

TOWNSHIP OF WELLS

ZONING ORDINANCE AMENDMENTS

Ordinance No. 100-05

An Ordinance to amend the Wells Township Zoning Ordinance No. 100, adopted on May 10, 2012, as amended, to zone and provide regulation for the caregiver cultivation of marijuana for medical use at residential properties, to add new definitions pertaining to the caregiver cultivation regulations, to regulate high amperage requests for residential properties, to add additional fees to zoning permits and amend the enforcement and penalty.

THE TOWNSHIP OF WELLS ORDAINS:

Section 3.02 of the Wells Township Zoning Ordinance is hereby amended to provide as follows:

Section 3.02. ZONING PERMITS. A zoning permit shall be acquired from the Zoning Administrator before any construction is undertaken, any structure is moved, any pond is excavated, or any change in the use of any land or structure is undertaken within the Township. A zoning permit shall not be required for the first accessory structure containing less than 200 square feet placed on the property. **The term “change in use” shall mean a land use which is new to or different from how the property was previously used. However, a use that is accessory to an existing land use (and which conforms to this Ordinance) is not considered a change in use. Except that, “Home Occupations” and the “Caregiver Cultivation of Marijuana for Medical Use” within residential dwellings shall be deemed changes in use requiring a zoning permit. Additionally, it will be presumed that a change in use occurs when electrical equipment that has an ampacity of more than 200 amperes is to be installed at a residential property. This presumption can be overcome by the Applicant filing a “Accessory Use Affidavit” (in a form to be supplied by the Township) with the Zoning Administrator, which indicates that the purpose for the installation is not for a home occupation or the caregiver cultivation of marijuana for medical use. Township representatives have the right to conduct annual or random notified inspections to verify compliance.**

- A. APPLICATION. A zoning permit shall be applied for in writing on an application form provided by the Township and shall include a plot plan of the proposed land use.
- B. PERMIT ISSUANCE. A zoning permit shall be approved by the Zoning Administrator whenever the proposed use complies with the provisions of this Ordinance and any necessary Planning Commission, Board of Appeals, or Township Board approvals have been obtained.
- C. EXPIRATION. A zoning permit shall expire one (1) year after the date of issuance unless the proposed use has been commenced within that year. Any amendment to the Zoning Ordinance shall have the effect of voiding any outstanding zoning permits for uses which have not been commenced and which would violate the amendment.

D. VOID PERMITS. Any zoning permit issued in error or pursuant to an application containing any false statements shall be void.

E. PRIVATE RESTRICTIONS. The Zoning Administrator shall not refuse to issue a zoning permit due to violations of private covenants, agreements, or deed restrictions if the proposed use is permitted by the Zoning Ordinance.

F. FEES. The amount of any fee charged for zoning permits, applications, or inspections shall be established by the Township Board.

Section 3.02 ZONING PERMITS of the Wells Township Zoning Ordinance is hereby amended to add subsection G, as follows:

G. ADDITIONAL FEES. Any construction or proposed use that has begun without first obtaining a permit shall be subject to an additional fee established by the Township Board.

Section 5.01 PRINCIPAL USES PERMITTED. Subsection H Medical Marijuana Facilities and Caregivers is hereby repealed.

Section 5.02 SPECIAL LAND USES of the Wells Township Zoning Ordinance is hereby amended to add subsection O as follows:

O. Caregiver cultivation of marijuana for medical use as an accessory use to a Single- or Two-Family Dwelling (pursuant and subject to Section 12.17).

Section 6.02 SPECIAL LAND USES of the Wells Township Zoning Ordinance is hereby amended to add subsection H, as follows:

H. Caregiver cultivation of marijuana for medical use as an accessory use to Single- and Two-Family Dwellings, as well as to Multiple Family Dwellings (pursuant and subject to Section 12.17).

The Wells Township Zoning Ordinance is hereby amended to add Section 7.02 SPECIAL LAND USES, as follows:

Section 7.02. SPECIAL LAND USES

A. Caregiver cultivation of marijuana for medical use as an accessory use to Single-Family Dwellings, as well as to multiple family dwellings. (pursuant and subject to Section 12.17).

Section 12.17 MEDICAL MARIJUANA FACILITIES AND CAREGIVERS is hereby repealed and thereafter amended to provide as follows:

Section 12.17. CAREGIVER CULTIVATION OF MARIJUANA FOR MEDICAL USE. The caregiver cultivating marijuana for medical use pursuant to the Michigan Medical Marijuana Act of 2008, found at MCL 333.26421 et seq (as amended), is allowed as a special land use that is accessory to the use of a residential dwelling in any district where residential dwellings are allowed, subject to the following:

- A. All caregivers seeking approval to cultivate marijuana for medical use in the Township must submit proof (as part of the zoning application) that he or she is a properly licensed caregiver with the State of Michigan.**
- B. A caregiver cultivating marijuana for medical use must reside in the dwelling where the marijuana is being cultivated.**
- C. The caregiver cultivation of marijuana for medical use shall be clearly accessory, incidental, and subordinate to the residential dwelling use.**
- D. There shall be no change in the outside appearance of the dwelling or other visible evidence of the conduct of the caregiver cultivation of marijuana for medical use.**
- E. No outdoor storage or display of equipment, merchandise, and/or materials used in the caregiver cultivation of marijuana for medical use shall be allowed.**
- F. Traffic generated by the caregiver cultivation of marijuana for medical use shall not be greater than would normally be expected in a residential neighborhood.**
- G. The caregiver cultivation of marijuana for medical use must be conducted entirely within a dwelling unit or attached garage.**
- H. Any necessary parking spaces for vehicles generated by the caregiver cultivation of marijuana for medical use shall be provided on the site in a normal driveway or designated parking area, but not within any required yard area.**
- I. No equipment or process shall be used in the caregiver cultivation of marijuana for medical use which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the premises on which the caregiver cultivation of marijuana for medical use is located.**
- J. A floor plan shall be provided to verify the location and type of hazardous material (herbicides, pesticides, fertilizers, etc.) proposed to be stored or used onsite. Material Data Sheets (MDS) sheets shall be provided for all chemicals onsite. An inventory of the chemicals, including quantity and location, shall be provided to the Township. The applicant shall provide the Township with an updated inventory as changes occur, but at minimum the inventory shall be updated on a quarterly basis.**
- K. Township representatives have the right to conduct annual or random inspections to verify compliance.**
- L. The Caregiver shall be required to pay any and all fees to the Township for zoning permits, applications, or inspections (this includes any annual and random inspections). These fees shall be established by resolution of the Township Board. Failure to pay these fees may result in revocation of the Caregiver's Special Land Use approval.**

Section 20.01 ENFORCEMENT AND PENALTY of the Wells Township Zoning Ordinance is hereby repealed and thereafter amended to provide as follows:

Section 20.01 ENFORCEMENT AND PENALTY. Any person, firm or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction subject to payment of a civil fine of not less than One Hundred Fifty (\$150) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in the Wells Township Civil Infraction Ordinance.

Section 21.01 DEFINITIONS of the Wells Township Zoning Ordinance is hereby amended to repeal the following definitions:

MEDICAL MARIJUANA. Marijuana, as defined in Section 7106 of the Michigan Public Health Code (MCL 333.7106), which complies with all requirements of the Michigan Medical Marijuana Act (Initiated Law 1 of 2008).

MEDICAL MARIJUANA CAREGIVER. A person authorized under the Michigan Medical Marijuana Act who is at least 21 years old and who has agreed to assist with a patient's medical use of marijuana and who has never been convicted of a felony involving illegal drugs.

MEDICAL MARIJUANA FACILITY. Any location at which medical marijuana is grown or distributed.

Section 21.01 DEFINITIONS of the Wells Township Zoning Ordinance is hereby amended to add the following definitions:

CAREGIVER. A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marijuana, as defined and used by the Michigan Medical Marihuana Act of 2008, MCL 333.26421 et seq (as amended).

CULTIVATION. The act of preparing, growing, tending to, caring for, and/or harvesting a particular plant or crop.

MARIJUANA (ALSO KNOWN AS MARIHUANA). All parts of the plant Cannabis sativa L., growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable 5.25.21 1st Draft 5 of germination. Marihuana does not include industrial hemp, as used by the Michigan Medical Marihuana Act of 2008, MCL 333.26421 et seq (as amended), and as defined in the Public Health Code of 1978, MCL 333.7106(4) (as amended).

MEDICAL USE (MARIJUANA). The acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a

registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, pursuant to the term "Medical Use of Marijuana" as defined and used in the Michigan Medical Marihuana Act of 2008, MCL 333.26421 et seq (as amended).

RESIDE. The place that you live in as your permanent residence and if absent intend to return. It shall be the address that appears on your driver's license or Michigan identification card as well as on your voter registration card. Vacation homes, seasonal homes, and income property are not considered where you reside.

The undersigned Supervisor and Clerk of the Township of Wells hereby certify that this Ordinance Amendment was duly adopted by the Wells Township Board at a meeting held on the __9th__ day of __December__, 2021, and was published in the _Tuscola County Advertiser_ on the __15th_ day of __December__, 2021. This Ordinance Amendment shall be effective seven (7) days after said date of publication.

Karen Varney, Supervisor

Kristin Wright, Clerk