0.
2. Committee Applications: None
3. Updates:
 - a. MRC/Fiberight: CEO Block reported that construction is continuing and the next phase of construction is in the design review process with the Town's engineering consultant.

 Councilor McAvoy read a letter he wrote to MRC Director Greg Louder into the record, see attached. There was discussion about recent meetings with MRC/Fiberight which provided some assurance that the project will be completed, including the "wet end." Mayor McPike said he'd heard the gas generated by the facility may be sold to UMaine. Councilor Marble said his major concern is the condition of the road; Chairman Ryder said they all share that concern which is why they have decided to not accept the road until it has been there for a year after the repairs currently underway have been completed.
 - b. Staff Report: Planner Cullen reported that nothing new has come in over the last few weeks but there will be a couple of applications submitted on Monday.
4. Old Business: None.
5. New Business:
 - a. Proposed amendments to the Fees Ordinance. Planner Cullen led a discussion on the proposed changes to account for the changes in the zoning ordinance that were adopted on June 18th, specifically to separate the conditional use fees from site plan review fees. The main points of the discussion were:

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- keep the fee structure for site plans simple
- cannot leave the fee open ended by charging an hourly rate for time spent over some predetermined amount
- there are a variety of ways to determine fees for major site plans; staff had thought about other ways but decided by acre of land disturbance was the easiest and most equitable method
- if the new fees result in problems then they can be revised again later.

After discussion, the Committee took a straw poll vote and decided unanimously to support the proposed amendments and the additional change to the Fees Ordinance to include four fee levels for major site plan review, so the fee structure for site plan review will be:

- minor revision: \$75
- minor site plan: \$150
- major site plan:
 - less than 1 acre land disturbance: \$500
 - 1 to < 3 acres of land disturbance: \$750
 - 3 to < 5 acres of land disturbance: \$1,000
 - 5 or more acres of land disturbance: \$1,500

It was noted this has already been set for public hearing at Town Council for July 2, 2018.

- b. Urban Impaired Streams (UIS). Planner Cullen led a discussion about the recent listing of Sucker Brook as an urban impaired stream, and the ramifications for economic development of both Shaw Brook and Sucker Brook being listed as such. The key points of the discussion were:
- Shaw Brook has been listed as an urban impaired stream for some time
 - Sucker Brook has just been listed (May 23, 2018) by DEP
 - these two watersheds cover much of the industrial and interchange districts, and will have a dampening effect on economic development
 - state mapping of the watershed areas is thought to be accurate for the Sucker Brook watershed, but not for the Shaw Brook watershed
 - there is no provision based on the DEP rules to modify the watershed boundary; DEP says the burden of proof of whether a project is in or out of the watershed lies with the applicant, although the town could do more accurate mapping to help with that process
 - Fiberight is within the Shaw Brook watershed and it is unknown why DEP apparently did not consider the UIS situation
 - the business park is almost entirely within the Sucker Brook watershed
 - any development proposals that require a modification to the site law permit for the business park will be required to comply with the UIS regulations; this would include any lot combining to create larger lots for development
 - such sites will be required to either mitigate (remove) existing impervious surface somewhere within the watershed, or pay a compensation fee

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- if (when) the town has an approved (by DEP) compensation fee plan, then those fees would go into a dedicated account that we would have control over, and we would use that money to do some sort of pollution abatement for the stream – what that would be staff hasn't figured out yet
- regarding the proposed FW Webb project in the business park, they are trying to figure out if there is any way to mitigate the estimated \$68,000 compensation fee
- there is a provision in the DEP rules to allow the granting of waivers to developments when there is an approved watershed management plan; we do not have one for either Shaw or Sucker Brook
- under the MS4 permit we will be required to have a watershed management plan completed within 5 or 6 years
- Manager Chandler said he will contact the City Manager in Bangor to discuss the need for moving forward on these watershed management plans
- we also need to move forward with preparing a compensation fee plan

6. Zoning Considerations/Discussion: None.

7. Citizen Initiatives: None.

8. Public Comments: None

9. Committee Member Comments: Councilor Marble asked the other councilors about an email from a resident regarding early morning construction noise in the area near his property. Chairman Ryder said he drove around the area trying to find any wood cutting or construction in the area and couldn't find anything that would require town permitting. Chairman Ryder mentioned he had received a message from a resident near the medical marijuana caregiver property expressing her concern about the construction of two greenhouses on that site as well as odors in the area; CEO Block said he approved them since they are not for commercial use (i.e. no customers). Discussion on odors for marijuana grow operations – buildings used for this have sophisticated filtration systems and there is no odor outside the building. Since this is for medical marijuana there is little the town can do.

10. Discussion on meeting schedule – the committee agreed to cut back to one meeting a month; for July the meeting will be on July 18 and starting in August the meeting will be the first Wednesday of each month. If we need to meet more often or to change the schedule, we can do so later.

11. Adjournment: **Motion** to adjourn the meeting at 7:11 pm made by Chairman Ryder, seconded by Councilor McAvoy; motion carried 6/0/0.

Respectfully submitted by
Karen Cullen, Town Planner

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6-10-18

Mr Louder, this statement is in reference to an illicit meeting which recently took place at the MRC site. The meeting was arranged by Mayor McPike and attended by himself, Councilor Ryder, Manager Jennings and others who have a vested interest in the development of the facility.

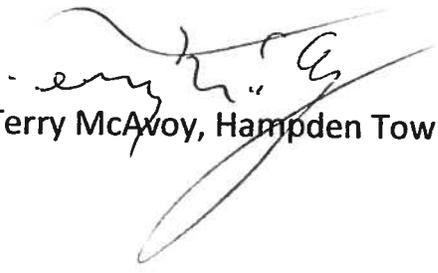
Do not rely upon any statements or representations which may have been made by either of the Councilors.

The Hampden Town Charter prohibits Town Councilors from any involvement in Town business. Also, Town Councilors have no authority to discuss Council related issues outside of the Committee and Council setting.

Any future discussions related to MRC, Fiberight, and/or Coastal, which require Council consideration, must be presented to a Committee.

This document may be distributed as you see fit.

Thank you for your time and consideration.


Terry McAvoy, Hampden Town Councilor

Project List - Planning

| Project Name | Location | What it is | Size ¹ | PB Action/Date | Type |
|------------------------------|------------------------------|--|-------------------|----------------|-----------------------------|
| Fiberight | off Coldbrook | solid waste processing | 153,800 sq ft | Approved | Site Plan |
| Hannibal Hamlin Place | Main Road N | expansion | 2,800 sq ft | Approved | Site Plan |
| Pine Tree Food Equipment | Nadine's Way | new building/business | 3,600 sq ft | Approved | Site Plan |
| Dennis Paper | Mecaw Rd | expansion | 27,237 sq ft | Approved | Site Plan |
| Colonial Heights | off Constitution | phase 3 of subdivision (final plan) | 11 new lots | Approved | Subdivision |
| Carver | Ballfield Rd | conversion of single family to two family | 1 new unit | Approved | Conditional Use |
| Sky Villa | 646 Main Road N | conversion of interior to 10 short term rehab beds | 3,172 sq ft | Approved | Conditional Use |
| Brickle | 326 Main Road N | conversion of single family to two family | 1 new unit | Approved | Conditional Use |
| Southstreet Development Co | Route 202/Coldbrook Rd | zoning map amendment; Resid A to Comm. Service | 16 acres | Withdrawn | Zoning Map Amendmemt |
| Hamlin's Marina | Marina Road | new boat storage building | 10,000 sq ft | Approved | Site Plan |
| Fiberight | 348 Coldbrook Road | Site Plan Revision | - | Approved | Site Plan |
| Springer Estates | Deer Hill Lane | addition of land to existing lot within subdivision | 1 Lot | Approved | Minor Revision |
| Hannaford | Western Ave. | addition of ~12' x 32' external CLYNK bldg as accessory structure | 384 sq ft | Approved | Site Plan Revision |
| H.O. Bouchard | Coldbrook Road | expanded office building & Deck | 1,620 sq ft | Approved | Site Plan Revision |
| Southstreet Development Co | Route 202/Coldbrook Rd | zoning map amendment; Resid A to Comm. Service | 16 acres | Approved | Zoning Map Amendmemt |
| Aaron Watt | Cottage St | new multi-family building | 4 units | Withdrawn | Sketch Plan ² |
| Good Shepherd | Penobscot Meadow | addition of 7,550 sq ft impervious area | - | Approved | Site Plan Amendment |
| Pat's Pizza | 662 Main Road N | new restaurant to replace current restaurant | 3,500 | Approved | Site Plan |
| Southstreet Development Co | 98 Coldbrook Rd | new Tradewinds convience store with gasoline sales | 6,900 | Approved | Site Plan |
| Town of Hampden | Hampden Business Park | amendment to approved subdivision | | Approved | Final minor subdivision |
| T&A Realty | 50 Main Road North | Business adding a rental apartment | 760 sq ft | Approved | Conditional Use |
| Katherine Carter | 76 Main Road South | Customary Home Occupation - Artist Gallery | | Approved | Conditional Use |
| Town of Hampden | 355 Canaan Road | Request for waiver to site plan review for essential service, salt shed | 1,260 | Approved | Site Plan Waiver |
| Southstreet Development Co | Route 202/Coldbrook Rd | request for waiver to allow a larger sign | - | Approved | Minor Revision |
| Residential Care Facility | 569 Back Winterport Rd | conversion of existing duplex into a 2-unit independent living home for adults with disabilities | 2 units | Approved | Conditional Use |
| F.A. Peabody | 36/38 Main Road N | construction of new office building | 4,500 sq ft | 7/11/2018 | Site Plan |
| Day's Care Children's Center | 100 Mayo Rd | convert house to child care center | 1,335 sq ft | 8/8/2018 | Conditional Use |
| F.W. Webb | Hampden Busn Park lots 33-35 | construct new warehouse/wholesale facility | 72,750 sq ft | 8/8/2018 | Major Site Plan |
| Zucco's Dog House | Hampden Busn Park lot 25 | construct new kennel (dog daycare) | 3,512 sq ft | 8/8/2018 | Conditional Use & Site Plan |
| Smith, Andrew | 115 Main Road South | Addition for storage | 1320 sq ft | 8/8/2018 | Minor Site Plan |

1. Size refers to square footage of building (new or addition), number of new building lots, number of new units, or acreage.



Town of Hampden
Land & Building Services

Memorandum

To: Planning & Development Committee
From: Karen M. Cullen, AICP, Town Planner *KMC*
Date: July 27, 2018
RE: Amendments to Mobile Home Park Ordinance

As you may know, the ownership of the mobile home park on Main Road North has changed, and the new owners are making improvements to the park. As part of their efforts, they have run into a problem in replacing old non-certified mobile homes with newer certified ones, since the newer ones are wider than the old ones. Ryan Murdock has submitted a letter (attached) and a request for the Mobile Home Park Ordinance to be amended to be in line with the state requirements for the separation of mobile homes.

I have prepared such an amendments (attached, see page 13 of the ordinance), as well as a suggested replacement for the section. The simplest way to accomplish the goal is to adopt the amendments as shown in the ordinance, but as I was reading through the section I couldn't help but think there had to be a better way to say the same thing. Therefore I have also attached a suggested replacement for the section in question (8.3.18). These alternatives should be discussed at the meeting, and if the Committee agrees there is good cause for the change, your choice can be referred to Town Council for public hearing and adoption.

Karen M. Cullen, AICP
Town Planner
Hampden, Maine
106 Western Ave
Hampden, ME 04444

July 10, 2018

Karen,

I appreciate you taking the time to submit my request for proposed amendment to the mobile home spacing ordinance.

As you know I represent a group of owners who purchased the former Hampden Trailer Park (now Hampden Mobile Estates) in January of 2018. We have spent nearly \$100,000 on improvements to the park since the purchase and will continue to make improvements over the coming months and years.

In addition to bringing 9 vacant homes back into code compliant condition and filling them with paying residents we have removed and disposed of 3 mobile homes that were unfit for habitation and an eyesore to the community.

We would like to fill these and other vacant lots throughout the park with new or good quality used homes. Part of the challenge we face in this park is the separation requirements imposed by the town. While the State of Maine side separation minimum is 10', Hampden's ordinance minimum is 20'. The State's end-to-end separation minimum is 8', Hampden's is 10'

The effect of this ordinance limits us to acquiring <12' wide homes. 12' wide homes are typically older, smaller, and in much worse condition than the more readily available 14' wide homes. This means they are more costly to renovate and the finished product is less than what it could be with a larger or wider home.

No doubt the residents of the park and the entire Town of Hampden would benefit from a safer and more visually appealing property but the existing spacing requirement is counterproductive to that goal. By limiting us to 12' wide homes it virtually guarantees we cannot modernize the park to its potential.

I am requesting that the separation requirements in the Town of Hampden Mobile Home Park Ordinance be more closely aligned with the State of Maine Manufactured Housing Board Requirements as defined in Chapter 850:COMMUNITY LICENSING - STANDARDS.

I have included copies of each along with this letter.

If you need any additional information please feel free to contact me directly any time.

Thanks again for your time and consideration.

Sincerely,

Ryan Murdock
Hampden Mobile Estates LLC
c/o Maine Real Estate Management LLC
PO Box 1193
Bangor, ME 04402

Cel: (207) 570-6588

State of Maine

Chapter 850:COMMUNITY LICENSING - STANDARDS

No portion of a manufactured home, excluding the hitch, shall be located closer than 10 feet (3 meters) side to side, 8 feet (2.4 meters) end to side, or 6 feet (1.8 meters) end to end horizontally from any other manufactured home or community building unless the exposed composite walls and roof of either structure are without openings and constructed of materials that will provide a 1 hour fire-resistance rating or the structures are separated by a 1 hour fire-rated barrier.

Hampden

8.3.18. Minimum Separation Requirements. **No mobile home shall be located closer than twenty (20) feet from another mobile home or ten (10) feet from a utility structure. Notwithstanding this regulation mobile homes placed end to end shall ensure a minimum separation of ten (10) feet.** Any mobile home that was not in compliance with the prescribed separation requirements as of the date of adoption of this Ordinance may remain at that location, but any replacement for such a mobile home shall meet the separation requirements to the greatest practical extent as determined by the Code Enforcement Officer, and in no event shall the replacement mobile home be located so as to make the separation distances more nonconforming. Provided, however, that the replacement of a non-certified mobile home with a certified mobile home shall be permitted if the following conditions are met: (1) the separation requirements are met to the greatest practical extent as determined by the Code Enforcement Officer, (2) **the replacement mobile home is no wider than fourteen (14) feet, (3) Deleted, (4) the replacement mobile home shall be located no less than fifteen (15) feet (side to side) and ten (10) feet (end to end) from another mobile home or ten (10) feet from a utility structure,** and (5) the area necessary to comply with this reduced separation provision is not created by moving or replacing an existing mobile home so as to make it more nonconforming with the requirements of Section 4.13.3.3.1. of the Zoning Ordinance, the foregoing reduced separation provision shall prevail. For purposes of this section, any addition to a mobile home, including carports, decks, porches, living spaces, sunrooms, etc. (but excluding steps) shall be considered to be part of the mobile home, and shall be subject to the minimum separation requirements. Amended:01-05-2009

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

Deletions are ~~Strikethrough~~ Additions Underlined

**TOWN OF HAMPDEN, MAINE
MOBILE HOME PARK ORDINANCE**

ENACTED DATE: October 12, 2004
EFFECTIVE DATE: November 12, 2004

AMENDED: Hampden Town Council, June 19, 2006
Effective Date, July 19, 2006

AMENDED: Hampden Town Council, January 5, 2009
Effective Date, February 4, 2009

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

**MOBILE HOME PARK ORDINANCE
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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 which is designated and used for the storage and use of personal property of the mobile home occupants.

1.7. Conversion of Mobile Home Park. No individual mobile home lot in a mobile home park may be sold or conveyed, unless said lot meets all of the minimum requirements for a lot in the zoning district in which it is located.

1.8. Administration. It shall be the responsibility of the Code Enforcement Officer to approve, approve conditionally, or disapprove mobile home park licenses, to issue certificates of compliance where warranted, to enforce the provisions of this Ordinance, and to carry out the inspections required by this Ordinance.

1.9. Transition Provisions. All mobile home parks that had a mobile home park license under the Zoning Ordinance as of April 30, 2004 may continue to operate under said license. Provided, however, that any such park and the mobile homes contained therein shall be governed by the provisions of this Ordinance. The owner or operator of a mobile home park shall apply for a license under this Ordinance by not later than April 1, 2005, and the Park shall be licensed under this Ordinance by not later than August 1, 2005. Failure to make application within the time specified shall constitute a violation of this Ordinance. In addition, the continued operation or maintenance of a mobile home park without a license and/or in violation of the provisions of this Ordinance after August 1, 2005 shall constitute a violation of

this Ordinance. Any non-certified mobile home located in a mobile home park on the date of adoption of this Ordinance shall be brought into compliance with the requirements of Article 8 by not later than August 1, 2005.

1.10. Separability. In the event that any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, such action shall not be deemed to affect the validity of any other provision of this Ordinance.

**ARTICLE 2
ANNUAL MOBILE HOME PARK LICENSE REQUIRED.**

2.1. No person shall establish, operate, or maintain a mobile home park in the Town of Hampden without first obtaining an annual license issued in conformity with the provisions of this Ordinance.

2.2. The Code Enforcement Officer shall be responsible for the review of license applications, and shall approve, approve with conditions, or deny any license application. The applicant has the burden to demonstrate that the application complies with the provisions of this Ordinance, as well as all applicable laws, ordinances, statutes, or regulations.

2.3. Each license shall expire on the first day of August next following the date of issuance. Applications for license renewal shall be submitted no later than the first day of June in order to be acted upon by the first day of August.

2.4. The Code Enforcement Officer is hereby authorized and directed to make inspections of mobile home parks and the mobile homes located therein to determine the condition of the parks and mobile homes in order to safeguard the health and safety of the occupants of mobile home parks. The Code Enforcement Officer shall inspect the park and if the Code Enforcement Officer deems it to be necessary or appropriate, the individual mobile homes within the park prior to making a decision on a license application. The Code Enforcement Officer, or a duly authorized representative, shall have the authority to enter upon any private or public property at reasonable times for the purpose of inspecting and investigating conditions relating to the administration or enforcement of this Ordinance. *Amended: 01-05-2009*

2.5. A license application shall be in writing, and shall contain the following:

1. Name, address, and telephone number of the applicant. If the applicant is not the mobile home Park Owner, the applicant must also provide the name and address of the Park Owner, as well as the legal relationship of the applicant to the Park Owner and documentation evidencing the applicant's legal authority to operate or maintain the mobile home park.
2. A register containing the record of all mobile home owners and occupants located within the park. The register shall contain the following information:
 1. The name of the owner of each mobile home in the park.
 2. The manufacturer's name, model number, year, and serial number of each mobile home.
 3. The lot location by number of each mobile home.
 4. If not owner-occupied, the names of the occupants of each mobile home.

5. The Park Owner shall keep the register up to date, and available for inspection at all times by law enforcement officers, emergency services personnel, code enforcement officials, and other officials whose duties necessitate acquisition of the information contained in the register.
3. A mobile home park plan, prepared and / or certified by a professional land surveyor, drawn at a scale of not less than one inch equals 40 feet, depicting the boundaries of the park, the streets within the park, the common areas within the park, the mobile home lots within the park, and the location of each mobile home within the park. For emergency purposes, the lot numbering required by Article 3 shall be shown on the plan.
4. The name of the mobile home park.
5. The license application shall also be accompanied by the application fee established by the Hampden Fees Ordinance.
6. A park management plan, including a 24 hour contact person, rules of the park, schedule for park maintenance, trash removal, and road maintenance for the park.

2.6. The Code Enforcement Officer shall issue a written decision on the application for a mobile home park license. In order to grant a license, the Code Enforcement Officer must find the following:

1. That the mobile home park is in compliance with all applicable laws, ordinances, regulations, and has received all necessary approvals from the Town of Hampden and the State of Maine.
2. Deleted. *Amended: 01-05-2009*
3. That the Park Owner has complied with the requirements of this Ordinance during the term of the prior license. *Amended: 01-05-2009*

2.7. The Code Enforcement Officer may issue a conditional license if the Park Owner enters into a written agreement with the Town that contains a detailed schedule of compliance setting forth the specific improvements to the park, mobile home lots, or mobile homes that the Park Owner shall make during the term of the license. If the Park Owner fails to comply with the provisions of said agreement, said noncompliance shall be the grounds for revocation, or non-renewal, of the license.

2.8. The Code Enforcement Officer, after notice and a hearing on the matter, may revoke any license to establish, maintain or operate a mobile home park upon making a finding that the park is not being operated or maintained in accordance with the provisions of this Ordinance, or any other applicable law or ordinance.

ARTICLE 3 MOBILE HOME LOT IDENTIFICATION.

3.1. Each mobile home lot shall have a number supplied by the Park Owner, and the lots shall be numbered in an orderly, consecutive fashion. Even numbers shall be on one side of the street and odd numbers shall be on the opposite side of the street.

3.2. Each mobile home shall be numbered in a manner consistent with the number assigned to the lot.

3.3. The mobile home lot number shall be at least three inches high, and the Park Owner shall be responsible for the placement and maintenance of the numbers on each mobile home in a prominent place so that they may be readily observable by emergency services personnel.

3.4. The Park Owner shall be responsible for the placement and maintenance of the lot numbers on the electrical service (i.e., meter junction box) for each mobile home.

ARTICLE 4
MOBILE HOME PARK STREET IDENTIFICATION.

4.1. The Park Owner shall cooperate with the Code Enforcement Officer to establish names for streets within the mobile home park. Said street names shall be substantially different than existing street names within the Town of Hampden so as not to be confused in sound or spelling. In general said streets shall have names not numbers or letters.

4.2. The Park Owner shall erect, and maintain, street name signs at all street intersections, which signs shall contain lettering that is reflectorized.

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.

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 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.

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.

**ARTICLE 7
RESTRICTIONS ON THE SALE, LEASE, TRANSFER, OCCUPANCY OR LOCATION
OF MOBILE HOMES IN A MOBILE HOME PARK.**

7.1. No person may sell, transfer, or otherwise convey a mobile home in a mobile home park without a prior written determination from the Code Enforcement Officer stating that: (1) the mobile home is a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) is a non-certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations, including the requirements of Article 8 of this Ordinance. The provisions hereof shall not apply to a mobile home that is being removed from the mobile home park.

7.2. No person shall locate, move from one mobile home lot to another mobile home lot, or replace a mobile home in a mobile home park without a prior written determination from the Code Enforcement Officer stating that: (1) the mobile home is a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) is a non-certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations, including the requirements of Article 8 of this Ordinance.

7.3. No person shall permit or allow the occupancy of a mobile home in a mobile home park for dwelling purposes without a prior Certificate of Compliance from the Code Enforcement Officer stating that: (1) the mobile home is a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) is a non-certified mobile home that is in a good

state of repair and is in compliance with all applicable codes, ordinances, laws or regulations, including the requirements of Article 8 of this Ordinance, and that the mobile home is properly placed on a mobile home stand and properly connected to water, sewer, and electrical utilities. The Park Owner shall be responsible for the proper installation of all utility connections, which shall be accomplished by duly qualified and licensed persons.

7.4. The placement of a mobile home that is not (1) a certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws or regulations or (2) a non-certified mobile home that is in a good state of repair and is in compliance with all applicable codes, ordinances, laws, or regulations, including the requirements of Article 8 of this Ordinance in or near the mobile home park is strictly prohibited. The area of the mobile home park and any of Park Owner's land in the vicinity shall not be used as a staging area for the rehabilitation of non-certified mobile homes. The foregoing shall not preclude the rehabilitation of mobile homes that existed in a park as of the date of adoption of this Ordinance.

**ARTICLE 8
SAFETY STANDARDS.**

8.1. The purpose of this Article is to establish minimum standards to attain a condition of safety that will allow a non-certified mobile home to perform in a manner that will greatly reduce hazards that present an imminent and unreasonable risk of death or serious personal injury.

8.2. These standards shall apply to all non-certified mobile homes located in mobile home parks. These standards shall also apply to any non-certified mobile homes being brought into parks.

Amended: 01-05-2009

8.3. Standards.

8.3.1. Light and Ventilation

1. Each habitable room shall be provided with exterior windows and/or doors having a total glazed area of not less than 8 percent of the gross floor area.
2. Each bathroom and toilet compartment shall be provided with artificial light and, in addition, be provided with external windows or doors having not less than 1½ square feet of fully operable glazed area, except where a mechanical ventilation system is provided capable of producing a change of air every 12 minutes. Any mechanical ventilation system shall exhaust directly to the outside of the home.

8.3.2. Ceiling Height. Every habitable room shall have a minimum ceiling height of 6 feet and 6 inches.

8.3.3. Exit Facilities – Exterior Doors

1. Homes shall have a minimum of two exterior doors located remote from each other.
2. Required egress doors shall not be located where a lockable interior door must be used in order to exit.
3. Doors may not be less than 12 feet from each other as measured in any straight line direction regardless of the length of the travel between doors.

4. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.
5. All exterior swinging doors in mobile homes shall provide a minimum door leaf dimension of 28 inches wide by 74 inches high. Notwithstanding this regulation replacement swinging doors that were installed prior to adoption of this ordinance measuring at least 28 inches in width by 72 inches in height shall not require replacement. All exterior sliding glass doors shall provide a clear opening of at least 28 inches wide by 72 inches high. Locks shall not require the use of a key for operation from the inside.

8.3.4. Exit Facilities – Egress Windows and Devices. Every room designed expressly for sleeping purposes, unless it has an exterior exit door, shall have at least one outside window operable from the inside without the use of tools and providing a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of the opening shall not be more than 44 inches off the floor.

1. *Exception.* In lieu of this regulation, an approved automatic sprinkler system may be installed in accordance with NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes.*

8.3.5. Interior – Doors. Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

8.3.6. Room Requirements

1. Every home shall have sufficient space and functional arrangements to accommodate the normal activities of living in a manufactured home.
2. Every home shall have at least one common area with no less than 150 square feet of gross floor area.
3. All bedrooms shall have at least 50 square feet of floor area.
4. Bedrooms designed for two or more people shall have 70 square feet of floor area plus 50 square feet for each person in excess of two.
5. Deleted. *Amended: 01-05-2009*
6. Bedrooms shall have an operable door with a latch to separate the room from the common area.
7. Each toilet compartment shall have a minimum of 21 inches of clear space in front of each toilet.
8. Hallways shall have a minimum horizontal dimension of 28 inches measured from interior finished surface to the opposite finished surface. Minor protrusions by doorknobs, trim, smoke detectors or light fixtures are permitted.

8.3.7. Fire Detection Equipment All homes, regardless of the date of manufacture, shall meet the following requirements. At least one smoke detector (which may be a single station alarm device) shall be installed in the home in the following locations:

1. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.
2. When located in hallways, the detector shall be between the return air intake and the living area.
3. The smoke detector shall not be placed in a location which impairs its effectiveness.
4. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.
5. Each smoke detector shall be installed in accordance with its listing on a wall or ceiling. If installed on a wall, the top of the detector shall be located 4 inches to 12 inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 4 inches to 12 inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connector by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the overcurrent protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on any circuit protected by a ground fault circuit interrupter.

8.3.8. *Cooking Unit Separation.* No burner of a surface cooking unit shall be closer than 12 horizontal inches to a window or an exterior door.

8.3.9. *Kitchen Cabinet Protectors* All homes, regardless of the date of manufacture, shall meet the following requirements.

1. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of 6 inches from the outside edge of the cooking range shall be protected with at least 5/16 inch thick gypsum board or equivalent limited combustible material. One inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood with not less than a 3 inch eyebrow projecting horizontally from the front cabinet face. The 5/16 inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8 inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.
2. The metal hood will not be required if there is an oven installed between the cabinet and the range.
3. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

8.3.10. *Carpeting.* Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be used in other areas where a furnace or water heater is installed, provided that it is not located under the furnace or water heater.

8.3.11. Roof Loads. Prior to construction of an addition or alteration of the roof of a mobile home design plans bearing the seal of a State of Maine registered professional engineer shall be submitted. Said plans shall demonstrate that the roof design can withstand any snow loads or wind uplifts that may occur. Building Inspector shall inspect the roof framing and supporting members prior to sheathing.

8.3.12. Floors. All floors shall be of a solid construction to protect users of the mobile home from the hazard of an unsafe floor.

8.3.13. Exterior Coverings. Exterior coverings shall be of moisture and weather resistant materials to resist wind, snow, sleet, or rain.

8.3.14. Deleted Amended: 01-05-2009

8.3.15. Plumbing Systems. A person holding a master license issued by the State of Maine Plumbers Examining Board shall inspect and certify that the plumbing system is in conformance with the requirements of the Maine State Plumbing Code, is safe and verify that the following conditions are met.

1. The plumbing is of a durable material, free from defective workmanship that would cause a safety hazard.
2. Water closets are adjusted to use a minimum quantity of water consistent with proper performance and cleaning.
3. All plumbing, fixtures, drains, appurtenances, and appliances designed or used to receive or discharge liquid waste or sewage are connected to the drain system in a manner that is consistent with the State Plumbing Code.
4. All piping and fixtures subject to freezing temperatures shall be insulated or protected to prevent freezing under normal occupancy. To prevent freezing, a modern technological designed heat cable should be used.
5. All dishwashing machines shall not be directly connected to any waste piping, but shall discharge its waste through a fixed air gap installed above the machine.
6. Clothes washing machines shall drain either into a properly vented trap, into a laundry tub tailpiece with watertight connections, into an open standpipe receptor, or over the rim of a laundry tub.
7. Toilets shall be designed and manufactured according to approved or listed standards and shall be equipped with a water flushing device capable of adequately flushing and cleaning the bowl.
8. Each shower stall shall be provided with an approved watertight receptor with sides and back at least 1 inch above the finished dam or threshold.
9. Water supply plumbing systems shall be sized to provide an adequate amount of water to each plumbing fixture at a flow rate sufficient to keep the fixture in a clean and sanitary condition without any danger of backflow or siphonage.

10. Each home shall be equipped with a kitchen sink and bathtub and/or shower and be provided with a hot water supply system including a listed water heater.
11. No part of a water system shall be connected to any drainage or vent piping.
12. All new plumbing after the effective date of these standards shall be lead free with solders and flux containing not more than 0.2 percent lead and pipes and pipe fittings containing not more than 8.0 percent lead.

8.3.16. Heating and Fuel Burning Systems

1. A person holding a master license issued by the State of Maine Oil and Solid Fuel Technicians, Board of Licensure and/or a person holding a master license issued by the State of Maine Propane and Natural Gas Technicians, Board of Licensure shall inspect and certify that the heating and fuel system is in a safe condition and meets all State of Maine laws and rules as adopted by said boards. *Amended: January 5, 2009*
2. Heat-producing appliances and vents, roof jacks and chimneys necessary for installation in mobile homes shall be listed or certified by a nationally recognized testing agency for use in mobile homes.

8.3.17. Electrical System. A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify that the electrical system that is accessible, including the wiring of the smoke detector, is safe and meets the National Electrical Code in effect at the time the mobile home was constructed.

1. Homes wired with aluminum conductors shall meet the current Underwriter Laboratory (UL) requirements for connecting to branch circuits of 30 amps or less. (Note: The intent of this is not to require the mobile home to be rewired, but only to require that U. L. Listed conductors be affixed to receptacle switches and light fixtures. There are several methods of doing this. The most preferred is the "pig tail" method.)

8.3.18. Minimum Separation Requirements. No mobile home shall be located closer than ~~twenty (20)~~ten feet from another mobile home or ten ~~(10)~~ feet from a utility structure. Notwithstanding this regulation mobile homes placed end to end shall ensure a minimum separation of ~~ten (10)~~eight feet. Any mobile home that was not in compliance with the prescribed separation requirements as of the date of adoption of this Ordinance may remain at that location, but any replacement for such a mobile home shall meet the separation requirements to the greatest practical extent as determined by the Code Enforcement Officer, and in no event shall the replacement mobile home be located so as to make the separation distances more nonconforming. Provided, however, that the replacement of a non-certified mobile home with a certified mobile home shall be permitted if the following conditions are met: (1) the separation requirements are met to the greatest practical extent as determined by the Code Enforcement Officer, (2) the replacement mobile home is no wider than ~~fourteen (14)~~ feet, (3) Deleted, (4) the replacement mobile home shall be located no less than ~~fifteen (15)~~ten feet (side to side) and ~~ten (10)~~eight feet (end to end) from another mobile home or ten ~~(10)~~ feet from a utility structure, and (5) the area necessary to comply with this reduced separation provision is not created by moving or replacing an existing mobile home so as to make it more nonconforming with the requirements of Section 4.13.3.3.1. of the Zoning Ordinance, the foregoing reduced separation provision shall prevail. For purposes of this section, any addition to a mobile home, including carports, decks, porches, living spaces, sunrooms, etc. (but excluding steps) shall be considered to be

part of the mobile home, and shall be subject to the minimum separation requirements. *Amended: 01-05-2009*

ARTICLE 9
VIOLATIONS AND ENFORCEMENT.

9.1. Any condition existing in violation of this Ordinance is deemed to be a nuisance.

9.2. The Code Enforcement Officer shall provide written notice of any violation to the Park Owner and/or operator of the mobile home park. In addition, if the violation involves a violation by the home owner or occupant of a mobile home, written notice shall also be given to the home owner or occupant. The notice shall be mailed to the last known address according to records maintained by the Town. The notice shall describe the violations, and shall state the corrective action necessary. The giving of notice hereunder shall not be a prerequisite to the commencement of an enforcement action.

9.3. The Code Enforcement Officer, with the advice and consent of the Town Manager, is authorized to institute, or cause to be instituted by the Town Attorney, in the name of the Town of Hampden, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this Ordinance.

9.4. Any person, firm or corporation, being the owner or operator of, or having control or use of any mobile home, mobile home lot or mobile home park, who violates any provision of this Ordinance shall be subject to the penalties set forth in 30-A M.R.S.A. § 4452. Each violation, and each day of each violation, shall constitute a separate offense.

ARTICLE 10
APPEALS.
Amended 06-19-2006

10.1. Appeals. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. Any appeal from the Code Enforcement Officer's approval, approval with conditions, or denial of a license application, or the revocation of a license, shall be made to the Board of Appeals within 30 days of the rendering of such a decision. *Amended 06-19-2006*

10.2 Appellate Review The review by the Board of Appeals shall be limited to an appellate review of the Code Enforcement Officer's decision, and said decision may be overturned only if the officer committed an error of law, abused his/her discretion, or made findings that are not supported by substantial evidence on the record. No appeal may be taken from a violation determination or enforcement action taken by the Code Enforcement Officer, except to the extent that said determination or action forms the basis of a revocation of a license by the Code Enforcement Officer. *Amended 06-19-2006*

10.3 Basis of the Appeal. The appellant must demonstrate that the decision of the Code Enforcement Officer: (1) committed an error of law, (2) abused his/her discretion, or (3) made findings that are not supported by substantial evidence on the record. *Amended 06-19-2006*

10.4 Modification or Reversal of the Decision. The Board of Appeals may modify or reverse the decision of the Code Enforcement Officer if they determine that he: (1) committed an error of law, (2) abused his/her discretion, or (3) made findings that are not supported by substantial evidence on the record. *Amended 06-19-2006*

Suggested replacement for §8.3.18 of the Mobile Home Park Ordinance

8.3.18 Separation Requirements

1. The distance between mobile homes must be a minimum of ten feet from side to side and eight feet from end to end (excluding the hitch) or end to side. The distance between any mobile home and any utility structure must be a minimum of ten feet. Any addition to a mobile home, including carports, decks, porches, living spaces, sunrooms, etc. (but excluding steps) is considered to be part of the mobile home, and is subject to these minimum separation requirements.
2. Any mobile home that was not in compliance with the prescribed separation requirements as of the date of adoption of this Ordinance may remain at that location.
3. A mobile home may be replaced with a certified or non-certified mobile home if the following conditions are met:
 - (a) the separation requirements are met,
 - (b) the replacement mobile home is no wider than fourteen (14) feet, and
 - (c) the dimensional requirements of Section 4.13.3.3.1. of the Zoning Ordinance are not made more nonconforming by the placement of a larger mobile home on the lot.



Town of Hampden
Land & Building Services

Memorandum

To: Planning & Development Committee
 From: Karen M. Cullen, AICP, Town Planner *KMC*
 Date: July 26, 2018
 RE: Quarterly Report on Adult Use Marijuana and Medical Marijuana

This is the fourth quarterly report on the issues surrounding the adult use (aka retail) marijuana industry in Hampden. Medical marijuana issues are also discussed in this report.

Adult Use Marijuana:

On the local level, the recently adopted zoning amendments (effective July 18) include in the use table prohibition of adult use social clubs and adult use stores in all zoning districts. It also prohibits adult use marijuana cultivation, product manufacture, and testing, until the zoning ordinance is amended after the state adopts its rules regarding adult use marijuana.

On the state level, on May 2, 2018 the legislature overrode the Governor's veto of LD 1719, thereby enacting a number of amendments to existing state laws and replacing the citizen referendum enacted marijuana laws (the Maine Marijuana Legalization Act). The new Act became effective immediately (May 2, 2018). Please refer to my memo of April 11, 2018 for a summary of LD 1719 (attached).

In that memo I stated that the town may adopt an ordinance regulating home cultivation but may not completely ban the practice. That regulation may limit the total number of mature marijuana plants that may be cultivated on any one parcel provided it allows 3 mature plants, 12 immature plants, and an unlimited number of seedlings by each person age 21 or older who is domiciled on the parcel. The regulation cannot restrict areas within the town where marijuana can be grown (home cultivation) or charge a license or other fee for home cultivation. The law also allows personal adult use cultivation on land owned by, but not the domicile of, the grower (e.g. a vacant parcel), as well as on land owned by someone else as long as there is a written agreement between the owner and the grower. Without local regulation limiting the number of plants that can be grown on a parcel, there is the potential that one parcel could be used by any number of people to grow their own personal use marijuana – essentially a co-op arrangement. My recommendation is that the town consider adopting local regulations to address this, as I don't believe a marijuana cultivation co-op potentially serving dozens of individuals would be consistent with the protection of health, welfare, and safety.

Medical Marijuana:

On July 9, 2018, the Legislature overrode the Governor’s veto of two bills: LD 238 and LD 1539, both acts to amend Maine’s Medical Marijuana Law.

LD 238 was enacted as an emergency, and thus is now in effect. The most important aspect of this bill in relation to Hampden is that it now allows a municipality to regulate registered primary caregivers, registered dispensaries, testing facilities, and manufacturing facilities, but may not prohibit or limit the number of registered primary caregivers.

LD 1539 will take effect 90 days after the session is adjourned (we don’t know when that will be). This bill rewrites much of the Medical Marijuana Act. Of particular interest to Hampden:

- Changes the name *primary caregiver* to *registered caregiver* and in effect establishes a new category of caregiver (“unregistered caregiver”) which is a person growing marijuana (for medical purposes) for no more than two people who must be members of the same household or family.
- Changes the maximum number of mature plants from 6 per patient to 30 per (registered) caregiver, plus 60 immature plants plus an unlimited number of seedlings.
- Allows registered caregivers to operate a retail store.
- Allows registered caregivers to hire an unlimited number of assistants.
- Allows municipalities to regulate registered caregivers (in addition to dispensaries, testing, and manufacturing facilities), but municipalities cannot prohibit registered caregivers nor limit the number of them in town.
- Medical marijuana retail stores operated by registered caregivers are only allowed if the municipality “opts in” (i.e. specifically allows the use in the zoning ordinance) – but this doesn’t become effective until later this fall (90 days after the legislature adjourns).
- Allows a code enforcement officer to request from the state Department of Administrative and Financial Services verification of the validity of a registry identification card – what this means is that the town has a mechanism to determine if a grow operation is legal under the medical marijuana laws, without breaking the confidentiality provisions.
- Allows the state to issue up to six additional dispensary registration certificates.
- Prohibits collectives, but an unlimited number of caregivers (regardless of whether they are registered or not) are allowed to share a facility provided they each operate separately and occupy separate spaces. Under the law, a collective is a group of caregivers sharing space and assisting each other in their operations.

Recommendations:

1. Adopt an emergency ordinance to regulate home cultivation of personal adult use marijuana by limiting the number of plants grown on a parcel to avoid a co-op type of situation which could have adverse impacts on public health, safety, or welfare. I recommend the Committee take action on this emergency ordinance and refer it to Town Council for adoption as soon as possible.

2. Adopt a moratorium as an emergency ordinance to prohibit the establishment or operation of a registered caregiver retail store. A draft moratorium is attached; it is based on one prepared by the Maine Municipal Association which I received after their recent Legislative Update seminar on marijuana. I recommend the Committee take action on this moratorium and refer it to Town Council for adoption as soon as possible.

3. Adopt a new town ordinance to deal with all aspects of marijuana: regulation and licensing (should the town decide to enact local licensing), for both adult use and medical marijuana. Move the current section 4.24 of the zoning ordinance, dealing with performance standards for medical marijuana registered dispensaries, medical marijuana cultivation facilities, and methadone clinics, to this new ordinance, and amend it to be consistent with the changes in the state medical marijuana law. Note, additional research will need to be completed to determine if we can regulate certain activities by zoning district in the use table in the zoning ordinance and have all other regulations and requirements in a separate ordinance; if not then we will likely end up with some regulations in the zoning ordinance and the rest in a separate ordinance. While preliminary work can begin on this now, it cannot be completed until after the new medical marijuana (state) law becomes effective, the rules associated with that are amended, and the rules associated with the adult use marijuana laws are adopted by the state.



Town of Hampden
Land & Building Services

Memorandum

To: Planning & Development Committee
 From: Karen M. Cullen, AICP, Town Planner *KME*
 Date: April 11, 2018
 RE: Adult Use Marijuana Legislative Update

This memo provides the status of the legislature's recent activity on adult use marijuana laws.

On April 9, 2018, the Committee on Marijuana Legalization Implementation referred LD 1719 out with a recommendation ought to pass. The majority of the bill ("Part A") deals with the Marijuana Legalization Act and includes many substantial changes from the original. Included with this memo are three documents: the summary portion of the bill, and a presentation and email received from Representative Haggan.

The full bill can be read online at the Maine Legislature's website, look at the "adopted amendments" documents:

http://www.mainelegislature.org/legis/bills/display_ps.asp?id=1719&PID=1456&snum=128

The most important aspects to Hampden are:

- Does not allow social clubs.
- Clarifies licensing and approval process: applicant seeks state approval first, receives conditional approval, then seeks municipal approval, and if granted, receives license from the state, good for one year from the date of issuance (with annual renewal).
- Town may, by adopted ordinance(s), regulate marijuana establishments via land use regulations (i.e. zoning ordinance) including no closer than 1,000 feet from a school, local licensing which may include town approval or license fees, and the town may limit the number of any type of marijuana establishment that may be approved or licensed to operate within the town. The town may also adopt stricter regulations than the state, but not more lenient than the state.
- The town may adopt an ordinance regulating home cultivation but may not completely ban the practice.

- Changes the provisions for cultivation facilities. Proposed law has four tiers, from tier 1 which is up to 30 mature plants to tier 4 which is up to 20,000 square feet of plant canopy.
- Added nursery cultivation, for immature plants, clones, and seeds, and includes the sale of those to other licensees and to consumers.
- Provides for a 10% sales tax on marijuana and marijuana products to be imposed at the point of sale to a consumer.
- Excise tax (effective rate of 10%): \$335/pound of flowers, \$94/pound of marijuana trim, \$1.50/immature plant or seedling, and \$0.30/seed.
- No portion of these taxes go to towns (as proposed in previous bill), however towns may assess fees to cover administrative and enforcement costs.
- Clarifies language regarding transfer of marijuana or marijuana products without remuneration to another person – remuneration includes a donation or any other monetary payment received directly or indirectly (i.e. you can't charge someone a lot of money for a glass of water and throw in some marijuana for "free").
- Clarifies provisions regarding home cultivation for personal use: no more than 3 mature plants per person, allows 6 months for people to go from the currently allowed 6 plants to the new limit of 3 plants.

This bill passed the House on April 10 with a 112/34 vote and the Senate on April 11 with a 24/10 vote. It is unknown whether the Governor will veto it, and if he does, whether the Legislature will override his veto. If it does become law, there does not appear to be any deadline for when the state departments involved must complete their rules, so it is impossible to predict when the town can begin drafting local regulations for licensing or regulating adult use marijuana.

The current proposed zoning ordinance amendments under consideration by the Planning Board include a prohibition of the five types of adult use marijuana (store, social club, cultivation, product manufacture, and testing). If approved in this form by the Town Council at its public hearing anticipated for June 4, these amendments will become effective in July 2018. Until that time, the moratorium currently in place should continue to be renewed every 60 days so it is clear that no adult use marijuana establishments are permitted in Hampden. Although social clubs have been removed from the state law, my recommendation is to leave them in our zoning ordinance as prohibited until it is clear they will not be allowed anywhere in the state. Once the state rules are out, then the zoning ordinance can be amended to regulate these establishments as appropriate.

TOWN OF HAMPDEN

The Town of Hampden Hereby Ordains that the following Ordinance be adopted:
Marijuana Ordinance

Deletions are ~~Strikethrough~~ Additions are Underlined

WHEREAS the Marijuana Legalization Act, MRSA Title 28-B is now in effect for adult use marijuana; and
WHEREAS MRSA Title 28-B §1502 allows home cultivation of marijuana for personal adult use to occur as follows: each person age 21 or older may cultivate up to three mature marijuana plants, twelve immature marijuana plants, and an unlimited number of marijuana plant seedlings, and may cultivate said plants on one of the following:

1. a property on which the person is domiciled;
2. a property which the person owns on which he/she is not domiciled; or
3. a property owned by another person provided there is a written agreement between the landowner and the person cultivating and caring for the plants; and

WHEREAS the Town of Hampden has many areas throughout town that are primarily residential where unlimited numbers of people growing marijuana for their own personal use on a single property would be incompatible with the surrounding; and

WHEREAS the Town of Hampden has concerns that the public health, safety, and welfare of the citizens and others would be compromised if such unlimited activity is allowed on a single property.

NOW, THEREFORE, pursuant to (state law citation) be it ordained by the Town of Hampden as follows:

Town of Hampden Maine
Emergency Ordinance Limiting the Number of Marijuana Plants
Grown on a Single Property for Personal Adult Use

ADOPTED: _____, 2018

Certified By: Paula Scott, Town Clerk

Article 1 – Purpose and Authority

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The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Hampden through regulation of the number of marijuana plants that can be grown for personal adult use (non-medical) on a single property, as permitted under Title 28-B MRSA §1502. The Town of Hampden enacts this Ordinance pursuant to 30-A MRSA §3001, municipal home rule ordinance authority.

Article 2 – Home Cultivation for Personal Adult Use Marijuana. A maximum of _____ mature marijuana plants plus _____ immature marijuana plants may be grown on a single property (as defined in this ordinance), with the exception that a maximum of three mature marijuana plants plus 12 immature marijuana plants plus an unlimited number of marijuana seedlings may be grown by each person age 21 or older who is domiciled on the property.

Article 3 – Enforcement

- 3.1 It is the duty of the Code Enforcement Officer to enforce the provisions of this ordinance pursuant to 30-A MRSA §4452.
- 3.2 It is unlawful for any person to violate any provision of this ordinance.
- 3.3 The penalties contained in 30-A MRSA §4452 will apply to any violation of this ordinance.

Article 4 – Severability.

If any section or provision of this ordinance is declared by the courts to be invalid, such decision will not invalidate any other section or provision of this ordinance.

Article 5 – Definitions

- 5.1 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.
- 5.2 As used in this ordinance, unless the context indicates otherwise, the following terms have the following meanings. Terms not specifically listed here which are listed in MRSA Title 28-B have the meanings provided in those laws. Terms not defined shall have the customary dictionary meaning in the Merriam-Webster print or online dictionary.

Domicile: A person's fixed, permanent, and principal home.

Property: A parcel or tract of land including all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

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**TOWN OF HAMPDEN
EMERGENCY MORATORIUM ORDINANCE REGARDING
MEDICAL MARIJUANA RETAIL STORES**

WHEREAS, the legislative body of the Municipality of Hampden (the “Municipality”) makes the following findings:

- (1) The Maine Medical Use of Marijuana Act (the “Act”), codified in the Maine Revised Statutes in Title 22, Chapter 558-C, authorized registered primary caregivers to possess, cultivate, and transfer medical marijuana to qualifying patients, as those terms are defined by 22 M.R.S. § 2422; and
- (2) On July 9, 2018, the Maine Legislature enacted PL 2017, c. 452 (LD 1539), *An Act to Amend Maine’s Medical Marijuana Law*, which revised the term “registered primary caregiver” to “registered caregiver” and which includes express authorization for registered caregivers to operate retail stores for the sale of harvested medical marijuana to qualifying patients; and
- (3) On July 9, 2018 the Maine Legislature enacted as emergency legislation PL 2017, c. 447 (LD 239), *An Act to Amend the Maine Medical Marijuana Law*, which expressly recognizes municipal home rule authority to regulate registered caregiver operations; and
- (4) The unregulated location and operation of medical marijuana retail stores within the Municipality raises legitimate and substantial questions about the impact of such activity on the Municipality, including questions as to compatibility with existing land uses and developments in the Municipality; the sufficiency of municipal infrastructure to accommodate such activity; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and
- (5) As a result of the foregoing issues, the location and operation of medical marijuana retail stores within the Municipality have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (6) The Municipality currently has no regulations governing medical marijuana retail stores, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of medical marijuana retail stores; and
- (7) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of the unregulated location and operation of medical marijuana retail stores in the Municipality; and
- (8) In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

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NOW THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the Municipality as follows:

Section 1. Moratorium. The Municipality does hereby declare a moratorium on the location, operation, permitting, approval, or licensing of any and all medical marijuana retail stores within the municipality. No person or organization shall develop or operate a medical marijuana retail store within the Municipality on or after the effective date of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality will accept, process, approve, deny, or in any other way act upon any application for a license, building permit, conditional use, site plan, or any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana retail store.

Section 2. Definitions. For purposes of this ordinance, the term “medical marijuana retail store” means an establishment having the attributes of a typical retail sales establishment, such as, but not limited to, signage, regular business hours, accessibility to the public, and sales directly to the consumer of the product, that is used by a registered caregiver to offer harvested medical marijuana for sale to qualifying patients, regardless of its location within the Municipality.

Section 3. Pending Proceedings. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, this Ordinance governs any proposed medical marijuana retail store for which an application for a building permit, certificate of occupancy, conditional use, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Section 4. Conflicts/Savings Clause. Any provisions of the Municipality’s ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations. If any medical marijuana retail store is established in violation of this Ordinance, each day of any continuing violation constitutes a separate violation of this Ordinance and the Municipality is entitled to all rights and remedies available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

Section 6. Effective Date. This Ordinance becomes effective immediately upon its adoption and will remain in full force and effect for a period of 60 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever first occurs.

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