

O: 2018-37

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWN OF PHILLIPSBURG IN THE COUNTY OF WARREN TO ADD §625-11 , TITLED: MEDICAL MARIJUANA ALTERNATIVE TREATMENT CENTERS

WHEREAS, the New Jersey Compassionate Use Medical Marijuana Act (the “Act”), N.J.S.A. 24:6I et seq., permits the authorized medical use of marijuana; and

WHEREAS, the Town of Phillipsburg has endorsed by resolution the expansion of the medical marijuana program in the State of New Jersey so as to provide needed relief to the many persons suffering from chronic and/or debilitating illnesses who may benefit from this program; and

WHEREAS, Phillipsburg further supports and encourages the safe and appropriate siting of marijuana related and supporting businesses within Phillipsburg Township, including Alternative Treatment Centers, and Medical Marijuana Cultivation and/or Manufacturing facilities to allow qualifying patients greater access to medical marijuana; and

WHEREAS, the Town of Phillipsburg Planning Board adopted the 2013 Reexamination Report of the Master Plan which identified a number of issues in need of address including; economic revitalization and a review of zoning and permitted uses; and

WHEREAS, the Medicinal marijuana industry can further the goals and objectives of the Master Plan through its ability become a catalyst for new economic opportunities, including but not limited to; job growth, expansion of the ratable base, and attraction of related businesses that will further spur growth objectives; and

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Town of Phillipsburg, County of Warren that the Code of the Town of Phillipsburg be amended and the following §625-11 hereby added to read as follows:

Chapter 625: ZONING.

Section 11: MEDICAL MARIJUANA ALTERNATIVE TREATMENT CENTER

A. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Act

The New Jersey Compassionate Use Medical Marijuana Act, P.L. 2009, c. 307 (approved January 18, 2010), codified at N.J.S.A. 24:6I-1 et seq.

Alternative Treatment Center (ATC) or Medical Marijuana Alternative Treatment Center

An organization authorized through licensure issued by the NJ State Department of Health and the Board of Medical Examiners to perform activities necessary to provide

registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of the Act. For the purposes of zoning, an ATC is the interface between provider and patient and is synonymous with a Medical Marijuana Dispensary. Cultivation and manufacturing, unless within the same structure or property as a dispensary, shall be treated as a separate use category though it may be part of the license issued by the State for a single entity.

Marijuana

The definition as provided in section 2 of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (effective January 17, 1971), codified N.J.S.A. 24:21-1 et seq.

Medical Marijuana Cultivation Center or Cultivation Center

A building, structure, or premises used for the cultivation or storage of medical marijuana. Includes the planting, propagating, cultivation, growing, harvesting, labeling or manufacturing, compounding and storing of medicinal marijuana for the limited purpose of this chapter. A cultivation center may be physically separate and off-site from the associated licensee's ATC medical marijuana dispensary. When connected-to, or part of, the same property by which an ATC dispenses from, it is considered part of the ATC. This includes greenhouses, commercial/industrial warehouse setups, hydroponic systems, etc..

Medical Marijuana Dispensary or Dispensary

An ATC facility that acquires, possesses, sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

Medical Use of Marijuana

The acquisition, possession, transport or use of marijuana or paraphernalia by a registered qualifying patient as authorized by the Act.

Marijuana Licensee

Any person licensed or registered pursuant to the Act.

Medical Marijuana Manufacturing Facility

Facility involved with compounding, making, and processing of medical marijuana in all forms including those that involve food handling.

Medical Marijuana Business

Encompasses all components of the industry as is consistent with the Act. Accordingly, it shall mean any business involved in cultivating, manufacturing, distribution, sales, or testing of Medical Marijuana.

Medical Marijuana Program or "MMP"

The program within the Department of Health, which is responsible for the administration and implementation of activities related to the Act.

Paraphernalia

The definition as provided in N.J.S.A. 2C:36-1.

Permit

The documents issued by the Department of Health pursuant to this chapter granting the legal right to operate as an alternative treatment center for a specified time.

Permitting Authority

The Medicinal Marijuana Program within the Department of Health, which the mailing address is P.O. Box 360, Trenton, NJ 08625-0360.

Usable Marijuana

The dried leaves and flowers of the female marijuana plant, and any mixture or preparation thereof, but does not include the seedlings, stems, stalks, or roots of the plant.

Vertical Integration

The co-location or combination of the following activities related to the production of usable marijuana for qualifying patients within a single corporate entity: cultivation, manufacturing, and dispensing.

B. Limitation on Alternative Treatment Dispensaries within the Town.

- (1) The number of Alternative Treatment Center Dispensaries permitted within the Township is based on population. A maximum of one (1) Alternative Treatment Center shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the NJ State Department of Labor, Bureau of Statistics.
- (2) Distance between Alternative Treatment Center Dispensaries Drug Free School Zones.** ATC's shall be located at a minimum of one thousand (1,000) feet from Drug Free School Zones as defined in the statute. Measurement to be conducted in a straight line from the nearest property line of the land used for the school to the nearest portion of the building in which the medical marijuana center is located. Cultivation and Manufacturing facilities are not subject to this provision provided that the site is:

 - a. Not located directly on a street frontage or immediately adjacent to the school site. (ie. In an industrial area that may encroach the 1000 foot buffer) but is not located within direct view from the school grounds.)
 - b. It is a fully secured facility and does not contain a Dispensary or have public access.
 - c. Signage for the facility shall remain innocuous and part of the general directional signage typically found in industrial manufacturing facilities only. Façade signs will be limited to those at the point of entry to the facility and may not be more than six (6) square feet.
 - d. Secured in accordance with all applicable provisions as defined in the Act and

outlined in Section J below.

- e. No marketing or advertisement of the site.
 - f. No signage other than directional or discrete building identification shall be permitted; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from glow lamps must be 0.5 foot candles or less at the property line; noise beyond X decibels from ventilation fans shall be prohibited.
- (3) **Distance between Alternative Treatment Centers.** No ATC shall be located within one thousand-five hundred (1,500) feet from any other Alternative Treatment Center, which shall be measured in a straight line from the nearest portion of the building in which the center is proposed to be located to the nearest portion of the building in which the other center or the retail marijuana store is located. Standalone Cultivation and Manufacturing uses are not included within this prohibition as long as the following conditions are met
- a. There is no dispensary component to the facility.
 - b. It is a fully secured facility and does not contain a Dispensary or have public access.
 - c. Signage for the facility shall remain innocuous and part of the general directional signage typically found in industrial manufacturing facilities only. Façade signs will be limited to those at the point of entry to the facility and may not be more than six (6) square feet.
- (4) In the event more than one (1) Land Use Application for an Alternative Treatment Center, Cultivation or Manufacturing facility of the same classification are submitted to the Town in close proximity to one another, and if the applications comply with all the requirements of this Chapter and the NJ State Department of Health and the Board of Medical Examiners, the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection. The Town shall first review for approval the application that was first submitted and determined to be a complete and compliant application by the Town Planner, or Zoning Officer.
- (5) The distance restrictions shall not apply to any location where the director previously issued a medical marijuana license under the Compassionate Care Act, a licensed dispensary commenced operations at the subject location, and a licensed medical marijuana dispensary or center has existed in continuous operations at the subject location since the time of original licensing.

C. Permitted Locations.

- (1) Alternative Treatment Center (Dispensaries). Alternative Treatment Center dispensaries *only* shall be permitted to be located within the following zones in accordance with this Chapter and the Redevelopment Plans where applicable. For all properties, adherence to the site design standards of the Town Land Development Ordinances and Redevelopment Plans through a review by the Zoning Official and Phillipsburg Town Council (Redevelopment Agency), where applicable, is required. Issuance of Zoning Permit and/or Site Plan approval is required. Zones permitted include:

- a. District -2 Union Square. Riverside Redevelopment Area
 - b. B-2 Zone
- (2) Vertical Alternative Treatment Center (Dispensaries/Cultivation and Manufacturing) Facilities. Vertical Alternative Treatment Centers include dispensary, cultivation and manufacturing. Accordingly, they shall be permitted to be located within the following zones in accordance with this Chapter and the Redevelopment Plans where applicable. For all properties, adherence to the site design standards of the Town Land Development Ordinances and Redevelopment Plans through a review by the Zoning Official and Phillipsburg Town Council (Redevelopment Agency) where applicable is required. Issuance of Zoning Permit and/or Site Plan approval is required. Zones permitted include:
- a. I-2 Zone
 - b. District -1 Industrial. Riverside Redevelopment Area.

Note: Vertical Alternative Treatment Centers (Dispensaries) and Cultivation and Manufacturing Facilities may be located along major road frontages provided that the retail component is located on the frontage.

- (3) Standalone Cultivation, Manufacturing, and/or Testing Facilities. Standalone Cultivation, Manufacturing and/or Testing Facilities shall be permitted to be located within the following zones in accordance with this Chapter and the Redevelopment Plans where applicable. For all properties, adherence to the site design standards of the Town Land Development Ordinances and Redevelopment Plans through a review by the Zoning Official and Phillipsburg Town Council (Redevelopment Agency) where applicable is required. Issuance of Zoning Permit and/or Site Plan approval is required. Zones permitted include:
- a. I-1 Zone
 - b. I-2 Zone
 - c. District -1 Riverside Redevelopment Area.

Additionally, Standalone Cultivation, Manufacturing and/or Testing Facilities are not permitted along major road frontages within these zones unless accompanied by a retail dispensary or other active retail along the street frontage.

D. Restrictions on Mobile Facilities and Delivery of Marijuana Products to Patients. No such services shall be permitted unless expressly permitted by the NJ State Department of Health and the Board of Medical Examiners pursuant to the type of licensure the facility processes.

E. Operation. ATC dispensaries shall limit their hours of operation to 8:00 a.m. to 10:00 p.m., Monday – Sunday, or as otherwise provided in the Special Use Permit.

F. Operation of Multiple Businesses at a Single Location. A person may operate any Medical Marijuana Business permitted by this Section as long as long as it is in full compliance with the requirements of the NJ State Department of Health and the Board of Medical Examiners and Town Land Development Ordinances. Multiple licenses are not permitted.

G. Specific Requirements for Alternative Treatment Centers.

- (1) The cultivation of Medical Marijuana plants shall not be permitted on exterior portions of a lot. The cultivation, production or possession of marijuana plants within a building or unit must not be perceptible from the exterior of the building or unit from a street or residential use. Such use shall adhere to the bulk standards of the underlying zoning.
- (2) Samples of Medical Marijuana products offered for sale may be displayed on shelves, counters and display cases. All bulk marijuana products shall be locked within a separate vault or safe (no other items in this safe), securely fastened to a wall or floor, as approved by the Phillipsburg Police Department.
- (3) An Alternative Treatment Center may sell “marijuana paraphernalia” as that term is defined pertains to *Patients only* and shall be exempt from the prohibitions contained in any other section of the Zoning Code.
- (4) You must have an active MMP Identification Card from the NJ Department of Health in order to enter any alternative treatment Center.
- (5) No person without a MMP card is permitted to pick-up a prescription.
- (6) Alternative Treatment Centers must limit signage to text on external signage, labeling, and brochures. Use of graphics shall be limited to the logo for the business so long as it does NOT include a cannabis plant leaf and outward glorification of marijuana consumption.
- (7) All Town sign regulations must be complied with.
- (8) Alternative Treatment Center signage shall not display on the exterior of the facility or windows advertisements for medicinal marijuana or a brand name except for purposes of identifying the building by the permitted name.
- (9) Parking shall be provided as provided for in § 625-32 **Parking Space requirements.**
Except that:
 - (a) ATC dispensary. Same as Physician and dental.
 - (b) Cultivation, manufacturing, Testing Facilities. Same as Manufacturing, research

H. Security and Reporting. Security systems must be in place, along with a 24/7 recording system that records for a minimum 30-day archive. This system shall be shared with local law enforcement via web browser. Outside areas of the premises and the perimeter shall be well lit. Town law enforcement feet of the premises shall be provided the name and phone number of a staff person to notify during suspicious activity during or after operating hours. Security staff is required on the premises during all hours of operation. Additionally,

- (1) The premises must only be accessed by authorized personnel and free of loitering.

- (2) All cultivation of marijuana shall take place in an enclosed, locked facility.
- (3) Security personnel must be present during times of operation.

I. Specific Requirements for a Medical Marijuana Cultivation Premises. If co-located with a Medical Marijuana Cultivation Premises, the area of the proposed Licensed Marijuana Premises utilized for cultivation shall be physically separated from the area of the premises open to the public or to patients. Walls, barriers, locks, signage and other means shall be employed to prevent the public or patients from entering the area of the Licensed Marijuana Premises utilized for cultivation of marijuana.

J. No Products to be Visible from Public Places. Marijuana plants, products, accessories, and associated paraphernalia contained in any Medical Marijuana Business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place. On-site storage of usable marijuana shall comply with 21 CFR 1301.72.

K. No Beer or Alcohol on Premises. No fermented malt beverages and no alcoholic beverages, shall be kept, served or consumed on the premises of a Medical Marijuana Business.

L. Storage of Products. All products and accessories shall be stored completely indoors and on-site.

M. Consumption of Marijuana Prohibited. No consumption or smoking of any Medical Marijuana products shall be allowed or permitted on the premises or adjacent grounds of a Medical Marijuana Business.

N. Storage of Currency. All currency over \$1,000.00 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Phillipsburg Police Department.

O. Prevention of Emissions and Disposal of Materials.

- (1) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.
- (2) Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations.
- (3) As applicable, Medical Marijuana Businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Construction Official.

(4) If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease and shall be inspected and approved by the Construction Official and the Fire Marshall.

(5) All State regulations concerning ventilation systems shall be followed.

P. Compliance with Other Codes. Any Medical Marijuana Business and the adjacent grounds of the Medical Marijuana Business shall comply with all zoning, health, building, fire, and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Construction Division, Fire Safety Division, and the Phillipsburg Health Department, if applicable.

Q. No Harm to Public Health, Safety or Welfare. The Licensed Marijuana Premises and adjacent grounds of a Medical Marijuana Business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

R. Additional Requirements. Site Plan approval Required. At the time Site Plan Approval is granted, amended, or a major change to a Medical Marijuana Business is approved, the Town may impose on the applicant reasonable conditions related to the proposed use that is necessary to protect the public health, safety or welfare, including but not limited to the following:

- (1) Additional security requirements;
- (2) Limits and requirements on parking and traffic flows;
- (3) Requirements for walls, doors, windows, locks and fences on the Licensed Marijuana Premises and adjacent grounds;
- (4) Limits on Medical Marijuana Products that may be sold;
- (5) Requirements and limits on ventilation and lighting;
- (6) Limits on noise inside the licensed premises or on the adjacent grounds;
- (7) Prohibitions on certain conduct in the Medical Marijuana Business;
- (8) Limits on hours of operation.

S. Penalty for Violation. Any violation of the provisions of this subsection or the conditions of the Zoning Permit granted, by a Medical Marijuana Business shall be punishable by a civil fine of up to one thousand dollars (\$1,000.00). Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the

provisions of this subsection, or any conditions imposed by the Zoning Permit may result in the revocation of the Zoning Permit.

T. Marijuana licensing. Application and license fees for retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturers, and retail marijuana testing facilities, retail marijuana transporters, and retail marijuana off-premises storage facilities are as follows:

- (1)Application fee for off-premises storage facilities: \$500
- (2)Criminal background check fee, per person checked: Actual costs.
- (3)Transfer of ownership: \$100.00, plus cost of background check.
- (4)Transfer of license to a different location: \$750.00
- (5)Modification of premises, zoning permit: \$150.00

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

ATTEST:

TOWN OF PHILLIPSBURG

VICTORIA L. KLEINER, RMC
Municipal Clerk
DATED:

STEPHEN R. ELLIS
Mayor

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their November 07, 2017 meeting.

VICTORIA L. KLEINER,
Municipal Clerk