



Town of Hampden  
Land & Building Services

Memorandum

To: Planning Board  
From: Karen M. Cullen, AICP, Town Planner *KMC*  
Date: November 7, 2017  
RE: Amendments to Zoning Regarding Marijuana

The public hearing before the Planning Board on amendments to Section 7.2, Definitions, of the Hampden Zoning Ordinance is scheduled for tomorrow evening. As you may have heard, over the past week the state legislature and governor have been dealing with the proposed amendments to the law as approved by the voters last year. In preparation for that potential enactment, I had reviewed the amendments I had drafted this summer and had a revised set of definitions for consideration at the hearing. Since that legislation failed last night, we are back to the language as drafted and posted for the hearing.

However, in my research this week, I have found that there has been an amendment to the state law on retail marijuana, and as a result of reviewing that, I recommend two changes to the language currently on file for the public hearing. These modifications can be seen on page 2 of the attached, highlighted with red text. The first is the addition of a definition for marijuana product, which I recommend incorporating into our definitions since the term is used in other definitions (specifically retail marijuana store and retail marijuana social club). The second change simplifies and broadens the language to make it clear that “retail sales” as used in Hampden’s Zoning Ordinance does not include any marijuana business. It does include the sale of merchandise that does not actually contain any marijuana (e.g. clothing, industrial hemp).

I will not be in attendance at the Planning Board meeting tomorrow, but both Ben Smith and Angus Jennings will be there and should be able to answer any questions. You can also contact me with questions, via email is the best method ([planner@hampdenmaine.gov](mailto:planner@hampdenmaine.gov)).

## TOWN OF HAMPDEN

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

Deletions are ~~Strikethrough~~ Additions are Underlined

**Amend §7.2 Definitions**

**Agriculture:** The production, keeping or maintenance of plants and/or animals including but not limited to: forages and sod crops, grains and seed crops; dairy animals and dairy products; poultry products; livestock; fruits and vegetables; and other plants. Agricultural uses shall include wholesaling, retailing and processing of agricultural products which are customary and accessory to an agricultural use. Agriculture does not include forest management, commercial nurseries, ~~and timber harvesting activities, or commercial cultivation of marijuana.~~ (Amended: 12-18-95)

**Customary Rural Businesses:** Shall be limited to the following uses: Retail Sales & Service; products produced on-site such as art work, pottery, quilts, needle work, baked goods and wooden furniture, antiques, farm & logging supply, feed and grain store, tack shop, grocery and convenience store, hunting & fishing supplies, taxidermy, sporting and camping equipment, Places of Assembly; diners and roadside cafes where no drive thru service is provided (not to exceed 30 seats), bed & breakfast inns (not to exceed 10 guest rooms). Retail marijuana stores, social clubs, cultivation, processing, or testing establishments shall not be categorized as Customary Rural Businesses. (Amended: 12-2-96)

**Drug store or Pharmacy:** An establishment engaged in the retail sales of prescription drugs, non-prescription medicines, medical equipment or supplies, with or without other consumer products for sale, but not including the sale of marijuana or products containing marijuana.

**Home occupation:** ~~The subordinate use of a dwelling unit or structure accessory to a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services. See Use of Residence for Business Purposes.~~

**Medical marijuana:** ~~Marijuana shall have the definition set forth in Title 17-A M.R.S.A. Section 1101(1) and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122, Section 1.15), as the same may be amended from time to time. (Amended 03-07-11) The leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not; but shall not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and further, shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant which is incapable of germination. [17-A MRSA Section 1101.1 – medical marijuana laws]~~

**Retail 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. "Retail 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. [7 MRSA Section 2442.5 – marijuana legalization act]

Retail marijuana product: a marijuana product that is manufactured, processed, distributed or sold by a licensed retail marijuana establishment or a retail marijuana social club. [7 MRSA Section 2442.37 – marijuana legalization act, as amended by L.D. 1641]

Retail marijuana social club: An entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises. [7 MRSA Section 2442.39 – marijuana legalization act]

Retail marijuana store: An entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers. [7 MRSA Section 2442.40 – marijuana legalization act]

Retail sales: The sale or rental of merchandise to the general public. Retail sales shall be limited to merchandise typically kept in stock on the premises. Retail sales shall allow accessory service unless prohibited elsewhere in this Ordinance. Retail sales shall not include the sale of retail marijuana as defined in this ordinance in any form or for any purpose, or any product for human consumption that includes marijuana or any derivative of marijuana.

Service business: Any business or establishment which provides a service for hire by others, conducted through the application of some specialized knowledge, training, skill or talent, or through the employ of physical exertion or other effort in the performance of some special action or work. A service business shall include any establishment engaged in the fields of finance, insurance or real estate and any establishment providing professional, personal, or business services; a service business shall not include automobile service, outdoor recreation, manufacturing use, or a hotel or motel, or cultivation, harvesting, processing, testing or sales of marijuana, but may include rooming houses, boarding homes, tourist homes, and bed and breakfast establishments with six (6) or fewer rooms.

Use of Residence for Business Purposes: The subordinate use of a dwelling unit or structure accessory to a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services, with the exception that neither retail marijuana sales nor marijuana social clubs shall be operated under these provisions. There are three categories of such use, which are defined in §4.10 of this ordinance: home business, customary home occupation, and home based contractor. (Added 4-18-17)