

Town of Hampden

Public Hearing Notice

Notice is hereby given that the Hampden Town Council will conduct a public hearing at 6:00 pm on Tuesday, September 8, 2020, in the Municipal Building Council Chambers, located at 106 Western Avenue, Hampden, to hear the following:

1. Proposed amendments to various sections of the Hampden Zoning Ordinance to clarify or correct language, allow "alternate frontage lots" in all zoning districts, modify the multi-family housing provisions, modify the provisions for filling and grading of land, delete the medical marijuana provisions because they are being moved to the Marijuana Ordinance, and modify or add definitions of terms used in the ordinance.
2. Proposed amendments to the Hampden Marijuana Ordinance to add provisions for medical marijuana registered caregivers, medical marijuana registered dispensaries, medical marijuana manufacturing facilities, medical marijuana testing facilities, performance standards for each of those uses, local licensing provisions, articles for indemnification and amendments, and modifications to the definitions.

The full text of these proposed ordinance amendments is available at the Municipal Building or online at www.hampdenmaine.gov.

If anyone would like to take part in the meeting remotely, you may do so by either logging in to the url listed below, or by calling the phone number followed by the pin #.

<https://meet.google.com/uwx-azqz-kui?hs=122&authuser=0>

[Join by phone](#)

(US) +1 765-444-2918 PIN: 914 891 529#

Gayle C. Decker

Town Clerk

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~~ 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~~

~~4.24.6.45~~ Deadbolt locks on all exterior doors and locks or bars on any other access point.

~~4.24.6.56~~ 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.

4.24.78 *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:

4.24.78.1 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 ~~40~~ 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.~~

§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 include 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)~~

TOWN OF HAMPDEN

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

Deletions are ~~Strikethrough~~ Additions are Underlined

TOWN OF HAMPDEN MAINE
MARIJUANA ORDINANCE

ADOPTED: August 20, 2018

EFFECTIVE: September 19, 2018

AMENDED: _____, 2020

EFFECTIVE: _____, 2020

Certified By: Gayle Decker, Town Clerk

Article 1. Purpose & Authority 2

Article 2. Home Cultivation for Personal Adult Use Marijuana 2

Article 3. Medical Marijuana Registered Caregivers 2

Article 4. Medical Marijuana Registered Dispensaries 3

Article 5. Medical Marijuana Manufacturing Facilities 5

Article 6. Medical Marijuana Testing Facilities 5

Article 7. RESERVED (Adult Use Cultivation Facilities) 5

Article 8. RESERVED (Adult Use Manufacturing Facilities) 5

Article 9. RESERVED (Adult Use Testing Facilities) 5

Article 10. Performance Standards 5

Article 11. Local Licensing 7

Article ~~3~~12. Enforcement 8

Article ~~13~~13. Indemnification 9

Article 14. Amendments 9

Article ~~4~~15. Severability 9

Article ~~5~~16. Definitions 10

Article 1 – Purpose and Authority

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 marijuana related activities, including 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 nine mature marijuana plants may be grown on a single property (as defined in this ordinance), with the exception that in addition to this limit, 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 – Medical Marijuana Registered Caregivers.

3.1 Administration

3.1.1 All proposals that involve more than one Registered Caregiver on a single property are required to submit a Major Site Plan for review and approval by the Planning Board, per §4.1 of the Zoning Ordinance.

3.1.2 All Registered Caregivers are required to obtain a local license pursuant to Article 11.

3.2 Maximum number on a single property. In order to protect the public health, safety, and welfare, the maximum number of Registered Caregivers permitted to operate on a single property, which includes cultivation, processing, packaging, and any other activity involving medical marijuana is as follows:

3.2.1 In the Residential A, Residential B, and Town Center zoning districts – 1 Registered Caregiver.

3.2.2 In the Rural zoning district:

3.2.2.1 On parcels where marijuana activity will be conducted at least 250 feet from any property line – 5 Registered Caregivers.

3.2.2.2 On parcels where marijuana activity will be conducted at least 100 feet but less than 250 feet from any property line – 3 Registered Caregivers.

3.2.2.3 On parcels where marijuana activity will be conducted less than 100 feet from any property line – 1 Registered Caregiver.

3.2.3 In the Industrial or Industrial 2 zoning districts:

3.2.3.1 On parcels where all marijuana activity will be conducted at least 500 feet from the Residential A, Residential B, or Town Center districts and at least 100 feet from any property line – 10 Registered Caregivers.

- 3.2.3.2 On parcels where all marijuana activity will be conducted at least 100 feet from the Residential A, Residential B, or Town Center districts and at least 50 feet from any property line – 5 Registered Caregivers.
- 3.2.3.3 On all other parcels – 1 Registered Caregiver.
- 3.2.4 In all other zoning districts:
 - 3.2.4.1 On parcels where marijuana activity will be conducted at least 100 feet from any property line of a property in residential use – 3 Registered Caregivers.
 - 3.2.4.2 On parcels where marijuana activity will be conducted at least 100 feet from the boundary of the Residential A, Residential B, or Town Center zoning districts – 3 Registered Caregivers.
 - 3.2.4.3 On all other parcels – 1 Registered Caregiver.
- 3.3 Standards – In addition to the standards listed in Article 10 of this ordinance, the following applies to Registered Caregivers:
 - 3.3.1 No customers or clients are permitted to visit the site for the purpose of purchasing any marijuana or related products. Registered Caregiver retail stores are not permitted in the Town of Hampden.
 - 3.3.2 In all zoning districts, the following additional locational restrictions apply. The distances stipulated are measured in a straight line from the property boundary of the parcel proposed for use by one or more Registered Caregivers and the nearest property boundary of the listed use.
 - 3.3.2.1 No property located between 500 feet and 1,000 feet of any parcel used for a preexisting school may have more than one Registered Caregiver.
 - 3.3.2.2 No property located within 500 feet of any parcel used for a preexisting school may have any Registered Caregiver.
 - 3.3.2.3 No property located within 750 feet of any parcel used primarily for a place of worship, a daycare, daycare facility, or child care center as those terms are defined in the Hampden Zoning Ordinance, or a recreational area designed for use by children up to 18 years of age may have more than one Registered Caregiver.
 - 3.3.2.4 No property located within 1,000 feet of any parcel used for multiple Registered Caregivers or any type of marijuana business (medical or adult use as may be permitted by the Town) may have more than one Registered Caregiver.

Article 4 – Medical Marijuana Registered Dispensaries

- 4.1 Administration. All Medical Marijuana Registered Dispensaries require a Conditional Use approval from the Planning Board per §3.1.3 of the Zoning Ordinance, and may require Site Plan approval per §4.1 of the Zoning Ordinance.
- 4.2 Permitted Activities. A Medical Marijuana Registered Dispensary operating within the Town of Hampden may include any of the activities included in Title 22 §2428 (1-A).
- 4.3 Location Requirements. A Medical Marijuana Registered Dispensary is permitted within the Industrial, Industrial 2, or Industrial Park zoning districts. A registered dispensary must be a minimum of 750 feet from the property line of a preexisting school.
- 4.4 Adequacy of Building for the Subject Use. The property and building for a Medical Marijuana Registered Dispensary 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.
- 4.5 Maximum Number Within the Town of Hampden. No more than one Medical Marijuana Registered Dispensary may be located within the Town. In the event of multiple applications for Conditional Use, the first complete application received will be reviewed, and if denied and the decision is not appealed, then the next application received will be reviewed, etc. until an application is approved.
- 4.6 Hours of Operation. A Medical Marijuana Registered Dispensary shall only be open for business between the hours of 8:00 a.m. and 8:00 p.m. daily.
- 4.7 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 is prohibited; provided, however, that a Dispensary employee who is a registered patient, as that term is defined in 22 M.R.S.A. §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 land upon which the Medical Marijuana Registered Dispensary is located.
- 4.8 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.

Article 5 – Medical Marijuana Manufacturing Facilities

- 5.1 Administration. All Medical Marijuana Manufacturing Facilities require a Conditional Use approval from the Planning Board per §3.1.3 of the Zoning Ordinance, and may require Site Plan approval per §4.1 of the Zoning Ordinance.
- 5.2 Prohibited Activities. Medical Marijuana Manufacturing Facilities are not permitted to sell or otherwise transfer any product in any form directly to a patient; all such transfers must be made through a Caregiver, a Registered Caregiver, or a Registered Dispensary. No retail sales are permitted in the Town of Hampden except by a Registered Dispensary.
- 5.3 Location requirements. Tier 1 manufacturing facilities are permitted within the Industrial, Industrial 2, or Industrial Park zoning districts. Tier 2 manufacturing facilities are permitted in the Industrial or Industrial 2 zoning districts. A manufacturing facility must be a minimum of 750 feet from the property line of any preexisting school.
- 5.4 Maximum Number Within the Town of Hampden. No more than one Medical Marijuana Manufacturing Facility (Tier 1 or Tier 2) may be located within the Town. In the event of multiple applications for Conditional Use, the first complete application received will be reviewed, and if denied and the decision is not appealed, then the next application received will be reviewed, etc. until an application is approved.
- 5.5 Limitations of Food Products. No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Manufacturing Facility 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.

Article 6 – Medical Marijuana Testing Facilities

- 6.1 Administration. All Medical Marijuana Testing Facilities require a Conditional Use approval from the Planning Board per §3.1.3 of the Zoning Ordinance, and may require Site Plan approval per §4.1 of the Zoning Ordinance.
- 6.2 Location Requirements. Medical Marijuana Testing Facilities are permitted in the Industrial, Industrial 2, and Industrial Park zoning districts. A testing facility must be a minimum of 750 feet from the property line of any preexisting school.
- 6.3 Maximum Number within the Town of Hampden. No more than three Medical Marijuana Testing Facilities may be located within the Town. In the event of multiple applications for Conditional Use, the first complete application received will be reviewed, and if denied and the decision is not appealed, then the next application received will be reviewed, etc. until an application is approved.

Article 7 – RESERVED (Adult Use Cultivation Facilities) This article is reserved to facilitate future codification of regulations concerning this use in the event the Town Council amends this ordinance and the Zoning Ordinance to allow such use; it is not to be construed to allow said use.

Article 8 – RESERVED (Adult Use Manufacturing Facilities) This article is reserved to facilitate future codification of regulations concerning this use in the event the Town Council amends this ordinance and the Zoning Ordinance to allow such use; it is not to be construed to allow said use.

Article 9 – RESERVED (Adult Use Testing Facilities) This article is reserved to facilitate future codification of regulations concerning this use in the event the Town Council amends this ordinance and the Zoning Ordinance to allow such use; it is not to be construed to allow said use.

Article 10 – Performance Standards (Applicable to all marijuana activities regulated by this ordinance)

- 10.1 All applicable state and local laws and regulations must be complied with by anyone conducting any activity related to marijuana.
- 10.2 No outside cultivation, processing, or storage of marijuana, marijuana products, or related supplies is permitted with the exception of home cultivation for personal adult use marijuana.
- 10.3 No marijuana or paraphernalia shall be displayed or kept so as to be visible from outside the building(s).
- 10.4 For all applications before the Planning Board, 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. The Planning Board may, at their discretion, waive this requirement only if they find the location of the proposed marijuana business (medical or adult use) is such that buffers are not necessary to protect abutters or the general public.
- 10.5 All buildings, including greenhouses, used for marijuana activities (including cultivation) must have an odor mitigation system in place prior to starting any operations. Applicants must demonstrate appropriate measures, such as carbon filtration, ventilation, and exhaust systems, facility plans, or other practices adequate to mitigate odors such that they are not detectable at the property line. For Registered Caregivers operating within a multi-family building, odors must not be detectable at the exterior of the unit where the Registered Caregiver operation is located.
- 10.6 Signage is permitted in accordance with §4.7.5 of the Hampden Zoning Ordinance, with the following exceptions:
 - 10.6.1 For Registered Caregivers, the only information permitted on such signage is the name of the property owner, the address of the property, and the words “Medical Marijuana Registered Caregiver Facility.”
 - 10.6.2 For any other marijuana business (medical or adult use), any signage is limited to displaying the following information: name of business, logo of business, address of business, hours of operation, and contact information. No other advertising of marijuana or marijuana products may be displayed on any sign in any publicly visible location. If a business logo includes an image or graphical representation of the

- marijuana plant or any marijuana product, it must not exceed 20 percent of the area of the sign face.
- 10.6.3 Signage must not make any claims of health or physical benefit, and must not be designed to appeal specifically to people under the age of 21.
- 10.6.4 No changeable signs as permitted in §4.7.5.2.8 of the Zoning Ordinance are permitted. This includes electronic message center signs.
- 10.6.5 No temporary event signs as permitted in §4.7.5.3.8 of the Zoning Ordinance are permitted.
- 10.6.6 All portable signs including feather signs and sandwich board signs are prohibited.
- 10.6.7 These restrictions apply to signage installed outdoors and on the inside of windows (facing outwards), including windows within doors.
- 10.6.8 No signage related to any marijuana activity or business is permitted within 1,000 feet of a preexisting school or within 750 feet of a place of worship, a daycare, daycare facility, or child care center as those terms are defined in the Hampden Zoning Ordinance, or a recreational area designed for use by children up to 18 years of age.
- 10.7 Measures must be made to prevent smoke, debris, dust, fluids, and other substances from exiting the property upon which a Registered Caregiver operation or marijuana business (medical or adult use) is conducted.
- 10.8 Measures must be made to limit noise emanating from the facility from exceeding normal noise levels for the vicinity as measured at the property line. Such noise could be from mechanical ventilation systems, equipment, vehicles, or other items which are atypical for the area. For example, a facility with multiple caregivers operating in the Rural district near residential properties must mitigate noise from fans.
- 10.9 Security Measures must meet or exceed the following:
- 10.9.1 Security surveillance cameras installed and operating 24 hours a day, 7 days a week, with 30 day video storage, to monitor all entrances, along with interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises.
- 10.9.2 All exterior doors and any other access points must have deadbolt locks, except windows which must have locks and bars to prevent entry from the outside.
- 10.9.3 Door and window intrusion alarm system with audible alarm and Public Safety Department notification components that are professionally monitored and maintained in good working condition.
- 10.9.4 A locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all marijuana products and cash stored overnight on the premises.
- 10.10 Due to fire, explosion, and other hazards inherent in marijuana cultivation and manufacturing facilities, including but not limited to heavy electrical loads, hot lighting fixtures, CO²

enrichment, extraction solvents (e.g. acetone, butane, propane, ethanol, heptane, isopropanol, CO², etc.), high pressure extraction methods, and flammable contents, the owner must agree to annual inspection by the Hampden Fire Department, and furthermore must install a Knox Box at each locked entry (e.g. gate, door) for emergency access. Installation of Knox Boxes must be done in coordination with the Hampden Fire Department.

10.11 Disposal. All marijuana operations must provide for the safe, sanitary, and secure disposal of any by-products or materials resulting from the operation, and must submit an operations plan to the Planning Board with the site plan or conditional use application which details how such by-products or materials will be disposed of.

Article 11 – Local Licensing

11.1 Registered Caregivers and Medical Marijuana Businesses

11.1.1 Each Registered Caregiver or Medical Marijuana Business must obtain a license from the Town Manager to operate within the Town of Hampden. Caregivers who are not registered with the State are not required to obtain a license under this ordinance. Licenses are not transferable to any other person or entity, or to any other location.

11.1.2 Procedure:

11.1.2.1 Applicants must submit three copies of the completed application form, available from the Town Clerk, along with any supplemental documentation and the application fee per the Fees Ordinance.

11.1.2.2 The Town Manager must forward copies of the application to the Public Safety Director and Code Enforcement Officer for review, and the Public Safety Director and Code Enforcement Officer may submit written comments in response within 14 days. The Town Manager must consider these comments, the application, and other material the Town Manager deems relevant, and determine whether the application has obtained applicable Planning Board approval(s) and has provided sufficient assurances that the application meets all conditions of said approval(s).

11.1.2.3 The treasurer and tax collector must certify that all overdue sewer service charges (if applicable) and personal property taxes are paid in full, as of the date of the application. Failure to meet these requirements are grounds for denial of the application.

11.1.2.3 Within 14 days of receipt of all comments from staff, the Town Manager must approve or deny the license application, or request additional information from the applicant to ascertain compliance with all applicable provisions of this ordinance.

11.1.2.4 Applications and related documents for registered caregivers are to be kept confidential by the Town.

11.1.3 License expiration and renewal. A license is valid for a period of one year from the date of its issuance. An application for renewal must be submitted to the Town Manager at least 45 days prior to the expiration of the existing license, along with the required fee per the Fees Ordinance. Registered Caregiver operations or Medical Marijuana Businesses that continue after the expiration of a license will be subject to enforcement action under this ordinance.

11.1.4 Revocation of License. A Registered Caregiver or Medical Marijuana Business license can be revoked by the Town Manager if the licensee is convicted of selling, furnishing, or giving marijuana in any form to a person who is not allowed to possess marijuana in accordance with the applicable state statutes, or for providing materially inaccurate or incomplete information, or if the state registration is terminated for any reason.

11.1.5 Appeals. Any appeal of a Town Manager decision may be made by an applicant to the Town Council by submitting a letter detailing the reason for the appeal. The Council may consider the appeal in executive session if it includes confidential information pursuant to state statutes. Any appeal of a Town Council decision is to be made to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

11.2 RESERVED (Adult Use Marijuana Businesses) This article is reserved to facilitate future codification of regulations concerning these uses in the event the Town Council amends this ordinance and the Zoning Ordinance to allow such uses; it is not to be construed to allow said uses.

Article ~~3~~12 – Enforcement

~~3~~12.1 It is the duty of the Code Enforcement Officer to enforce the provisions of this ordinance pursuant to 30-A MRSA §4452.

~~3~~12.2 It is unlawful for any person to violate any provision of this ordinance.

~~3~~4.3 The penalties contained in 30-A MRSA §4452 will apply to any violation of this ordinance.

12.4 The Code Enforcement Officer has the right to enter any marijuana operation for the purpose of checking compliance with this ordinance.

12.5 Law Enforcement Officers may at any reasonable time conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to any permit or license, and shall investigate all complaints of alleged violations of this ordinance.

Article 13 – Indemnification. By accepting a license issued pursuant to this ordinance, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any Registered Caregiver or marijuana business owners (medical or adult use), operators,

employees, clients, or customers, by any state or federal official, for a violation of Federal laws, rules, and regulations. By accepting a license issued pursuant to this ordinance, the licensee agrees to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of the Town's licensing of a Registered Caregiver or marijuana business (medical or adult use).

Article 14 – Amendments

14.1 Initiation of amendments. An amendment to this ordinance may be initiated by:

14.1.1 The Town Council, provided a majority of the Council votes to initiate an amendment; or

14.1.2 Written petition of one hundred (100) registered voters of the town.

14.2 Public Hearing. The Town Council shall hold a public hearing on the proposed amendment. Notification of the hearing must be posted and advertised in a newspaper of general circulation in the town a minimum of 14 days prior to the hearing. In cases where an amendment has the potential to have a direct impact on an existing Registered Caregiver or marijuana business (medical or adult use), notification must also be mailed to all owners of said property and all owners of property within 500 feet of said property. All costs of notification for amendments submitted by petition must be paid by the petitioner; refusal to do so will result in no hearing and no action by Town Council on the petition.

14.3 Adoption of Amendment. An amendment to this ordinance requires a majority vote of the Town Council members present and voting.

14.4 Effective Date of Amendment. An amendment to this ordinance will become effective 30 days after adoption by the Town Council.

Article 415 – 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 516 – Definitions

516.1 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.

516.2 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 or Title 22 Chapter 558-C have the meanings provided in those laws. Terms not defined shall have the customary dictionary meaning in the Merriam-Webster print or online dictionary.

Adult Use Marijuana Business: A cultivation facility, a products manufacturing facility, or a testing facility for adult use marijuana.

Caregiver: A person or an assistant of that person that provides care for a qualifying patient in accordance with 22 MRSA §2423-A subsection 2.

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

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

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.

Registered Caregiver: A caregiver who is registered by the state pursuant to 22 MRSA section 2425-A.

School: For the purposes of this ordinance, "school" includes a public school, private school, or public preschool program as defined in 20-A M.R.S.A. §1, or any other educational facility that serves children from prekindergarten through grade 12.

Tier 1 Manufacturing Facility: A medical marijuana manufacturing facility which may possess up to 40 pounds of harvested marijuana, including marijuana in various stages of processing, at any one time.

Tier 2 Manufacturing Facility: A medical marijuana manufacturing facility which may possess up to 200 pounds of harvested marijuana, including marijuana in various stages of processing, at any one time.