

**AVALON BOROUGH
ORDINANCE No. 1372**

AN ORDINANCE AMENDING THE AVALON, BELLEVUE & BEN AVON JOINT ZONING ORDINANCE TO PROVIDE THAT MEDICAL MARIJUANA DISPENSARIES AND GROWER/PROCESSOR FACILITIES, ESTABLISHED PURSUANT TO ACT 16 OF 2016, SHALL BE AVAILABLE USES IN AND ONLY IN CERTAIN DESIGNATED ZONING DISTRICTS, AND ESTABLISHING CERTAIN OTHER REQUIREMENTS PERTAINING TO SUCH USES

WHEREAS, the Medical Marijuana Act, Act 16 of 2016, has recognized certain uses of land, described therein as “dispensary” and “grower/processor,” in connection with the program established in Act 16 to provide patients with access to medical marijuana; and

WHEREAS, the Borough desires to designate the zoning districts in which medical marijuana dispensary and grower/processor uses may be conducted; and

WHEREAS, the Avalon, Bellevue & Ben Avon Joint Planning Commission has recommended that dispensary uses be available in and only in the MU Mixed-Use District and C-HC Highway Commercial District and that grower/processor uses be available in and only in the C-HC Highway Commercial, C-BE Business Enterprise District and C-MW Manufacturing and Warehousing District; and

WHEREAS, the amendments do not, and are not intended to, exempt any conduct from or create a legal defense to otherwise applicable State or Federal law; and

WHEREAS, the Allegheny County Department of Economic Development has been duly informed of the proposed amendment.

NOW THEREFORE, the Council of the Borough of [Avalon, Bellevue, Ben Avon] ordains that the Avalon, Bellevue & Ben Avon Joint Zoning Ordinance be amended, as follows:

- I. Article III, Definitions, § 2000-300(B), Definitions, is revised by adding the following defined terms:

Medical Marijuana – Marijuana for certified medical use as set forth in the Medical Marijuana Act, Act 16 of 2016, and any subsequent amendments thereto.

Medical Marijuana Dispensary – The use of the premises by a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, holding a permit issued by the Commonwealth of Pennsylvania Department of Health, to dispense Medical Marijuana, or as otherwise defined in any subsequent amendments to the Medical Marijuana Act, Act 16 of 2016.

Medical Marijuana Grower/Processor – The use of the premises by a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, holding a permit issued by the Commonwealth of Pennsylvania Department of Health, to grow and process Medical Marijuana, or as otherwise defined in any subsequent amendments to the Medical Marijuana Act, Act 16 of 2016.

- II. Article IV, District Regulations, § 2000-405, Land Uses, is revised to:

- A. Add the following uses to Table 1: Land Use Table, under the Non-residential Land Use category:

					MU		C- HC	C- BE	C- M w		
[#]	Medical Marijuana Dispensary				P		P				
[#]	Medical Marijuana Grower/Processor						C	P	P		

- B. Add a new Section 2000-423, as follows:

§ 2000-423. Medical Marijuana Dispensary. A Medical Marijuana Dispensary shall not be located within 1,000 feet of the property line of a School, Academic; School, Commercial; School, Kindergarten, Pre-, Nursery; or any other public, private or parochial school, or a Day Care Center, Child; Day Care Home, Child; or Day Care Home, (Youth).

- III. Article VII, Conditional Uses, § 2000-725, All Other Uses, is renumbered to 2000-726, and the following new Section 2000-725 is inserted:

§ 2000-725, Medical Marijuana Grower/Processor. A Medical Marijuana Grower/Processor shall be a permitted conditional use subject to the following conditions and/or standards:

- A. The minimum lot area shall be 10,000 square feet.
- B. The minimum front yard setback shall be seventy-five (75) feet.

- C. The minimum rear yard setback shall be fifty (50) feet.
- D. The minimum side yard setback shall be twenty-five (25) feet.
- E. Loading areas/docks shall be screened as per the regulations in this Ordinance.
- F. No outdoor storage shall be permitted on a lot associated with Medical Marijuana Growing/Processing.

IV. Article VIII, Parking and Loading, § 2000-800, Off-Street Parking Requirements, is revised to add the following uses and parking requirements to the Parking and Loading Requirements Table set forth in Subsection (E):

Medical Marijuana Dispensary	1 per 300 square feet above first 2,000 square feet	0 – 20,000 s.f. = 1 berth Each additional 20,000 s.f. = 1 berth
Medical Marijuana Grower/Processor	Parking Demand Analysis Required	N/A

- V. The amendments in this Ordinance do not, and are not intended to, exempt any conduct from or create a legal defense to otherwise applicable state or federal law.
- VI. Repeal. Any ordinance or part of any ordinance conflicting with this Ordinance is repealed to the extent of such conflict.
- VII. Severability. It is intended that the provisions in this Ordinance are severable, and if any provisions are held or declared illegal, invalid or unconstitutional by a court of competent jurisdiction, the decision shall not affect or impair any of the remaining sections.
- VIII. Effective Date. This Ordinance shall be effective upon recordation in the Borough ordinance book, or upon the thirtieth day after passage by the Council, whichever comes first, provided further, the foregoing notwithstanding, that this Ordinance will not be effective until such time as it has also been approved by all of the Boroughs participating in the Joint Zoning Ordinance.

DULY ORDAINED AND ENACTED at a public meeting of the Council of the Borough of Avalon this 15th day of August, 2017.

ATTEST:

BOROUGH OF AVALON


Borough Secretary

By: 
Council President

APPROVED:

Bugitta Jackson 8/15/17
Mayor Date

This Ordinance recorded in the Borough Ordinance book on August 15, 2017
by the undersigned.

Serrain Mahatura
Borough Secretary