

**BOROUGH OF LEESPORT,
BERKS COUNTY, PENNSYLVANIA
ORDINANCE NO. 461**

AN ORDINANCE OF THE BOROUGH OF LEESPORT, BERKS COUNTY, PENNSYLVANIA, AMENDING THE LEESPORT BOROUGH ZONING ORDINANCE OF 1972, AS AMENDED, TO INCLUDE NEW DEFINITIONS RELATING TO MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA GROWERS / PROCESSORS, CONSISTENT WITH THE PENNSYLVANIA MEDICAL MARIJUANA ACT; ADDING §404.8 TO ADD DISPENSARIES FOR MEDICAL MARIJUANA AS AN ADDITIONAL CONDITIONAL USE WITHIN THE HIGHWAY COMMERCIAL DISTRICT; ADDING SECTION §405.8 TO ADD GROWER/PROCESSOR OF MEDICAL MARIJUANA AS AN ADDITIONAL CONDITIONAL USE WITHIN THE HEAVY INDUSTRIAL DISTRICT; AND ESTABLISHING REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES

WHEREAS, The Pennsylvania Legislature enacted the Pennsylvania Medical Marijuana Act, Pennsylvania Act 16, adopted April 17, 2016; and

WHEREAS, The Borough of Leesport seeks to add certain provisions to the Leesport Borough Zoning Ordinance of 1972, as amended, relating to zoning to address the provisions of the Pennsylvania Medical Marijuana Act as it relates to land use;

IT IS HEREBY ENACTED and ORDAINED, by the Borough Council of the Borough of Leesport, Berks County, Pennsylvania, that the Borough of Leesport Zoning Ordinance of 1972, as amended, shall be further amended as follows:

SECTION 1. §201.4 shall be amended by adding the following new definitions:

DISPENSARY – A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Pennsylvania Department of Health under PA. Act 16, to dispense medical marijuana. The term does not include a health care medical marijuana organization under the Medical Marijuana Act, Pennsylvania Act 16, which has been separately approved by the Department to dispense or grow and process in accordance with a research study pursuant to Chapter 19 of the Act.

GROWER/PROCESSOR – A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Pennsylvania Department of Health under PA. Act 16, to grow and process medical marijuana. The term does not include a health care medical marijuana organization under the Medical Marijuana Act, Pennsylvania Act 16, which has been separately approved by the Department to dispense or grow and process in accordance with a research study pursuant to Chapter 19 of the Act.

ACT 16 – The Medical Marijuana Act, Pennsylvania Act 16 as adopted April 17, 2016.

MEDICAL MARIJUANA – Marijuana for certified medical use as set forth under the Medical Marijuana Act, Pennsylvania Act 16.

SECTION 2. The following sections are hereby added:

404.8 Uses permitted only by conditional use issued by the Borough Council:

a. Dispensary, which in addition to meeting the procedures set forth in Section 806 for a conditional use, must meet the following specific requirements:

1. The dispensing of Medical Marijuana can only be conducted by a Dispensary permitted under Act 16.
2. A Dispensary may only dispense Medical Marijuana indoors in an enclosed and secure facility.
3. Any application for a conditional use must be accompanied by a security plan addressing the safety and security of the physical facility, personnel, and the public.
4. The lot or property line of a Dispensary may not be located within 1,000 feet of the property line of the lot or property line of a public, private or parochial school or a day-care center.
5. A Dispensary may sell medical devices and instruments which are needed to administer Medical Marijuana.
6. A Dispensary shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district, as well as any additional special standards applicable to this use as may be required under Act 16.

405.8 Uses permitted only by conditional use issued by the Borough Council:

405.8 a. is deleted in its entirety and shall now read in its entirety, as follows:

a. Grower/Processor, which in addition to meeting the procedures set forth in Section 806 for a conditional use, must meet the following specific requirements:

1. A Permit from the Pennsylvania Department of Health for the conduct of a Grower/Processor operation under Act 16 would be required as a condition of any zoning approval from the Borough.
2. The growing of Medical Marijuana can only be conducted by a Grower/Processor permitted under Act 16 and cannot be conducted separate from the processing activity.
3. A Grower/Processor shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district, as well as any

additional special standards applicable to this use as may be required under Act 16.

4. A Grower/Processor use is not considered as an agricultural use, but rather as a manufacturing use.

5. A Grower/Processor may only grow, store, harvest or process marijuana indoors in an enclosed and secure facility.

6. Any application for a conditional use must be accompanied by a security plan addressing the safety and security of the physical facility, personnel, and the public.

SECTION 3. Repeal of Ordinances.

Any ordinance or part of ordinances conflicting with the provisions of this Ordinance is hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

SECTION 4. Severability.

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Borough Council of the Borough of Leesport, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 5. Effective Date.

The effective date of the within amendments shall be immediately upon its enactment and approval by the Mayor.

DULY ORDAINED and ENACTED as an Ordinance by the Borough Council of the Borough of Leesport at a meeting held on the 15th day of February, 2017.

ATTEST:

BOROUGH OF LEESPORT
BOROUGH COUNCIL

Paula Hesse
Secretary

By: *Donna Anz*
President of Borough Council

Vincent Skiff
Charles Zerbe
[Signature]
Ronald Strauss
Carl [Signature]
[Signature]

APPROVED this 15th day of February, 2017.

John W. Sandridge
Mayor of the Borough