

**TOWN OF HAMPDEN
EMERGENCY 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.

NOW THEREFORE, pursuant to 30-A M.R.S. Chapter 111, be it ordained by the Municipality as follows:

Section 1. Prohibition. The Municipality does hereby declare a prohibition 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.