

**An Ordinance to Amend Chapter 145 (Land Use) of the Code of the Town of Wells to Retroactively Regulate Medical Marijuana Cultivation and Production Facilities, to Prohibit Them From All Zones Except the Light Industrial District, and to Adopt and Amend Definitions Relating to Marijuana**

**NOTE:** Proposed additions to existing Code sections are underlined.  
Proposed deletions of existing Code sections are ~~crossed out~~.  
Other sections of the Ordinance are unchanged.

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**Part 1:** Article II (Word Usage and Definitions), § 145-10, titled “Definitions” is hereby amended as follows:

**AGRICULTURE**

The business of producing or raising plants and crops, including gardening as a commercial operation, greenhouses which are not used for raising plants as a wholesale business, tree farms and nurseries. Agriculture does not include timber harvesting. Agriculture does not include the growing, production, testing, sale or processing of marijuana. The extraction of water for use in plant, crop or livestock irrigation is not agriculture, but rather an accessory use to agriculture or animal husbandry.

**MANUFACTURING**

A business of making goods and articles by hand or machinery. “Manufacturing” shall include assembling, fabricating, finishing, packaging, or processing. Manufacturing does not include the growing, production, testing, sale or processing of marijuana.

**MARIJUANA**

As defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.17.

**MEDICAL MARIJUANA**

Marijuana specifically permitted pursuant to the Maine Medical Use of Marijuana Act.

**MEDICAL MARIJUANA CAREGIVER**

As defined in State Administrative Rules (10-144 CMR Chapter 122), § 1.31, “Primary Caregiver.”

**MEDICAL MARIJUANA CULTIVATION AND PROCESSING FACILITY**

A facility used for cultivating, processing, testing, and/or storing of medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana

caregiver's primary year-round residence or their patient's primary year-round residence.

#### RESEARCH AND DEVELOPMENT FACILITY

A business in which new products or processes are created and studied. Research and Development Facility does not include the growing, production, testing, sale or processing of marijuana.

#### BUSINESS, WHOLESALE

A business engaged in the sale of merchandise to retailers and not to the ultimate consumer. A wholesale business does not include the growing, production, testing, sale or processing of marijuana.

#### BUSINESS, RETAIL

A business engaged in the sale, rental or lease of goods to the ultimate consumer for his or her use or consumption and not for resale. So-called wholesale clubs at which members pay a yearly fee but are primarily ultimate consumers are considered retail uses. The maximum size of retail businesses in the General Business District shall not exceed 40,000 square feet. A retail business does not include the growing, production, testing, sale or processing of marijuana.

#### BUSINESS, PERSONAL SERVICE

A business engaged in the provision of personal services, such as but not limited to a doctor, hairdresser, barber, beautician, masseuse or tanning salon. A personal service business does not include the growing, production, testing, sale or processing of marijuana.

**Part 2:** Article V (District Regulations), § 145-28, entitled "Light Industrial District" is hereby amended as follows:

C. Permitted uses requiring the approval of a site plan. The following uses are permitted upon obtaining site plan approval and any required permits from the Code Enforcement Officer:

- (6) Manufacturing.
- (7) Medical Marijuana Cultivation and Production Facility
- (8) ~~(7)~~ Motor vehicle rental.
- (9) ~~(8)~~ Municipal facility.
- (10) ~~(9)~~ Parking lot, commercial.
- (11) ~~(10)~~ Public transportation shelter.
- (12) ~~(11)~~ Public utility facility.
- (13) ~~(12)~~ Recreation, medium intensity commercial.
- (14) ~~(13)~~ Research and development facility.
- (15) ~~(14)~~ Recycling facility.
- (16) ~~(15)~~ Restaurant, standard.

- (17) ~~(16)~~ Restaurant, fast-food.
- (18) ~~(17)~~ School, vocational-technical.
- (19) ~~(18)~~ Transmission tower, radio.
- (20) ~~(19)~~ Transportation facility.
- (21) ~~(20)~~ Truck terminal.
- (22) ~~(21)~~ Warehousing.
- (23) ~~(22)~~ Self-storage facility.

**Part 3:** Article VII (Performance Standards), § 145-58.3, entitled “Medical Marijuana Cultivating and Processing Facility” is hereby enacted as follows:

§ 145-58.3. Medical Marijuana Cultivation and Processing Facility

A. Medical marijuana cultivation and processing facilities are allowed subject to the following performance standards in addition to the requirements of the districts in which the facilities are located:

- (1) Notwithstanding any other provision of the Wells Code, all medical marijuana cultivation and production facilities must be reviewed by the Wells Planning Board, and not by the Staff Review Committee or other reviewing authority.
- (2) Medical marijuana caregivers and facilities must meet all of the standards and conditions imposed by the State of Maine issued under the aegis of the Maine Medical Use of Marijuana Program.
- (3) Notwithstanding the Maine Rules Governing the Maine Medical Use of Marijuana Program, no medical marijuana cultivation and processing facility located in Wells may be located where any of the lot lines of the lot on which the facility will be located are within 1,000 feet of the lot line of any preexisting public or private school facility; or any preexisting and licensed child-care facility.
- (4) There shall be opaque windows or walls for any building involved in the facility, so that the interior is completely screened from lot lines and from any person passing along the street boundaries of the lot on which it is located.
- (5) All buildings associated with the facility shall be protected by use of fire suppression sprinkler systems, or other effective fire suppression system that may be approved by the Chief of the Wells Fire Department. Emergency vehicle access shall be provided on a minimum of three sides of a building.
- (6) The facility shall have a Knox-Box® at the security gate and building or shall provide emergency response personnel with the necessary information to allow entry in the event of an emergency at the location.

(7) The facility shall have at least one parking space per 1,000 square feet of gross floor area, and such additional parking as may be required by the Planning Board.

(8) No facility building shall be allowed to be constructed or occupied within 500 feet of an existing dwelling unit.

(9) The operator of the facility must provide a security plan to the Chief of Police for the Town of Wells, who will provide the Planning Board with a report and recommendations for specific conditions of approval regarding required security measures to be incorporated. The requirements for this plan should be coordinated with the requirements for any security plan that the State of Maine may require for such a facility. A minimum of a chain link fence, 6 feet in height is required surrounding the facility. Recordable video surveillance is also required. Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance.

(10) The hours of operation for the facility, including the hours that persons other than staff of the facility may be present at a cultivation facility, shall be limited. No sales or dispensing of materials may take place at the facility.

(11) Signs for the facility may not contain any visual depiction of marijuana or marijuana paraphernalia.

(12) Vegetative buffers may be required by the Planning Board to create a visual screen or minimize odors.

(13) The growing, cultivating, production, processing, testing, and/or storing of medical marijuana by a medical marijuana caregiver shall be located within a building. Said activities may not be conducted anywhere outside of a building.

**Part 4:** Retroactive Application of Ordinance Amendments.

Notwithstanding the provisions of 1 M.R.S.A. § 302 and regardless of the date on which these amendments are approved by voters, these amendments shall govern any and all applications for permits and approvals required under Chapter 145 (Land Use) of the Code of the Town of Wells that were received, or, that were pending before any official, officer, committee or board at any time on or after October 1, 2016. These amendments shall not apply to any agricultural use which received final approval prior to January 1, 2017 for the growing of medical marijuana located outside of the Light Industrial District.

**Part 5:** Effective Date.

This Ordinance shall take effect upon adoption by the Town Meeting.

Given under our hands this \_\_\_\_ day of \_\_\_\_\_, 2017.

BOARD OF SELECTMEN OF THE TOWN OF WELLS:

\_\_\_\_\_  
Karl Ekstedt

\_\_\_\_\_  
Kathleen Chase

\_\_\_\_\_  
Daniel Hobbs

\_\_\_\_\_  
John Howarth

\_\_\_\_\_  
Timothy Roche