

AN ORDINANCE

Amending Chapter 6-1100 of the Philadelphia Code, entitled “Nuisance Health Establishments” by adding a definition for Supervised Injection Sites, creating a presumption that they are Nuisance Health Establishments and establishing criteria to obtain the support of the community by requiring a hearing before City Council.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 6 of The Philadelphia Code is hereby amended to read as follows:

TITLE 6. HEALTH CODE.

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CHAPTER 6-1100. NUISANCE HEALTH ESTABLISHMET

§ 6-1101. Definitions.

(1) **Controlled Substance.** Any drug, substance, or immediate precursor included in Schedules I through IV of the Pennsylvania Controlled Substance Drug, Device and Cosmetic Act, P.L. 233, No. 64 of 1972, 35 P.S. § 780-104.

(2) **Health Establishment.** Any Establishment owned by or employing a Practitioner at which Controlled Substances are administered, dispensed, delivered, given as gifts, or prescribed.

(3) **Nuisance Health Establishment.** Any Health Establishment determined by the Department to be a menace to public health because of controlled substance use, sale or the exchange of compensation for prescriptions for Controlled Substances or because of conditions arising from those activities.

(4) **Practitioner.** A physician, osteopath, dentist, veterinarian, pharmacist, podiatrist, nurse, scientific investigator, or other person licensed, registered or otherwise permitted to prescribe, distribute, dispense, administer or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth of Pennsylvania.

(5) *Supervised Injection Site.* A Health Establishment staffed by Practitioners for the purpose of monitoring the injection of Controlled Substances.

§ 6-1102. Identifying Nuisance Health Establishments.

(1) The Commissioner and his designees may enter and inspect at reasonable times and in a reasonable manner any Health Establishment within the City for the purpose of determining whether it is a Nuisance Health Establishment.

(2) A Health Establishment shall not be considered a Nuisance Health Establishment unless the Department finds that the Health Establishment provides for the administration, dispensing, delivery, gift or prescription by any Practitioner of a Controlled Substance other than in accordance with generally accepted standards of care for medical practices. Additional factors to be considered by the Department in determining whether a Health Establishment is a Nuisance Health Establishment include, but are not limited to:

(a) Loitering or idling, as those terms are commonly understood, in the vicinity of the Health Establishment;

(b) The presence of armed guards and/or large quantities of cash or money orders in the Health Establishment;

(c) Criminal activity in the immediate vicinity of the Health Establishment that reasonably can be linked to Controlled Substance use, sale or the exchange of compensation for prescriptions for Controlled Substances.

(3) *Unless the process established under (a) through (d) of this section is followed, a Supervised Injection Site is presumed to be a Nuisance Health Establishment because it relies on drug addicted individuals bringing illegal controlled substances into the health establishment to consume on the premises and depart at will regardless of their condition and the safety of themselves and the public.*

(a) Any plan to operate a Supervised Injection Site shall be publicized to every resident, business, and institution within a one mile radius of the proposed location at least six months prior to planned operation of such site.

(b) The proposed Supervised Injection Site shall provide a detailed plan of operation to the residents, businesses, and institutions three months prior to holding a public hearing.

(c) The hearing must be held at least three months prior to the planned date of operation.

(d) The proposed Supervised Injection Site may not operate without approval of 90% of the residents, businesses, and institutions within the one mile radius of the facility.

(e) If criteria (a) through (d) are satisfied, then City Council shall vote to approve or disapprove the operation of the proposed Supervised Injection Site unless its operation is already determined to be a violation of Commonwealth or Federal criminal laws in which case, such facility shall not operate.

§ 6-1103. Response to Nuisance Health Establishments.

(1) Upon identifying a Nuisance Health Establishment, the Department shall be authorized to proceed against that public nuisance under § [6-103\(5\)](#); and

(2) Upon identifying a Nuisance Health Establishment, the Department shall promptly notify the appropriate federal and Commonwealth authorities, as well as local law enforcement.

SECTION 2. This Ordinance shall take effect immediately.

Explanation:

[Brackets] indicate language deleted.

Italics indicate new language added.