



Legislation Details (With Text)

File #: 18-1970 **Version:** 2 **Name:** Medical Marijuana Zoning Ordinance
Type: Ordinance **Status:** Adopted
File created: 12/20/2018 **In control:** Economic and Housing Development
On agenda: 3/12/2019 **Final action:** 5/1/2019
Title: AN ORDINANCE AMENDING THE CITY OF NEWARK ZONING ORDINANCE, TITLE XLI, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, 2000, BY AMENDING THE DEFINITIONS AND ADOPTING LAND USE REGULATIONS PERTAINING TO MEDICAL MARIJUANA TREATMENT CENTERS.
Failed 8a (s) 031219
Failed 9-c 032019
Sponsors: Council of the Whole

Indexes:

Code sections: 41: - Title 41, Zoning & Land Use Regulations

Date	Ver.	Action By	Action	Result
5/1/2019	2	Municipal Council	Close on Public Hearing and Adopt	Pass
4/17/2019	2	Municipal Council	Adopt on First Reading	Pass
4/3/2019	2	Municipal Council	Advance to First Reading	Pass
3/20/2019	2	Municipal Council	Advance to First Reading	Fail
3/20/2019	2	Municipal Council	Advance to First Reading	
3/12/2019	1	Municipal Council	Advance to First Reading	Fail

AN ORDINANCE AMENDING THE CITY OF NEWARK ZONING ORDINANCE, TITLE XLI, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, 2000, BY AMENDING THE DEFINITIONS AND ADOPTING LAND USE REGULATIONS PERTAINING TO MEDICAL MARIJUANA TREATMENT CENTERS.

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WHEREAS, the City of Newark Municipal Council (the “Municipal Council”), pursuant to N.J.S.A. 40:55D-62, may adopt or amend a Zoning Ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, the State of New Jersey has permitted the use of medical marijuana in certain circumstances via the Compassionate Use Medical Marijuana Act, P.L. 2009, c.307 (2010) codified at N.J.S.A. 24:6I-1, *et seq.* (the “CUMMA”), as amended and supplemented, and its implementing rules and associated regulations; and

WHEREAS, the Municipal Council seeks to permit the use of land and buildings within the City of Newark as Medical Marijuana Alternative Treatment Centers (ATC), medical marijuana cultivation facilities, and medical marijuana manufacturing facilities in accordance with the CUMMA and State Law; and

WHEREAS, the Municipal Council, pursuant to N.J.S.A. 40:55D-64, sought the recommendations of the Newark Central Planning Board relative to these issues; and

WHEREAS, on August 28, 2018 the Municipal Council referred the draft proposed ordinance amending the Zoning Ordinance establishing permitted uses for Medical Marijuana Alternative Treatment Centers (ATC) to the Central Planning Board for formal review, report and recommendations as required by N.J.S.A. 40:55D-26; and

WHEREAS, the Central Planning Board, at its October 15, 2018 regular meeting, confirmed that the proposed amendment is substantially consistent with the City's land use plan element, in accordance with the provisions of N.J.S.A. 40:55D-62.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Note: Bold and underlined is new text.

SECTION 1. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, are amended by amending Title XLI, Chapter 2, Section 2 (41:4-2.2), Definitions, as follows:

“CUMMA” shall mean 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.)

“Marijuana” shall mean all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; but shall 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 such mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination as defined by “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-2).

“Medical use of marijuana” means the acquisition, possession, transport, or use of marijuana or paraphernalia by a registered qualifying patient as authorized by “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-2).

“Medical marijuana alternative treatment center” or “alternative treatment center” shall mean an organization approved by the Department of Health and Community Wellness to perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of the “New Jersey Compassionate Use Medical Marijuana Act” P.L.2009, 3 c.307 (C.24:6I-1 et seq.). This term shall include the organization's officers, directors, board members, and employees.

“Medical marijuana cultivation facility” shall mean a commercial entity licensed under New Jersey Compassionate Use Medical Marijuana Act N.J.S.A.24:6I-1 et seq. that cultivates, dries, trims, or cures marijuana for sale to marijuana product manufacturing facilities, and to other

marijuana cultivation facilities, but not to consumers. This entity shall hold all required state licenses and permits.

“Medical marijuana manufacturing facility” shall mean a commercial facility licensed under a commercial entity licensed under New Jersey Compassionate Use Medical Marijuana Act N.J.S.A.24:6I-1 et seq. that receives marijuana from a licensed cultivation facility and extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a medical marijuana center. This entity shall hold all required state licenses and permits.

“Medical marijuana safety compliance facility” shall mean a commercial facility licensed under New Jersey Compassionate Use Medical Marijuana Act N.J.S.A.24:6I-1 et seq. that receives marijuana from a licensed cultivation facility, licensed processing facility, or licensed caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

SECTION 2. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, are amended by amending Title XLI, Chapter 4, Section 2 (41:4-2), Permitted Uses in Commercial Districts, by adding new uses as follows:

41:4-2. Permitted Uses in Commercial Districts

Table 4-2: Commercial Districts			
P = Permitted - = Not Permitted C = Conditional Use Only Any use			
	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>
<u>Principal Uses</u>			
<u>Medical marijuana</u>	-	-	<u>C</u>
<u>Medical marijuana</u>	-	-	<u>C</u>
<u>Medical marijuana</u>	-	-	-
<u>Medical marijuana</u>	-	-	-

SECTION 3. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, are amended by amending Title XLI, Chapter 4, Section 3 (41:4-3), Permitted Uses Industrial, Airport, and Port Area Districts, by adding new uses as follows:

41:4-3. Permitted Uses Industrial, Airport, and Port Area Districts

Table 4-3: Industrial, Airport, and Port Area Districts						
P = Permitted - = Not Permitted C = Conditional Use Only Any use not						
	<u>I-1</u>	<u>I-2</u>	<u>I-3</u>	<u>EWR</u>	<u>EWR-S</u>	<u>PORT</u>
<u>Principal Uses</u>						

Medical marijuana	C	-	-	-	-	-
Medical marijuana	C	C	C	-	-	-
Medical marijuana	C	C	C	-	-	-
Medical marijuana	C	C	C	-	-	-

SECTION -4. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, are amended by amending Title XLI, Chapter 4, Section 4 (41:4-4), Permitted Uses in Mixed-Use & Other Districts, by adding new table as follows:

41:4-4. Permitted Uses in Mixed-Use and Other Districts.

Table 4-4: Permitted Uses in Mixed-use & Other Districts			
P = Permitted	- = Not Permitted	C = Conditional Use Only	Any use not listed
	INST		
Principal Uses			
Medical marijuana alternative treatment center	C		
Medical marijuana safety compliance facility	C		
Medical marijuana manufacturing facility	-		
Medical marijuana cultivation facility	-		

SECTION 5. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, are amended by amending Title XLI, Chapter 6, Conditional Use Standards, by adding new Section 56 (41:6-56) Medical Marijuana Uses as follows:

41:6-56. Medical Marijuana Uses (Medical Marijuana Alternative Treatment Center, Medical Marijuana Safety Compliance Facility, Medical Marijuana Manufacturing Facility, Medical Marijuana Cultivation Facility)

- (1) All medical marijuana uses shall be duly licensed by the State of New Jersey in accordance with the CUMMA, its implementing rules, and/or any successor legislation.
- (2) All facilities must be designed and operated to prevent pesticides, fertilizers, nutrients, marijuana, and other potential contaminants from being discharged into the public wastewater and/or storm water systems.
- (3) A list of all pesticides, fertilizers, and any other hazardous materials that are expected to be used in the cultivation process shall be provided with an application and maintained on site.
- (4) All facilities must submit an odor management plan with details that demonstrates the

mechanism for treating the air with odor absorbing ventilation and exhaust systems such that odors generated in the facility are not detectable by a person of reasonable sensitivity outside the building or in any other unit in the same building if the use only occupies a portion of a building.

- (5) All facilities must maintain a secure, closed, clean environment in the room where marijuana is to be stored, grown, processed, or tested, in order to prevent outside contamination and prevent the inadvertent and/or unauthorized removal of marijuana from the facility. All facilities must provide shower and locker room facilities for employees to ensure the provision of a clean environment.
- (6) All drying, soil mixing, testing, processing, and other non-growing activities must take place in a separate room from any growing activities.
- (7) All facilities must provide at least one (1) State Certified Security Officer (or more if required by the State) at all times the facility is open to the public. At the time of application for conditional use permit, the applicant must provide an affidavit indicating intention to comply with this provision.
- (8) All facilities must be equipped with security cameras covering exterior parking and loading areas, all points of ingress and egress, portions of the building open to the public or used for the storage, cultivation, or processing of marijuana.
- (9) All facilities shall install, maintain in good working order, and operate a safety and security alarm system that includes a battery backup or generator system in the event of power outage.
- (10) The outside areas of the premises and its perimeter shall be well lit in accordance with the following specific standards:

 - (a) A minimum of 3.0 foot-candles of illumination shall be maintained at all building entrances.
 - (b) A minimum of 1.0 foot-candles of illumination shall be maintained throughout the property.
- (11) No Medical Marijuana Center, Medical Marijuana Alternative Treatment Center (ATC), Medical Marijuana Safety Compliance Center, Medical Marijuana Manufacturing Facility or Medical Marijuana Cultivation Facility shall be located within the following distances from the specified land uses listed below:

 - (a) 200 feet from primary and secondary schools (K-12) including vocational programs, playgrounds, parks State licensed daycare facilities;
 - (b) 200 feet from adult and juvenile correctional facilities college or university either public or private, halfway house or correctional facility, group homes serving persons aged 18 and under, a halfway house, transitional housing and state licensed substance use treatment facility;

(c) Marijuana facilities shall not be located within a drug-free school zone.

(12) All medical marijuana uses shall comply with the following signage rules:

(a) External signage shall be limited to black text on a white background.

(b) One (1) wall mounted sign per building façade shall be permitted, not to exceed twenty (20) square feet in area.

(c) Signage shall not be illuminated at any time.

(d) Signage shall not displace advertisements for marijuana or a brand name except for purposes of identifying the building by the permitted name.

(e) The price of marijuana shall not be advertised.

SECTION 6. Any prior ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.

SECTION 7. If any part of this ordinance is declared unconstitutional or illegal, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 8. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance amends Title XLI, of the Newark Zoning and Land Use Regulations by amending the definitions and adopting land use regulations pertaining to Medical Marijuana Treatment Centers.