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WELLS COUNTY Recorded: 5/1/2018 at 11:55 AM

208238 Fee: \$0.00

RECORDER'S OFFICE, WELLS COUNTY, ND 5/1/2018 11:55 AM
I certify that this instrument was filed for record this date
CARRIE K. KRAUSE, County Recorder

By *Carrie K. Krause*
Return To :WELLS COUNTY AUDITOR
700 RAILWAY STREET N #37

FESSENDEN ND 58438

**WELLS COUNTY ZONING ORDINANCE (WCZO)
ARTICLE 13 MEDICAL MARIJUANA
DATED 2018**

13 ARTICLE 13 MEDICAL MARIJUANA

13.1 Definitions

13.1.1 Definitions

Unless specified otherwise in this ordinance, all terms defined in NDCC Chapter 19-24.1 (Medical Marijuana) and NDAC 33-44 (Medical Marijuana) or successors shall have the same definitions provided therein.

13.2 Purpose and Intent

13.2.1 Purpose

The 2017 North Dakota Legislature enacted Senate Bill 2344, NDCC Chapter 19-24.1 (Medical Marijuana) for the regulation of medical marijuana dispensaries and the cultivations and propagation of medical marijuana in North Dakota.

All persons, entities or organizations wishing to establish a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) within the County must apply for and be granted a conditional use permit for said use.

- 1) The use, cultivation, manufacturing, production, distribution, possession, and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by both North Dakota and Federal law;

- 2) The county commission does not have the authority to, and nothing in this chapter is intended to, authorize, promote, condone or aid the production, distribution or possession of medical marijuana in violation of any applicable law;
- 3) The county commission intends to regulate the use, acquisition, cultivation, manufacturing, and distribution of usable medical marijuana in a manner that is consistent with the North Dakota Century Code. The regulations are intended to apply to all medical marijuana operations in the county by any medical marijuana business permitted under state law. Medical marijuana cultivation and production can have an impact on health, safety, and community resources, and this chapter is intended to permit state-licensed Medical Marijuana Manufacturing Center(s) or Distribution Center(s) where they will have a minimal negative impact;
- 4) To the extent that Medical Marijuana Manufacturing Center(s) or Distribution Center(s) are registered and authorized by the State of North Dakota to operate in the county, this commission desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of the county.
- 5) This chapter is to be construed to the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the county. There is no property right for an individual or business to have medical marijuana in the county; and
- 6) Medical marijuana is a heavily regulated industry in the state and county, and the county has a zero tolerance policy for violations of this chapter.
- 7) The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the county by prescribing the manner in which medical marijuana businesses can be conducted in the county. Further, the purpose of this chapter is to:
 - a) Provide for a means of cultivating, manufacturing and distribution of usable marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes as prescribed by state law.
 - b) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.
 - c) Impose fees to cover the cost to the county of licensing medical marijuana businesses in an amount sufficient for the county to cover the costs of the licensing program.

- d) Create regulations that address the particular needs of the facilities, patients and residents of the county and comply with laws that may be enacted by the state regarding medical marijuana.

13.3 Annual Permit Fee

As authorized by the Board of County Commissioners, the Planning director is to establish an annual permit fee to offset costs associated with policing, site inspections, monitoring, storage of media, and/or regulating medical marijuana facilities involved in the cultivation, propagation, manufacturing, processing, refining, distribution, delivery, supply, sale or handling of Medical Marijuana.

13.4 Conditional Use Permit Requirements

In addition to the requirements applicable to all Conditional Use Permit applications, an application for a conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must include the following:

- 1) Proof of Insurance (see section 13.4 for insurance requirements)
- 2) List of all persons and entities with an ownership interest in the Manufacturing Center(s) or Distribution Center(s) including all shareholders that hold any share in stock in the Manufacturing Center(s) or Distribution Center(s).
- 3) A security plan depicting the location and configuration of security cameras and surveillance equipment.
- 4) A complete description of the products and services to be produced or sold by the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).
- 5) A notarized statement acknowledging that the applicant understands applicable federal laws, any guidance or directives issued by the U.S. Department of Justice, the laws of the State of North Dakota and the laws and regulations of the county applicable thereto concerning the operation of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s). The written statement shall also acknowledge that any violation of any laws or regulations of the State of North Dakota or of the county, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding relating to such Medical Marijuana Manufacturing Center(s) or Distribution Center(s) by federal authorities, may render the license subject to immediate suspension or revocation.

- 6) A notarized statement that the applicant will hold harmless, indemnify, and defend the county against all claims and litigation arising from the issuance of license and/or a conditional use permit including any claims and litigation arising from the Manufacturing Center(s) or Distribution Center(s), operation or ownership of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).
- 7) A notarized acknowledgement that the applicant is seeking a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit and that the applicant understands and acknowledges that the burden of proving qualifications to receive such a Conditional Use Permit is at all times on the applicant; that the granting of a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is at the discretion of the county commission; and that the applicant agrees to abide by the decision of the county commission.
- 8) The Planning Director may require additional plans, documents, or other information prior to deeming the application complete.
- 9) A Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit shall be reviewed annually by the county commission for renewal.
- 10) If the State of North Dakota or its electorate repeals NDCC Chapter 19-24.1 (Medical Marijuana) or is otherwise declared void, all Medical Marijuana Manufacturing Center(s) or Distribution center(s) Conditional Use Permits issued by the county commission will be deemed to have immediately expired.
- 11) Once a conditional use permit is obtained for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s), any change in operation of the facility or in ownership shall require prior approval of the Board of County Commissioners.
- 12) Any building modifications or alterations must be approved by the county Planning Director.

13.5 Medical Marijuana Insurance and Bond Requirements

- 1) The minimum amount of third-person insurance coverage for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) shall be one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) general aggregate for bodily injury and property damage arising out of licensed activities and one million dollars (\$1,000,000.00) products and completed operations aggregate, commercial automobile coverage in a minimum of one million dollars (\$1,000,000.00) and excess liability in a minimum of three million dollars (\$3,000,000.00).
- 2) Additional insured: The County shall be named as an additional insured on all general liability, umbrella, and excess insurance policies required under this section. All insurance policies required under this section shall be primary over any other valid and collectible insurance.

13.6 Medical Marijuana Design Standards

- 1) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located in a separate, permanent, stand-alone structure and have a minimum six (6) foot high perimeter fence encompassing the parcel boundary.
- 2) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 2,640 feet from a public or private preschool, kindergarten, elementary, secondary or high school, public park, public community center, dependent care facility, Daycare centers, homeless shelter, youth center, or a place of worship.
- 3) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 500 feet from any residential district, or any residential dwelling, trailer, recreational vehicle or recreational district. The distance shall be measured from the exterior fence of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s) to the property line or dwelling of the protected use.
- 4) No Medical Marijuana Dispensary shall have operating hours earlier than 8:00 AM or later than 7:00 PM.
- 5) The entire perimeter of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) structure must be well lit (minimum 1 candle foot) to prevent concealment in shadows around the structure for a minimum of 15 feet around each structure that is part of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s). Further, everything within the fenced area shall have 24 hour surveillance cameras depicting the entire exterior of the Manufacturing Center(s) or Distribution Center(s) as well as cameras at the property entrance depicting vehicles and license plates of each vehicle entering the parking lot.
- 6) Each Medical Marijuana Distribution Center shall have at least 1 parking space per 250 sq ft of structure.
- 7) Each Medical Marijuana Cultivation and/or Manufacturing Facility shall have at least 1 parking space for every 1000 sq. ft. of plant cultivation area and 1 parking space for every 250 sq. ft. of all other areas of the structure.
- 8) With the exception of the specific Medical Marijuana Manufacturing Center(s) or Distribution Center(s) approved as part of a Conditional Use Permit, no other activity may occur within the facility or land parcel.
- 9) No outdoor storage on-site shall be permitted.
- 10) No drive-through, drive-up, or walk-up facilities shall be permitted.
- 11) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must ensure there is no emission of dust, fumes, vapors, or odors into the environment.

- 12) Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals or window signage of any kind shall be strictly prohibited.
- 13) Each permittee shall obtain an inspection of the property from the county planning department or fire marshal prior to the annual renewal of the Conditional Use Permit.
- 14) All surveillance camera locations and surveillance recording equipment including specifications must be approved by the County Planning Director.
- 15) All applicable state standards and requirements shall apply in the design and operations of any Manufacturing Center(s) or Distribution Center(s).
- 16) A statement by the applicant that he/she consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any sheriff, deputy or peace officer of the State of North Dakota WITHOUT a SEARCH WARRANT. The statement will also include consent to viewing of the surveillance cameras, and providing a copy WITHOUT A SEARCH WARRANT of the recorded video to any sheriff, deputy or peace officer of the State of North Dakota at any time upon the request of the sheriff, deputy or peace officer of the State of North Dakota.

The applicant must agree to the following statement:

“The applicant herein CONSENTS that the authorized persons, namely the chairman of the Board of County Commissioners, the Sheriff, the Deputies, and any peace officer of the State of North Dakota, or any person or persons duly authorized by the Wells County Board of Commissioners, may enter upon the premises described in this application at any hour of the day or night, and that the authorized persons shall have free access to the said described premises and every part thereof for the purpose of inspecting the said premises and the records of the applicant relating to the license under this ordinance relating to Medical Marijuana, and applicant does hereby waive any and all rights that he/she may have under the United States Constitution and the Constitution of the State of North Dakota relative to searches and seizures for this inspection of the premises and inspection of records and without the issuance or use of a search warrant, and the applicant does hereby agree that such immunities shall never be claimed by her/him, and that such search, seizure, and inspection may be made at any time without a search warrant. The applicant will also provide a copy of the recorded video to any authorized person upon the request of the authorized person.”

13.7 Serviceability, Exclusions, and Exceptions:

- 1) The provisions of this chapter do not waive or modify any other provisions of this ordinance with which Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is required to comply. Nothing in this section is intended to authorize, legalize, or permit the Manufacturing Center(s) or Distribution Center(s), operation or maintenance of any facility,

building, or use which violates any County ordinance or statute of the State of North Dakota regarding public nuisances. Medical Marijuana or any federal regulations or statutes relating to the use or controlled substances.

- 2) This chapter shall be null and void if any determination is made, after the adoption of the ordinance enacting this chapter, by any court of competent jurisdiction, that Ch. 19-24 N.D.C.C., is invalid or shall be null and void to the extent any portion of such section is held invalid.
- 3) Should any section, subsection, clause or provision of this chapter for any reason be held to be invalid or factually unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter, and each and every section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of this chapter be declared invalid or unconstitutional.

13.8 Resolution for Medical Marijuana

The following Resolution was introduced by Commissioner Randi Suckut and seconded by Commissioner Danny Maxwell for adoption:

WHEREAS, the Wells County Planning Commission consisting of Mike Flick, Danny Maxwell, Connie Kunz, Stan Buxa, Lester Lein, Daniel Mack, Jon Polries, Faye Schimelfenig and Daniel Stutlien has drafted Article 13, Medical Marijuana dated 2018, to be added to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder; and

WHEREAS, said article 13 is designed to provide a regulatory framework for the siting, construction and operation of medical marijuana facilities in the County, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while allowing equitable and orderly development of medical marijuana facilities; and

WHEREAS, the Wells County Planning Commission has approved Article 13, Medical Marijuana dated 2018, to be added to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder and recommends its adoption by the County Commission; and

WHEREAS, the Board of County Commissioners hereby adds Article 13, Medical Marijuana dated 2018, to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder.

NOW, THEREFORE, BE IT RESOLVED, that the County Commission of Wells County hereby adopts Article 13, Medical Marijuana dated 2018, to be added to the Wells County Zoning Ordinance dated 2008

recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorded on this 1st day of May, 2018.

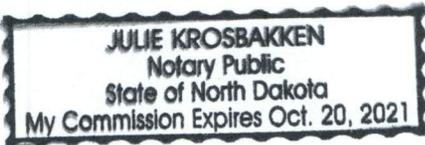
On a vote being taken, those voting 'aye': Randi Suckut, Dennis Dockter, Stan Buxa, Danny Maxwell and Mary Hager, Chairman. Those voting 'naye': None. The chairman then declared the Resolution adopted.

Jana Schimelfenig 5-1-18
County Tax Director Date

Mary Hager 5-1-18
Chairman Date

STATE OF NORTH DAKOTA)
) SS.
COUNTY OF WELLS)

On this 1st day of May, 2018, personally appeared before me, a notary public within the aforesaid County and State, Mary Hager and Jana Schimelfenig, to me personally known to be the Chairman of the Board of County Commissioners and the Wells County Tax Director, respectfully, of Wells County, and acknowledged to me that they executed the within instrument for and on behalf of Wells County.



[Signature]
Notary Public
Wells County, North Dakota

STATE OF NORTH DAKOTA)
) SS.
COUNTY OF WELLS)

I, Jana Schimelfenig, County Tax Director in and for the County of Wells, State of North Dakota, acting as Secretary of the Wells County Planning Commission, do hereby certify that the above-entitled document is a true and correct original of the Article 13, Medical Marijuana dated 2018. To be added to the Wells County Zoning Ordinance dated 2008 recorded June 3, 2008 at 8:45 am as Document #195117 in the Office of the Wells County Recorder which was adopted by Wells County, North Dakota, June 2, 2009.

Witness my hand and official seal of Wells County, North Dakota, this 1st Day of May, 2018.

Jana Schimelfenig
Jana Schimelfenig, Wells County Tax Director

