



HAMPDEN TOWN COUNCIL  
SPECIAL MEETING  
HAMPDEN MUNICIPAL BUILDING  
AGENDA

TUESDAY

SEPTEMBER 9, 2019

6:00 P.M.

A. PLEDGE OF ALLEGIANCE

B. NEW BUSINESS

a. Referral of the Town of Hampden Emergency Ordinance Regarding Medical Marijuana Registered Caregiver Operations to public hearing on September 16<sup>th</sup>, 2019 – *requested by Planning & Development Committee*

C. ADJOURNMENT

**NOTE: The Council will take a 5-minute recess at 8:00 pm.**

## Town of Hampden

### EMERGENCY ORDINANCE REGARDING MEDICAL MARIJUANA REGISTERED CAREGIVER OPERATIONS

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

- (1) The Maine Medical Use of Marijuana Act (the “Act”) was passed by the Maine Legislature in 2009 and has been codified in the Maine Revised Statutes in Title 22, chapter 558-C and amended in 2018; and
- (2) The Act permits medical marijuana registered caregivers with no limitation on the number of registered caregivers that can operate on a single parcel pursuant to 22 MRSA Section 2430-D subsection 3, which raises legitimate and substantial questions about the impact of properties where multiple registered caregivers operate in the Municipality, including questions as to compatibility with existing land uses and developments; potential adverse health and safety effects on the community; and potential impacts on the value of abutting properties; and
- (3) The Act permits a municipality to regulate registered caregivers provided they are not prohibited and there is no limitation on the number operating in the municipality (22MRSA Section 2429-D); and
- (4) As a result of the foregoing issues, the operation of multiple medical marijuana registered caregivers on a single parcel within the Municipality has potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (5) The Municipality currently has no regulations governing medical marijuana registered caregivers, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of properties with multiple registered caregivers; and
- (6) The Municipality intends to draft and adopt a new section of the Town of Hampden Maine Marijuana Ordinance to regulate medical marijuana registered caregivers within the Municipality, which process will take time to ensure appropriate regulation of this use; and
- (7) In the judgment of the Hampden Town Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 and Section 214 of the Hampden Town Charter requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A MRSA § 4356, be it ordained by the Municipality as follows:

**Section 1. Limitation.** The Municipality does hereby declare that to protect the public health, safety, and welfare, a limit on the number of medical marijuana registered caregivers allowed to operate on a single property as that term is defined in the Town of Hampden Maine Marijuana Ordinance is limited as follows: Within the Residential A, Residential B, and Town Center zoning districts, a maximum of one, and within any other zoning district, a maximum of three.

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No person or organization shall exceed these limits on or after the effective date of this Ordinance. During the time this Emergency Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall approve any application for an operation exceeding these limits.

**Section 2. Pending Proceedings.** Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Emergency Ordinance shall govern any proposal for multiple medical marijuana registered caregivers that exceeds the limits set forth in Section 1 for which an application for a building permit, certificate of occupancy, 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 Emergency Ordinance.

**Section 3. Medical Marijuana Act.** This Ordinance will not limit any other privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. Chapter 558-C).

**Section 4. Personal Use of Marijuana.** This Ordinance will not limit the privileges or rights afforded by the Maine Adult Use Marijuana Law (MRSA Title 28-B).

**Section 5. Conflicts/Savings Clause.** Any provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Emergency Ordinance are hereby repealed to the extent applicable for the duration of this Emergency Ordinance. If any section or provision of this Emergency Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

**Section 6. Violations.** If any property is found to be in violation of this Emergency Ordinance, each day of any continuing violation shall constitute a separate violation of this Emergency Ordinance and the Municipality shall be entitled to all rights available to it pursuant to 30-A M.R.S.A. § 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 7. Effective Date.** This Emergency Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 60 days thereafter, unless extended pursuant to law by the Municipality.

Adopted: \_\_\_\_\_

Effective: \_\_\_\_\_

Certified by: \_\_\_\_\_  
Paula Scott, Town Clerk

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