TOWN OF HAMPDEN

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

Deletions are ~~Strikethrough~~ Additions are Underlined

1

§3.2.1 – Multi-family development:

Change 3.2.1.3 to read:

3.2.1.3 Multi-family developments must provide a minimum of 40% of the tract ~~parcel~~ as permanent open space except in cluster developments where the provisions of §4.6.2 apply. A minimum of half of the required 40% must be set aside as recreational space for the enjoyment of the residents of the development.

And add a new item 6 to address the issue of fire suppression infrastructure for all mf developments:

3.2.1.6 All multi-family development, regardless of its location within the town, must have sufficient fire suppression infrastructure, including a water supply deemed adequate by the Hampden Public Safety Department. The installation and maintenance of all such infrastructure installed on the site of the development is the sole responsibility of the developer unless a Town-Developer Agreement is executed and recorded at the Penobscot County Registry of Deeds which provides alternative arrangements.

2

§3.4.2.2 – There is a conflict in the required minimum lot size increase in the Business and Town Center districts; item 1 sets the density for multi-family projects in these districts at 8 du/a. Delete item 2 and renumber item 3:

~~2. The minimum lot size is increased over the base requirement by 7,500 square feet per unit for projects in the Business district, and by 5,000 square feet per unit in the Town Center district.~~

3

§4.3 – Rural Alternate Frontage Lots: change to delete reference to the Rural district and amend as follows:

4.3 ~~Rural~~ Alternate Frontage Lots

4.3.1 Purpose - It is the purpose of this section of the Ordinance to establish a procedure which would allow for residential development on certain lots which, because of inadequate road frontage, would not otherwise be usable for residential purposes. The lots must meet certain requirements as established in this section of the Ordinance and the development

of the lots must be consistent with wise land use planning. This section applies to both existing lots and newly created lots.

4.3.2 Application Procedure [remains as-is]

4.3.3. Approval Standards - A building permit may only be issued if the following conditions are met:

~~4.3.3.1 The lot and access way must be located in the Rural District.~~

4.3.3.1 ~~2~~ The lot is of such dimensions that an imaginary square with minimum side dimensions of 200 feet can be accommodated within its borders. Any building that is located on the lot shall be located within the perimeter of such a square.

4.3.3.2 ~~3~~ No building shall be placed closer to any lot line or right of way boundary than 30 feet. No primary building shall be less than 100 feet from existing dwellings.

4.3.3.3 ~~4~~ The development of the lot shall cause no unsafe or unhealthful condition. Of particular concern in this regard should be traffic safety.

4.3.3.4 ~~5~~ The lot shall conform to all dimensional requirements of this Ordinance except road frontage.

4.3.3.5 ~~6~~ Only single family residential uses shall be allowed on these lots.

4.3.3.6 ~~7~~ The development of the lot shall not preclude the orderly development of the neighborhood and the community.

4.3.3.7 ~~8~~ The lot must have at least 66 feet of road frontage.

4.3.3.8 ~~9~~ Building permits can be issued for existing lots fronting on the cul-de-sac portion of a subdivision provided the standards in this §4.3.3 are met. Lots within ~~P~~proposed subdivisions in the Rural district must meet the frontage requirements of §3.4.1 or §3.4.2.3.

4.3.3.9 ~~10~~ No more than one dwelling unit may be placed on the lot.

4

§ 4.7.2 – buffering of multi-family development: In order to protect the character of the Rural district, provide better buffering for multi-family development in that district. Amend the class 3 buffer provisions by adding a new item 3 under §4.7.2.7, Location of Class III Buffers:

3. Any multi-family development in the Rural district must provide a buffer along each property line of the tract.

5

§4.7.5.7 – signs in the commercial districts; add a new item 8 to read:

8. In all commercial districts, where a residence is also used for business purposes, one sign, which may be freestanding, wall, or projecting, is permitted, not to exceed 16 square feet in area and 15 feet in height above grade for freestanding signs or projecting signs.

6

§4.9 Filling and Grading of Land and Stockpiling of Materials. To deal with unintended consequences related to large scale earth moving allowed under a building permit:

4.9.1 Purpose [no changes]

4.9.2 ~~Earth Moving Permit Required~~ Applicability – All earth moving activities, processing, and storage within the Town of Hampden ~~shall~~ requires an earth moving permit in accordance with this section.

~~EXCEPTIONS~~ EXEMPTIONS: The following earth moving activities do not require an earth moving permit:

1. Earth moving activity conducted during construction of Planning Board approved subdivisions or site plans, provided all earth moving activity was included in the Planning Board application and approval and that the standards of §4.9.6 are met.
2. Earth moving activity conducted during the construction of structures authorized by a building permit or a subsurface wastewater disposal permit. This activity must be directly related to the construction of said structure or subsurface wastewater disposal permit. The building or subsurface wastewater disposal permit application must include existing and proposed topographic information for the area to be disturbed. If the Code Enforcement Officer determines the area of earth moving activity proposed is excessive for the purpose of the construction/ installation, then this exemption will not apply and the applicant must submit an application for the earth moving activity under §4.9.5 of this ordinance. This exemption does not allow for the sale of material that is removed.

Reorganize the remainder of §4.9:

4.9.3 Erosion and Sedimentation Control –combine §§4.9.2.1 and 4.9.3.1 into a stand-alone section so the requirement applies to ALL earth moving activities including those that are exempted by 4.9.2. (And delete current 4.9.2.1 and 4.9.3.1)

4.9.3 Erosion and Sedimentation Control. All earth moving activities, including exempt activities, must utilize erosion and sedimentation control measures in accordance with the Maine Department of Environmental Protection's publication entitled "Erosion and Sediment Control Best Management Practices". The Code Enforcement Officer must be notified that erosion and sedimentation control devices are in place prior to commencing work authorized by any permit or approval issued by any entity of the Town of Hampden.

~~4.9.2.1 Erosion and Sedimentation Control. All earth moving activities, including filling and grading activities and stockpiling activities shall utilize erosion and sedimentation control measures in accordance with Maine Department of Environmental Protection's publication entitled "Erosion and Sediment Control Best Management Practices". (This document is available online at www.hampdenmaine.gov and a printed copy is available for purchase from the Code Enforcement Office).~~

~~4.9.3.1 Erosion and Sedimentation Control. All earth moving activities, including filling and grading activities and stockpiling activities shall utilize erosion and sedimentation control measures in accordance with Maine Department of Environmental Protection's publication entitled "Erosion and Sediment Control Best Management Practices". The Code Enforcement Officer shall be notified that erosion and sedimentation control devices are in place prior to commencing work authorized by any earth moving permit.~~

And renumber the subsequent sections (and subsections):

4.9.4 ~~3~~	Earth Moving Permit Issued by the Code Enforcement Officer
4.9.5 4	Earth Moving Activity Requiring a Permit from the Planning Board
4.9.6 ~~5~~	~~Conditions~~ Standards of an Earth-Moving Permit from the Planning Board – The Planning Board may approve an earth moving permit ~~providing~~ provided the following ~~conditions shall be~~ standards are met: [remainder not changed]
4.9.7 ~~6~~	Optional Conditions of an Earth-Moving Permit from the Planning Board
4.9.8 ~~7~~	Performance Guarantees
4.9.9 ~~8~~	Existing Operations
4.9.10 ~~9~~	Stockpiles
4.9.11 ~~10~~	Stockpiles in Excess of One Acre

7

§4.24 – Since we are moving the regulations pertaining to medical marijuana to the Marijuana Ordinance, amend the zoning ordinance to only deal with methadone clinics.

Amend entries in §3.1.3, Use Table as follows:

D-5 medical marijuana ~~registered dispensary~~ business (see ~~§2.24~~ Marijuana Ordinance)

~~D-6 Medical marijuana cultivation facility (see §2.24)~~

change D7 methadone clinic to D6

~~G-3 Adult use marijuana social club~~ *[delete entry since they are not permitted per state statute]*

Amend §2.24 as follows:

4.24 Performance Standards for ~~Medical Marijuana Registered Dispensaries, Medical Marijuana Cultivation Facilities and~~ Methadone Clinics

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 and/or~~ Methadone Clinic 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). The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity. A ~~letter of compliance~~ report from the Town of Hampden Code Enforcement Officer shall be submitted to the Planning Board as part of the site plan application regarding the adequacy of the building to meet this requirement. ~~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), and any Methadone Clinic shall adhere to the laws of the State of Maine and the State of Maine Regulations for Licensing and Certifying Substance Abuse Treatment Programs (14-118 CMR Chapter 5), as any 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.* No ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or~~ Methadone Clinic shall be located within 500 feet of the property line upon which the ~~Dispensary and/or Facility and or~~ Methadone Clinic is ~~or are~~ located and the nearest property line of a preexisting public or private school.

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 and/or one (1)~~ Methadone Clinic 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 and 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.~~ A Methadone Clinic shall only be open between the hours of 6:00 a.m. and 8:00 p.m.

4.24.5 *Signs and Advertising.* ~~Medical Marijuana Registered Dispensary and/or Medical Cultivation Facility and/or~~ A Methadone Clinic shall conform to the provisions of §4.7.5, Signs, of this Ordinance. In addition thereto, any freestanding or sign attached to building(s) in which the ~~Dispensary and/or Facility~~ clinic is located ~~in~~ shall clearly state that it is a ~~Medical Marijuana Dispensary and/or Medical Cultivation Facility and/or~~ Methadone Clinic. There shall be no signage in any window and/or door, except for the hours of operation and the presence of a security system. ~~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 and/or~~ methadone clinic patients.

4.24.6 *Security Requirements for Subject Use.* Security measures at a ~~Medical Marijuana Registered Dispensary and /or Medical Marijuana Cultivation Facility and/or~~ Methadone Clinic shall include at minimum 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 and/or~~ Clinic, 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, and a~~ secure storage ~~container~~ for methadone and cash stored overnight in a Clinic; and

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

4.24.6.4~~5~~ Deadbolt locks on all exterior doors and locks or bars on any other access point.

4.24.6.5~~6~~ All security recordings shall be preserved for thirty (30) days by the management of the licensed Dispensary and/or Facility and/or Clinic.

~~*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.~~

4.24.7~~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 and/or~~ Methadone Clinic shall be as follows:

4.24.7~~8~~.1 All activities of a ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or~~ Methadone Clinic, ~~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).~~

4.24.7.2 ~~8.3~~ Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a ~~Dispensary and/or Facility and/or~~ Clinic 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, subject to the approval of Hampden Public Safety, for proper disposal of marijuana related byproducts.~~

4.24.7.3 ~~8.5~~ Class II Buffers in accordance with §4.7.2 Buffers and Landscaping 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.~~

4.24.8 ~~*10*~~ *Compliance With State and Local Law.* A ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or~~ Methadone Clinic 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 or~~ methadone clinics, the stricter law or regulation shall control. Any Methadone Clinic shall adhere to the laws of the State of Maine and the State of Maine Regulations for Licensing and Certifying Substance Abuse Treatment Programs (14-118 CMR Chapter 5), as any 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.

8

§6.2.1 – Appeals to BOA:

6.2.1 *Administrative Appeals* - All administrative 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. The Board of Appeals shall hear and decide administrative appeals except for appeals of enforcement decisions made by the Code Enforcement Officer. The term "enforcement decisions" refers to violation determinations and enforcement actions taken by the Code Enforcement Officer. An administrative appeal is an appeal:

6.2.1.1 "Where it is alleged that there is an error in any order, requirement, decision, or determination by the code enforcement officer or the planning board in the

~~enforcement~~ administration of this Ordinance. For an alleged error to be reviewed, it must involve a standard which is easily measurable such as a dimensional or numerical standard. A decision of the planning board, based on a judgmental, non-numerical standard, is not a matter for review by the Board of Appeals. If the Board of Appeals finds that the code enforcement officer or the planning board acted wrongly in the administration ~~or enforcement~~ of this Ordinance relative to such dimensional or numerical standards, upon a vote in favor of the appellant of at least five (5) members of the Board of Appeals, the board may order the code enforcement officer or the planning board to modify or reverse their decision."

9

§7.2 - Definitions:

Adult use marijuana: ~~All parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin including cannabis concentrate. "Adult use marijuana" does not include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination or any ingredient combined with cannabis to prepare topical or oral administrations, food, drink or any other product.~~ Marijuana that is cultivated, manufactured, distributed, or sold by a marijuana establishment for adult use (i.e. non-medical use).

~~Adult use marijuana social club: An entity licensed to sell adult use marijuana and adult use marijuana products to consumers for consumption on the licensed premises.~~

Adult use marijuana store: An entity licensed by the State of Maine to purchase adult use marijuana, immature marijuana plants and seedlings from an adult use marijuana cultivation facility, ~~and~~ to purchase adult use marijuana and adult use marijuana products from an adult use marijuana products manufacturing facility and to sell adult use marijuana, ~~and~~ adult use marijuana products, immature marijuana plants and seedlings to consumers.

Dwelling unit: A room or group of rooms designed and equipped exclusively for use as living quarters for one family, including provisions for living, sleeping, cooking and eating. The term ~~shall~~ includes mobile homes but ~~shall~~ does not include travel trailers or recreational vehicles. The term also includes so-called "tiny homes" that are built to the standards in the residential building, energy, plumbing, electrical, and fire codes and which has a permanent foundation.

Hemp: The plant Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or as otherwise defined in federal law. "Hemp" includes agricultural commodities and products derived from hemp and topical or ingestible consumer products, including food, food additives and food products derived from

hemp, which in their final forms contain a delta-9-tetrahydrocannabinol concentration of not more than 0.3% or as otherwise defined in federal law. "Hemp" does not include marijuana for medical use pursuant to Title 22, chapter 558-C or adult use marijuana pursuant to Title 28-B, chapter 1.

Lot Split: The division of a parcel of land into two or more lots where the division does not meet the definition of "Subdivision" in the Subdivision Ordinance.

Marijuana: As defined in M.R.S.A Title 28-B §102(27).

Medical Marijuana business: A registered dispensary, a manufacturing facility, or a testing facility for medical marijuana.

Road or street: Shall mean a right-of-way in the Town of Hampden intended for motorized traffic which is one of the following ~~either~~:

a. Maintained by the Town of Hampden, the County of Penobscot, or the State of Maine.~~, or~~
b. Is ~~is~~ shown on and has been constructed in accordance with a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds and has not been vacated as a result of 23 M.R.S.A. §3032, 23 M.R.S.A. §3031, 23 M.R.S.A. §3027, or 23 M.R.S.A. §3027-A.~~, or~~
c. Is a private road, owned, established, and maintained by an individual, corporation, or any group such as but not limited to a property owner's association ~~and having been inspected and deemed consistent with the Subdivision Ordinance private road standards by the Public Works Director~~.
d. Is a private road right-of-way created in a lot split and shown on a plan which has been recorded at the Penobscot County Registry of Deeds, provided no more than two primary structures (e.g. houses) obtain their frontage from the private road right-of-way, and that legal access to the lot(s) exists elsewhere (e.g. in a deeded access easement across another lot).

Tract: An area of land consisting of one or more parcels which is the subject of a development proposal.

Travel trailer: A vehicle designed to be moved on wheels and intended as a temporary dwelling for travel, recreation, and vacation use. This term ~~shall~~ also includes campers, recreational vehicles, so-called "tiny homes" if mounted on a chassis, and other short term devices.

---

10 §3.1.3 – Use Table: amend item D-5 as follows, and delete item D-6:

D-5 medical marijuana ~~registered dispensary (see §4.24)~~ business (see Marijuana Ordinance)

~~D-6 medical marijuana cultivation facility (see §4.24)~~