



Borough of Neptune City  
Regular Meeting of the Mayor and Council  
**Minutes**  
**Monday, November 14, 2022**

*This meeting has been advertised in accordance with Notice Requirements of Chapter 231 P.L. 1975, which have been satisfied by the publication of said notice in the Asbury Park Press, and the Coaster and by filing a copy with the Municipal Clerk.*

## Call to Order

### Roll Call

The meeting was called to order at 7:00 pm

Borough Clerk DiCorcia Williams took roll call:

**PRESENT:** Mayor Andrew Wardell, Council President Brian Thomas,

Councilmembers Scott Dellett, Dana Farley, Glen Kocsis, Pamela Renee, Councilwoman Danielle Pappas

**ALSO IN ATTENDANCE:** Administrator Jardine and Attorney Howlett

### Open Public Meetings Act Statement

Mayor Wardell announced that the Notice Requirements of Chapter 231 P.L. 1975 have been satisfied by the publication of said notice in the Asbury Park Press, and the Coaster and by filing a copy with the Municipal Clerk.

### Flag Salute

Mayor Wardell led the flag salute.

## Minutes

### Regular Meeting 10/24/2022

Motion to receive and file the minutes of 10/24/2022 by C/Pappas; seconded by C/Renee

Voice Vote - AYE: C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

ABSTAIN: C/Dellett

## Communications

### A. Neptune City Police Department – Monthly Reports, September 2022

Motion to accept and file by C/Thomas; seconded by C/Farley

Voice Vote - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

## Presentations

### Oath of Office – Patrolman Emmons

Patrolman Emmons was sworn into office by Mayor Wardell.

Chief Quagliato thanked Council for allowing the position to be filled. Chief Quagliato shared information about Officer Emmons.

### **Resolution 2022-127** - Authorize Appointment of Police Officer, Neptune City Police Department

Motion to approve Resolutions 2022-127 by C/Farley; seconded by C/Dellett

Roll Call - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

### **RESOLUTION 2022-127**

#### **AUTHORIZE APPOINTMENT OF POLICE OFFICE, NEPTUNE CITY POLICE DEPARTMENT**

**WHEREAS**, the Borough of Neptune City is in need of a Police Officer; and

**WHEREAS**, it is the recommendation of the Police Administration and the Mayor and Council to hire Cole Emmons as a Police Officer.

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Council of the Borough of Neptune City hire Cole Emmons as a Police Officer effective November 15, 2022 at the rate of pay as determined by agreement between the Borough of Neptune City and the Neptune City Police Officers' Association.

#### Discussion - 2022 Best Practices

Administrator Jardine shared information about the 2022 Best Practices; the Borough received a score of 31.5 and will be eligible to receive full State Aide. C/Renee noted a job well done with the Borough Office for getting the Borough to the point.

### Board of Education Report

None

### Mayor's Report - Mayor Wardell

Mayor Wardell explained the cannabis ordinance is being reintroduced for two reasons tonight: the first to open highway commercial in the zoning to allow more availability in space by including the commercial spaces on the west side of town. He explained the purpose of including highway commercial. This does not increase the number of licenses. It also allows us to refer the ordinance to the Land Use Board for review as it pertains to zoning who will review and make recommendations. Mayor Wardell further explained the ordinance adoption process and noted that this ordinance is not about any specific location or application. Mayor Wardell further detailed the process to arrive at this point. Mayor Wardell reported he recently met with our Engineers about the improvements to Adams Field. They discussed some changes to the project to increase its viability, as earlier plans had softball/baseball fields with an all-purpose field in between. However, none of the fields would fit specifications for fully functional fields and therefore would not be available for rent. He then discussed other viable options. Congratulations were offered to the winners of the Decorations Contest; Mayor Wardell thanked the donors Kelly's Tavern, Molinari's, and Pete and Eldas. Mayor Wardell shared he was pleased to have the opportunity to appoint a new member of the Board of Recreation tonight, thanking James Conner for his volunteerism. The New Bethel Church will be hosting a Turkey Giveaway on Sunday the 20th. They ask that anyone in need of a turkey preregister with the Church by calling 732-869-0909 prior to Sunday, ask for Sister Raquel or Sister Nakita. There is a limit of one turkey per household. The Tree lighting ceremony will again be held at Memorial Park this year on Thursday, December 1st starting at 6:00 pm. The Holiday children's party will be held on December 10th from 10-12, children will be given tickets to attend.

### Council Reports

#### Administration & Finance – Council President Brian Thomas

C/Thomas reported the Capital Budget is being reviewed as are requests from the Library and Police Department. The deadline for the ANCHOR program is December 31.

#### Human Services – Councilmember Scott Dellett

C/Dellett reported on the Ordinance for new equipment for the Fire Department, thanking the Chief for his work in obtaining the best prices. He also noted he and his daughter have become qualified ambulance drivers for the Neptune City First Aid.

#### Administration & Justice – Councilmember Dana Farley

On November 23, C/Farley and C/Dellett will be hosting a "Friendsgiving" at the Neptune City Community Center at 5pm for Seniors and Veterans. There is a sign up at the Community Center. C/Farley reported on great work by the New Jersey State Police regarding the indictment of members of a gun trafficking ring. Chief Quagliato shared one of the Borough's Detectives was a huge part of the investigation. C/Farley reminded all to keep your vehicles, windows and doors locked.

#### Law & Ordinance – Councilmember Glen Kocsis

C/Kocsis reported on the amendments to the cannabis ordinance and amendments to the sign ordinance which will be introduced at the Council meeting.

**Public Works – Councilwoman Danielle Pappas**

C/Pappas reported on the last days for leaf and brush pick up and reported on the open positions in Public Works. C/Pappas offered congratulations to Patrolman Emmons.

**Special Services – Councilmember Pamela Renee**

C/Renee reported the rabies clinic will be held March 16 at 6:00 pm. C/Renee shared the 2022 stats for the TNR program. C/Renee further shared that more colony caregivers are needed. C/Renee spoke about an email from the mayor regarding reimbursement for Councilmembers for the League of Municipalities, she noted the Council votes on the budget and that going forward it should be made a line item. C/Renee also noted the plans for Adams Field were voted on for by a prior Council and therefore any changes should have been brought to Council. Mayor Wardell responded to the comments made by C/Renee.

**Administrator's Report - Administrator Jardine**

Administrator Jardine explained the transfer resolution. Administrator Jardine also shared there will be upcoming events for the holiday season.

**Public Comments - Agenda Items Only**

Ms. Arlene Sciarappa, Tucker Drive, shared concerns regarding the cannabis ordinance. Ms. Sciarappa noted specific questions in the ordinance; to which Mayor Wardell and Administrator Jardine responded. Ms. Sciarappa shared further concerns with the language of the current ordinance, noting items she feels should be considered.

Mr. Ted Wardell, Tucker Drive, shared information about the Bradley Street U-Turn; and asked the percentage of voters that voted in favor of legalized cannabis. Mayor Wardell noted the Land Use Board is where zoning issues should be addressed.

Ms. Christina Roberts, Oak Terrace, shared concerns about people traveling through side streets, the amount of people coming and going and the increased amount of traffic. Ms. Roberts noted the Borough is unchartered territory.

Ms. Stacy Higgins, Coastal Drive, noted no one has an issue with the nature of the business but there is concern regarding having two licenses so close to one and other. Ms. Higgins spoke in favor of tightening the ordinance.

Mr. Pat McMillan, Oak Terrace, asked questions about the ordinance and spoke about possible changes as well as the positives of including more areas.

Mayor Wardell reiterated that no one has obtained their license, letters of support were given based on the business models and the situation of the businesses being close to each other is now attempted to be remedied by opening the Highway Commercial Zone.

Mr. McMillan spoke about concerns with lines and parking. Mayor Wardell noted the issues being raised are to better addressed by the zoning board and their professionals. Mayor Wardell explained the ordinance had to be introduced by the Council to then be referred to the Land Use Board for their review and recommendations.

Ms. Rosemarie Gorski, Oak Terrace, asked if the locations are not set then why announced. Mayor Wardell explained an intent to lease or purchase is a requirement of the application process, but can be moved now that more opportunities are available if the highway commercial zone is opened.

Mr. Bill Sciarappa, Tucker Drive, shared comments, and thoughts about the ordinance. He further expressed concerns about the traffic.

Ms. Kelly Strazdas, Overbrook Place, asked about the process, suggesting a tight ordinance to protect the residents. Ms. Strazdas asked about enforcement. Discussion followed about the purpose of introducing the ordinance to then refer to the Land Use Board to make recommendations and to allow for more locations/space in town.

Attorney Howlett explained that the Land Use Board is who would address concerns about parking spaces, traffic considerations; further noting the Council has the technical authority to change the ordinance they do not have the technical knowledge and expertise so therefore the ordinance must be reviewed by the Land Use Board and its professionals to reconcile it with existing code in Chapter 139 and to install measures to protect the Borough.

Ms. Stacy Higgins, Coastal Drive, asked if anyone had visited other locations and if security would be armed.

Ms. Arlene Sciarappa, Tucker Drive, referenced concerns raised over the Third Avenue storage center, commending the Council for listening and for how things worked out.

C/Kocsis called for a committee meeting to discuss the notes.

C/Renee commended the residents for sharing their concerns; she suggested holding the introduction for two weeks to incorporate changes. Administrator Jardine explained there is a timing issue with referring to the Land Use Board and being able to incorporate changes they may make. Discussion continued regarding whether to table the ordinance or to move forward and the timeline for review by the Land Use Board.

Mr. Bill Sciarappa, Tucker Drive, agreed it was prudent to table the ordinance for two weeks.

C/Renee made a motion to table the introduction of Ordinance 2022-15 until November 28, 2022. Discussion continued. C/Renee then confirmed that the Council would have the opportunity to revise the ordinance after the Land Use Board reviewed. Discussion continued regarding the valid comments and suggestions made by the public; with Council consensus being that there will be amendments, but it would make more sense to move forward with amendments with recommendations from the Land Use Board. There was no second on the motion to table; therefore the motion failed.

## Unfinished Business

### Ordinance Adoption

**Ordinance 2022-14** - Ordinance Authorizing the Vacation of the Unimproved Paper Street Designated as “Field Street” on the Official Tax Map of the Borough of Neptune City – *Public Hearing/Adoption Tabled until Monday, November 28, 2022*

This Ordinance is being tabled; the public hearing and proposed adoption will be rescheduled for Monday, 11/28

#### **ORDINANCE NO. 2022-14**

#### **ORDINANCE AUTHORIZING THE VACATION OF THE UNIMPROVED PAPER STREET DESIGNATED AS “FIELD STREET” ON THE OFFICIAL TAX MAP OF THE BOROUGH OF NEPTUNE CITY**

**WHEREAS**, the Borough of Neptune City (the “Borough”) has determined that the unimproved paper street designated as “Field Street”, as shown on the official tax map of the Borough, is not needed for any public purpose, and that the public interest would be best served by vacating and extinguishing all public right, title and interest in and to that portion of Field Street, so that the underlying lands may be combined with, and become and form part of, adjacent properties; and

**WHEREAS**, the area of Field Street to be vacated (the “Subject Area”) measures approximately 2,939 square feet, and is located adjacent to Block 18, Lot 1, which is a privately-owned lot commonly known as 96 Laird Avenue (“96 Laird Avenue”), and Block 8, Lot 6, which is public park owned by the Borough (the “Laird Avenue Park”); and

**WHEREAS**, the Subject Area, 96 Laird Avenue and the Laird Avenue Park are all located within a Non-Condemnation Area in Need of Redevelopment, as determined by the Borough Council of the Borough of Neptune City through Resolution No. 21-81 dated April 26, 2021 (the “Redevelopment Area”); and

**WHEREAS**, the Borough and Genesis Redevelopment, LLC (the “Redeveloper”) are party to a Redevelopment Agreement approved via Resolution 22-95 dated July 25, 2022 intended to facilitate the redevelopment of 96 Laird Avenue and another lot within the Redevelopment Area, and the rehabilitation of the Laird Avenue Park (the “Redevelopment Agreement”); and

**WHEREAS**, the Redevelopment Agreement provides that vacation of the Subject Area is conditioned upon the Redeveloper’s acquisition of title to 96 Laird Avenue and shall serve as consideration for the rehabilitation of Laird Avenue Park by the Redeveloper; and

**WHEREAS**, the Subject Area is shown on a survey prepared by Kevin E. Shelley, P.E. of Shore Pointe Engineering, dated October 10, 2022, a copy of which is attached hereto as **Exhibit A** and made a part hereof, and is more particularly described in a legal description prepared by John W. Lord, P.L.S., a copy of which is attached hereto as **Exhibit B** and made a part hereof; and

**WHEREAS**, it is the intention of the Borough that once the Redeveloper acquires title to 96 Laird Avenue, the Borough's interest in the Subject Area will be vacated and the ownership of the underlying lands shall revert to the Redeveloper as the owner of 96 Laird Avenue by operation of law; and

**WHEREAS**, when not necessary for any public use, a public street, or part thereof, which has not been opened by the municipality, may be vacated by the governing body by Ordinance pursuant to N.J.S.A. 40:67-19, et seq.; and

**WHEREAS**, the Borough believes that the vacation of all public right, title and interest in and to in the Subject Area is in the best interests of the Borough as well as the adjacent property owners and is consistent with the policy underling the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Neptune City in the County of Monmouth, State of New Jersey, that:

1. Pursuant to N.J.S.A. 40:67-19, et seq., and contingent upon the Borough acquiring title to 96 Laird Avenue, the Borough hereby vacates, extinguishes, releases and abandons all public right, title and interest in and to that unimproved paper street known as Field Street which is located immediately adjacent to Block 18, Lot 1 and Block 8, Lot 6, and is an area that measures approximately 2,939 square feet, as more particularly shown on **Exhibit A** attached hereto, and as more particularly described in **Exhibit B** attached hereto.
2. It is the intention of the Borough that once the Subject Area has been vacated, then ownership of the underlying lands shall revert to the Redeveloper by operation of law conditioned upon its prior acquisition of title to 96 Laird Avenue.
3. The provisions of this Ordinance shall not be deemed to vacate any rights and privileges which may be possessed by any public utility company (as defined in N.J.S.A. 48:2-13), or by any cable television company (as defined in N.J.S.A. 48:5A-1, et seq.), to maintain, repair, and replace any existing facilities in, adjacent to, over or under the said vacated area.
4. Following the introduction of this Ordinance, the Borough Clerk shall provide notice of its pending status as mandated by N.J.S.A. 40:49-6, and at least one week prior to the time fixed for further consideration and final passage of the Ordinance, the Borough Clerk shall mail a copy of the Ordinance, together with a notice of the introduction thereof, and information as to the time and place of when and where the Ordinance will be further considered for final passage, to every person whose lands may be affected by the Ordinance, by certified mail return receipt requested and regular mail, to their last known post office address(es).
5. Following the adoption of this Ordinance, the Borough Clerk shall within sixty (60) days of the effective date thereof, file a copy of this Ordinance along with the attached exhibits, certified by the Clerk, under the Seal of the Borough, to be a true and exact copy of the Ordinance, together with a copy of the proof of publication thereof, in the Office of the Monmouth County Clerk for recordation in the County's Book of Vacations, pursuant to N.J.S.A. 40:67-21.
6. Once the Subject Area has been vacated following the Redeveloper's acquisition of title to 96 Laird Avenue, then the Borough's interests in and to the said area shall be extinguished.
7. The Borough Attorney and Borough Engineer are hereby authorized and directed to undertake all actions and to prepare all documents that are necessary in order to effectuate the intentions of this Ordinance.
8. The Mayor and/or the Borough Administrator are hereby authorized and directed to execute any documents necessary to effectuate this Ordinance.
9. All costs and expenses associated with this Ordinance shall be the responsibility of the current contract purchaser of Block 8, Lot 6, and sufficient funding shall be posted by said property owner prior to the adoption of this Ordinance to cover all Borough's expenses associated with this Ordinance.
10. This Ordinance shall take effect immediately upon final passage and publication in accordance with the law.
11. The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgement shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.
12. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.



## New Business

### Ordinance Introduction

**Ordinance 2022-15** – Ordinance Amending Chapter 139, Section 53 of the Borough Code Entitled ‘Class 5 Cannabis Retailer’ - *First Reading /Introduction* (Public Hearing 12/12/2022)

Mayor Wardell read the ordinance by title. The public hearing will be on December 12, 2022.

Motion to introduce ordinance 2022-15 by C/Kocsis; seconded by C/Pappas

Roll Call - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

### ORDINANCE 2022-15

#### AN ORDINANCE AMENDING CHAPTER 139, SECTION 53 OF THE BOROUGH CODE ENTITLED ‘CLASS 5 LICENSED CANNABIS RETAILER’

**WHEREAS**, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributor license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

**WHEREAS**, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, section 31b of the Act also stipulates that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 21, 2021); and

**WHEREAS**, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

**WHEREAS**, the Borough Council of the Borough of Neptune City has determined that, due to present and potential future impacts that allowing cannabis business might have on New Jersey municipalities in general, and on the Borough of Neptune City in particular, it is at this time necessary and appropriate, to amend the Ordinances of the Borough of

Neptune City, Chapter 139 Zoning to prohibit Class 1, 2, 3, 4, and 6 of cannabis licensed businesses in the Borough of Neptune City and to permit the operation of Class 5 retail licensed businesses without consumption areas only in the C and the HC Zones; amending Chapter 39 and 95 regarding the public consumption of Cannabis and to create a new Chapter 121 establishing a Cannabis Transfer and User tax.

**NOW THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Neptune City, in the County of Monmouth, State of New Jersey, as follows:

#### **RECITALS INCORPORATED**

The aforementioned recitals are incorporated herein as though fully set forth at length.

#### **GENERAL REQUIREMENTS**

Definitions: the definitions and other provisions of the Act and N.J.A.C. 17:30 are hereby incorporated herein. Any amendments to the Act and N.J.A.C. 17:30-1.2 are also incorporated herein without the need to revise this Chapter.

- a) State Licensure Required: In order to locate within the Borough, a cannabis business must first obtain a license from the State Cannabis Commission. Such license must be in good standing during the entirety of the term of that business's operation within the Borough.
- b) The Borough, in determining zoning approval of a proposed location of a license applicant's cannabis businesses premises shall consider whether a cannabis business's premises conforms to zoning requirements based on the nature of the cannabis business's primary business operations. If zoning approval is granted, the Borough shall provide a letter or affidavit stating that the location will conform to zoning requirements allowing for activities related to the operations of the proposed cannabis business to be conducted at that location.
- c) Municipal Preference: Pursuant to N.J.A.C. 17:30-6.3, within twenty-eight (28) days of a receipt of a license application from the Cannabis Regulatory Commission ("CRC"), the Borough shall inform the CRC of its preference for the issuance of licenses to cannabis business and whether such license application complies with this Chapter.
- d) Evidence of Borough Support: In order to obtain a license from the CRC, a prospective licensee must provide evidence of support from the Administration and Borough Council of the Borough of Neptune City with respect to such application. Pursuant to N.J.A.C. 17:30-5.1(g), the Borough shall demonstrate proof of local support for the suitability of the cannabis business's proposed location by indicating that the intended location is appropriately located and otherwise suitable for activities related to the operations of the proposed cannabis business by the adoption of a resolution by Borough Council.
- e) All cannabis businesses shall be subject to health and safety review, inspection, and enforcement, including but not limited to an annual health and safety review and inspection, by the Borough.

Deletions are noted by ~~strike-throughs~~

Additions are indicated in **bold underline**

Language that remains unchanged is not highlighted in any way

#### **SECTION I**

Chapter 139, "Zoning" is hereby amended by amending Article I, §Section 139-4 Definitions., by adding the following new definitions:

**CANNABIS RETAILER shall mean any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to the consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retail license.**

Chapter 139, "Zoning", Article III, General Regulations and Provisions, §Section 139-27 Prohibited Uses. is hereby amended to read as follows:

(A.-GG. No changes)

#### **HH.**

**Class1- Licensed Cannabis Cultivator**

**Class 2- Licensed Cannabis Manufacturer**

**Class 3- Licensed Cannabis Wholesaler**

**Class 4- Licensed Cannabis Distributor**

**Class 6- Licensed Cannabis Delivery Service**

**Cannabis Consumption Areas associated with Class 5 Cannabis Retailer licenses**

Chapter 139, "Zoning", Article IV, Zone Regulations, §Section 139-41 C Commercial Zone, is hereby amended to read as follows:

- A. No premises shall be used and no structure shall be erected, altered or occupied for any purposes except the following:  
(1-5 no changes)

**(6) Class 5 Licensed Retailer without a Cannabis Consumption Area<sup>1</sup>**

Chapter 139, "Zoning", Article IV, Zone Regulations, §Section 139-40 HC Commercial Zone, is hereby amended to read as follows:

- A. No premises shall be used and no structure shall be erected, altered or occupied for any purposes except the following:  
(1-3 no changes)

**(4) Class 5 Licensed Retailer without a Cannabis Consumption Area<sup>2</sup>**

Chapter 139, "Zoning", Article V, General Performance Standard, is hereby amended to create new **§ 139-53 Class 5 Licensed Cannabis Retailer**. To read as follows:

**§Section 139-53 Class 5 Licensed Cannabis Retailer.**

- A. All applications for licenses and permits, all licenses and permits issued and all proceedings under this Article shall be in accordance with all applicable laws of the state.
- B. All licenses and permits required by this Article shall be approved by the Borough Council and issued by the Borough Administrator, whom shall also administer the provisions of this Article. Any business duly licensed by the State of New Jersey to conduct legal adult use cannabis operations, as defined by State law, may operate within the Specified Permitted Area so long as: (i) the entity maintains its State license in good standing; (ii) the entity maintains a Borough of Neptune City Business License in good standing; and (iii) the entity otherwise remains in full compliance with the laws and regulations established by the State of New Jersey and the Borough of Neptune City governing the licensed activity, as may be amended.
- C. A Business License to operate within the Borough of Neptune City shall not be granted or renewed without such evidence as may be required by the Borough Administrator to determine that the entity maintains all valid State and/or CRC licenses and approvals, and that all such licenses and/or approvals remain in good standing from the time of registration.
- D. Borough Cannabis Advisory Committee.
1. A Borough Cannabis Advisory Committee ("CAC") appointed by the Mayor will act as the body for local review for the Borough for all cannabis establishments. Under all circumstances in which State Law requires communication to the Borough by the Cannabis Regulatory Commission or any other State agency with regard to the licensing of cannabis establishments by the State, or in which State Law requires any review or approval by the Borough of any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be communicated through the Borough Clerk's Office upon recommendation by the sign-off by the Borough Cannabis Advisory Committee and authorized by the Borough's governing body.
  2. Members of said CAC may include residents and business owners located within the Township. The appointees shall include, at a minimum, one (1) member from the following categories:
    - i. Mayor or designee.
    - ii. Borough Administrator or designee.
    - iii. Neptune City Chief of Police or designee.
    - iv. Borough Planning Board Chair or Designee.
    - v. Borough Clerk and/or Designee.
  3. Duties of the CAC shall be to advise the Borough governing body as to the issuance of cannabis business permits within the Borough based on the issuance of request for proposals issued by the governing body and the establishment of the criteria presented herein.
- E. Local licensing authority.

<sup>1</sup> Hours of operation for Class 5 Retailer License shall be limited to 9 A.M. to 10 P.M. in the C Commercial Zone

<sup>2</sup> Hours of operation for Class 5 Retailer License shall be limited to 9 A.M. to 10 P.M. in the C Commercial Zone



1. The governing body of the Borough of Neptune City is hereby designated to act as the local licensing authority for the Borough for all cannabis establishments. The Borough Council, in reviewing and rendering decisions on all cannabis licenses, shall be assisted by and act upon the recommendation of the CAC, and any other individual(s) designated by the Mayor.
  2. Under all circumstances in which State law requires communication to the Borough by the Cannabis Regulatory Commission or any other State agency with regard to the licensing of cannabis establishments by the State, or in which State law requires any review or approval by the Borough of any action taken by the State licensing authority, the exclusive authority for receiving such communications and granting such approvals shall be exercised by the Borough Council.
  3. Under no circumstances shall a local license for a cannabis establishment issued by the Borough Council be effective until or unless the State has issued the requisite permits or licenses to operate such a facility. No cannabis establishment may lawfully operate in the Borough of Neptune City without the issuance of a State permit or license and full regulatory oversight of the cannabis establishment by the Cannabis Regulatory Commission or other state licensing authority as well as oversight and issuance of a license by the Borough.
  4. Any permit issued pursuant to this Chapter shall be valid for a period of one (1) year from the date of issuance and shall be renewed in accordance with the provisions of this Chapter.
  5. The Borough Administrator may, at his or her discretion, adjust the renewal date of the local permit to correlate with an applicant's State licensing and renewal schedule.
  6. Renewal of any permit shall be governed by any code amendments, additional restrictions or changes in the Act and N.J.A.C. 17:30 et seq., which have been adopted since the previous permit was issued or renewed.
  7. A licensee shall comply with N.J.A.C. 17:30-6.8 governing limitations on license-holders, owners, principals and passive investors, etc.
  8. A licensee shall comply with the provisions of N.J.A.C. 17:30-9.3 governing transfers of ownership interest.
  9. Transfer of a license or change of location or modification to expand a permitted premise shall be subject to the approval of the Administration, the Planning Board, and Borough Council. A potential transfer of a license caused by the death of a spouse, domestic partner or adult child shall not be unreasonably denied.
  10. Except where the Borough has received a complete renewal application along with the requisite fees, and has issued a license renewal, it shall be unlawful for any person to operate after the date of a license expiration.
- F. Limitation on Number of Licenses. Within the geographic boundaries of the Borough of Neptune City, the maximum number of Class 5 licensed Cannabis Retailers shall be two (2).
- G. Limitation on Location. An existing Class 5 licensed Cannabis Retailer shall not be permitted within six hundred (600) feet of any existing Class 5 licensed Cannabis Retailer premises within the C Commercial zone and HC Highway Commercial zone. The distance shall be measured in the same manner as that required by statute for the measuring of the distance businesses between licensed retail sale of alcohol premises, schools and churches.
- H. Hours of Sale. Hours of operation for Class 5 Cannabis Retailer License businesses shall be limited to 9 A.M. to 10 P.M. in the C Commercial zone.
- I. Prohibition of Certain Activities.  
It is hereby established that it is unlawful for any person, who is of legal age to consume cannabis products, to smoke, vape, aerosolize, ingest or otherwise consume in any public place any cannabis products on a public street, highway, avenue, alley or road of the Borough; or upon any public or quasi-public parking lots, or any other parking facilities in the Borough; or on any public grounds, parks, sidewalks, beaches, marine basins, promenade or quasi-public areas; or any shopping center common areas; or in any automobile, or other vehicle or in any other means of transportation on the public streets, highways, alleys, avenues, grounds, sidewalks, parks, marine basins, beachfronts or promenade or quasi-public areas in the Borough. Any unlawful consumption shall be a disorderly persons offense. Any person who is found to be in violation of this Section may be subject to a penalty as provided in Chapter 1, Art III Violations and Penalties §1-16 to 1-20.
- J. Application Process.

1. Any license conditionally issued by the Borough is contingent upon the locally licensed entity's or individual's subsequent receipt of a State permit or license of the same class or type of regulated cannabis activity.
2. Persons wishing to obtain a Class 5 cannabis license shall file a license application with the CAC, on a standardized form established by the Borough Administrator and available in the Borough Clerk's office. The Borough Administrator shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the Borough Administrator, until all documents and application fees are submitted. To be deemed complete, all applications shall be accompanied by the following:
  - a. The applicant shall submit proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.
  - b. The applicant shall submit an affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
  - c. The location proposed for licensing by the applicant shall comply with all applicable municipal zoning laws and the location restrictions set forth in this Code.
  - d. The applicant shall submit, to the satisfaction of the Borough Administrator, proof of financial capability to open and operate the cannabis establishment for which the applicant is seeking a license. Standards for proof of financial capability shall be determined by the CAC.
  - e. The applicant and the application shall otherwise comply with any, and all qualification standards set forth by the State of New Jersey and Borough of Neptune City laws, regulations or ordinances.
  - f. In the event there are multiple applicants for a license, the Borough Administrator shall evaluate all applicants and issue a notification of award after consideration and evaluation of the following criteria:
    - i. Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of nonowner principals; and
    - ii. Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management; and
    - iii. Applicant's or its owners' experience conducting or supporting or plans to conduct institutional review board-approved research involving human subjects that is related to medical cannabis or substance abuse, where the value of past or ongoing clinical research with IRB approval shall outweigh plans to conduct such research, whether the applicant has had any assurance accepted by the U.S. Department of Health & Human Services indicating the applicant's commitment to complying with 45 CFR Part 46, and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine or osteopathic medicine with experience conducting cannabis-related research; and
    - iv. Applicant's brand and proposal for the physical presence of the business, including but not limited to: the site's ability to meet all land use regulations (parking, landscaping, signage, etc.), architectural treatments, customer experience; and
    - v. Applicant's or its owners' demonstrated commitment to the community and social responsibility; or sufficient evidence related to N.J.A.C. 17:30-30-7.10 (a)(13); and

- vi. Summary of the applicant's environmental impact and sustainability plan; whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability; and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system; and
  - vii. Applicant's demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being committed to a local program in collaboration with organizations committed to the well-being of residents, including but not limited to the Borough and surrounding service area. This may be evidenced by letters in support and agreements, a local workforce hiring and development plan, community service, and/or collaborations with a university or specialized training facility; and
  - viii. Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices.
3. A notification of award and conditional municipal license shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to twelve (12) months. No license to operate shall issue until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of award and conditional license has not received a State permit or license within twelve (12) months from issuance, the Borough Administrator shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.
  4. In addition to complying with any State requirement related to good character and criminal background, any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding three (3) years.
  5. Nothing in this Section shall prohibit the Borough from conducting a background check at the time of receipt of the application. Submission of an application shall constitute consent on behalf of the applicant and any persons proposed to have an ownership interest to such background check.

**K. Term of license and license renewals.**

1. Any local license issued pursuant to this Chapter shall be valid for a period of twelve (12) months from the date of issuance and shall be renewed yearly in accordance with the provisions of this Chapter. The Borough Administrator may, at his/her discretion, adjust the renewal date of the local license to correlate with an applicant's State licensing and renewal schedule. Renewal of any license shall be governed by any amendments to state law, regulations and/or the Borough of Neptune City Code. Except where the Borough Administrator has received a complete renewal application along with the requisite fees, and has issued a license renewal, it shall be unlawful for any person to manufacture, sell, distribute, transfer, transport, or otherwise remove cannabis or cannabis products from the premises of any license after the expiration date recorded on the face of the license

**L. Fees.**

1. The following fees shall apply to all cannabis businesses:
  - a. Application Fee - \$10,000.00
  - b. Annual Renewal Fee - \$10,000.00
2. The above fees shall be submitted to the Borough at the time the cannabis business submits its Initial Application or the Renewal Application to the Borough. If the cannabis business's application is denied, the Borough shall refund eighty percent (80%) of the Initial Application or Renewal Fee if the applicant is not approved for a cannabis license by the State of New Jersey and/or is not selected by the Borough for issuance of a Class 5 license.

**M. Disciplinary Actions; Sanctions; Penalties.**

1. Disciplinary actions. Procedures for investigation of license violations and for suspension, revocation, or other licensing sanctions as a result of any such violation shall be as follows:
  - a. First Offense: Up to \$500 per violation per day;
  - b. Second Offense: Up to \$1000 per violation per day;

c. Third Offense: Up to \$2500 per violation per day;

d. Fourth violation shall result in a summary suspension.

2. Summary suspension. Notwithstanding the foregoing section, when the Borough has reasonable grounds to believe that a licensee has engaged in a willful violation of any applicable law, regulation or Borough of Neptune City Code provision, or that the public health, safety, and/or general welfare has been jeopardized and requires emergency action, the Borough Administrator may enter a summary suspension order for the immediate suspension of such license pending further investigation.
  - a. The summary suspension order shall be in writing and shall State the reasons therefore. The licensee shall be afforded an opportunity for a hearing as outlined herein.
  - b. The Borough Administrator shall convene a review panel consisting of the Borough Administrator, a second administrative officer designated by the Mayor, and an officer designated by the Chief of Police. The hearing shall be scheduled within thirty (30) days of the date of the order.
  - c. The review panel is authorized to impose any fines, conditions, restrictions, suspensions, or combination thereof authorized by the State of New Jersey. The Borough may issue fines up to, but not to exceed, \$2,500 per offense and/or suspension of license for a period not to exceed six (6) months.
3. Inactive licenses. Following the commencement of retail sales of cannabis or cannabis products, the Borough may suspend or revoke any license if the licensed premises have been inactive or unoccupied by the licensee for at least six (6) months.
4. Revocation of License. In addition to the foregoing, any cannabis mercantile registration shall be deemed null and void at the discretion of the Chief Law Enforcement Officer of the Borough or any authorized Borough representative for violation of any Borough Ordinance, unless but not limited to a Dormant License as determined by the CAC and or any violation of any New Jersey State regulation shall be a basis for non-renewal.
5. State license. The Borough may suspend or revoke any license if the corresponding State license or permit for the subject location is expired, surrendered, suspended, or revoked.

**N. Site Plan Review Requirements.**

1. The Borough's Zoning Officer will review and determine whether any proposed Cannabis establishment requires approval from the Zoning Board of Adjustment and or Planning Board through the Zoning permit approval process.

**O. Signage and Display of Products.**

1. Each business shall be permitted two (2) signs.
2. Signs shall be limited to location identification/name of business.
3. Signs shall not promote consumption of any cannabis product.
4. Signage design shall not include artistic or photographic renderings of cannabis plants or paraphernalia.
5. Neon signs shall be prohibited.
6. The following words shall be prohibited from appearing on any sign: "pot" and "weed."
7. Signage shall comply with the Borough's Signage Ordinance, as may be amended from time to time.
8. No cannabis products shall be displayed in any windows or doors.

**P. Requirements for Cannabis Businesses.**

**1. All Cannabis Businesses**

- a. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, tobacco, or cannabis by patrons.
- b. No outside storage of any cannabis, cannabis products, or cannabis paraphernalia shall be permitted.
- c. All licensed cannabis facilities shall have a round-the-clock video surveillance system, 365 days a year.
- d. Video surveillance shall be retained a minimum of seven (7) days or pursuant to State and Federal law, whichever is greater.
- e. All licensed facilities must provide the Neptune City Police Department with access to security footage immediately upon request by the Department.

- f. All licensed facilities must provide at least one licensed security guard (or more if required by the State) during all times the facility is open to the public. All patrons must be screened by said security employee and patrons must demonstrate proof of minimum age (21 years old).
- g. As applicable and to the fullest extent possible, all licensed facilities must provide for adequate buffering as otherwise required by Borough of Neptune City Ordinance.
- h. All cannabis establishments shall conduct business and operations indoors.
- i. No more than one (1) ounce of cannabis or cannabis product may be sold to a specific customer at a given time.
- j. Use or consumption of cannabis or cannabis products in any manner shall not be permitted within the Cannabis Retailer's facility, whether in the building or on its grounds or parking lots. Cannabis Consumption Areas are not permitted.
- k. All licensed facilities shall be enclosed in heated/air-conditioned permanent buildings, not trailers, outdoors, movable kiosks, etc.
- l. Any cannabis retailer shall only have one (1) primary public access point, which shall be directly adjacent to the right-of-way or parking area of the building. Access should not be through common entrances with other uses.
- m. Drive-through facilities are not permitted.
- n. All licensed facilities' interiors shall provide a secure location for storage of products with minimum products in any customer service area.
- o. People shall not be permitted to congregate outside of a Cannabis Retailer, loiter, or wait in line to access the Cannabis Retailer. The facility shall have a plan in place if interior capacity is exceeded, i.e., numbers are given and customers wait in their vehicles until called.

**Q. Odor Mitigation/Smoking.**

- 1. All cannabis businesses must provide adequate HVAC air quality equipment.
- 2. Cannabis odor must not permeate outside any cannabis business establishment.
- 3. All cannabis businesses shall adhere to generally applicable Borough ordinances regulating odor emissions and environmental impacts.
- 4. All retail cannabis businesses must follow the protocols set forth in the Clean Air Act.
- 5. No smoking is permitted inside or outside of any cannabis business establishment.

**R. Noise Mitigation. All cannabis businesses shall adhere to all generally applicable noise ordinances, nuisance ordinances, other Neptune City Borough Code requirements and all other state and federal requirements.**

**SECTION II**

Chapter 95, "Parks and Playgrounds" is hereby amended by amending § 95-10 "No Smoking and Refuse" as follows:

- A. No Smoking. It is hereby established that no person shall smoke any cigarettes, cigars, or other tobacco products or smoke, vape, or aerosolize any cannabis products in any Borough of Neptune City Park, playground or park areas as herein defined at any time. ~~except in designated "smoking areas as indicated by signs posted in such park.~~ The penalty for a violation of this section shall be \$25. The penalty for a violation of this section shall be a disorderly persons offense. Any person who is found to be in violation of this Section shall be subject to a penalty as provided in Chapter 1, Art III Violations and Penalties §1-16 to 1-20.
- B. (no changes)

**SECTION III**

Chapter 39, entitled "Alcoholic Beverages" is hereby amended to be titled, "Alcoholic Beverages and Cannabis Consumption"

Chapter 39, "Alcoholic Beverages and Cannabis Consumption", Article III Drinking in Public Places is hereby amended to be titled "Drinking or using Cannabis products in Public Places" and by creating a new § 39-27 "Smoking cannabis in public or quasi-public places prohibited"

§ 39-27 (Reserved) Smoking cannabis in public or quasi-public places prohibited.

It shall be unlawful for any person to smoke, vape, aerosolize or ingest cannabis on a public street, highway, avenue, alley or road of the Borough of Neptune City; or upon any public grounds, parks, sidewalks, beaches, marine basins, beachfronts, shopping center common area or public places in the Borough including within any Drug Free Zone, as established by Chapter 57 "Drug Free Zones" of the Code of the Borough of Neptune City. See also § 139-53 D. "Prohibition of Certain Activities". Any person who is found to be in violation of this Section shall be subject to a penalty as provided in Chapter 1, Art III Violations and Penalties §1-16 to 1-20.



**SECTION IV.****BE IT FURTHER ORDAINED THAT NEW CHAPTER 121 IS HEREBY CREATED ENTITLED "ESTABLISHMENT OF CANNABIS TRANSFER TAX AND USER TAX IN THE BOROUGH OF NEPTUNE CITY"****CHAPTER 121 Establishment of Cannabis Transfer Tax and User Tax in the Borough of Neptune City**

- A. The cannabis transfer tax in Borough of Neptune City shall be fixed at a uniform percentage rate of two percent ( 2%) on all sales or transfers of cannabis products from any of the cannabis establishments that are located within the geographical boundaries of the Borough. This tax shall be imposed on:
  1. Receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator;
  2. Receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment;
  3. Receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof.
- B. A two percent (2%) transfer tax shall be collected from receipts from each sale by a cannabis wholesaler located within the geographical boundaries of the Borough.
- C. A user tax is hereby also established at the same rate of the transfer tax as contained herein and shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to subsection A, from the license holder's establishment that is located in the Borough to any of the other license holder's establishments, whether located in the Borough or another municipality.
- D. The transfer tax or user tax imposed by this ordinance shall be in addition to any other tax imposed by law. Any transaction for which the transfer tax or user tax is imposed, or could be imposed pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act" (N.J.S.A. 54:32B-1 et seq). The transfer tax or user tax will be assessed and collected pursuant to established State law and Administrative rules and regulations adopted regarding same.
- E. In accordance with the provisions of N.J.S.A. 40:48I-1, section 40, every cannabis establishment required to collect the transfer and user taxes imposed by this Chapter shall be personally liable for the transfer and user tax imposed, collected, or required by this Chapter and under N.J.S.A. 40:48I-1, section 40.
- F. Any cannabis establishment collecting a transfer tax or user tax shall have the same right with respect to collecting the tax from another cannabis establishment or the consumer as if the tax was a part of the sale and payable at the same time or with respect to nonpayment of the transfer tax or user tax by the cannabis establishment or consumer, as if the tax was part of the purchase price of the cannabis or cannabis item and payable at the same time, provided that the Chief Financial Officer of the Borough of Neptune City which imposes the transfer tax and user tax is joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- G. No cannabis establishment required to collect the transfer and user taxes imposed by this Chapter shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.
- H. Each cannabis establishment collecting transfer and user taxes pursuant to this chapter shall be remitted to the Tax Collector of the Borough of Neptune City, on a basis to be determined by the Chief Financial Officer.
- I. Delinquent taxes. If a Licensee is a Lessee of the parcel of the real property comprising the cannabis establishment premises, and the Licensee/Lessee becomes delinquent in submitting either the transfer or user taxes for more than thirty (30) days, the Borough may refer the Licensee/Lessee to the Borough Administrator to consider any actions to be taken, including but not limited to, penalties to be imposed, suspension of the license, disallowance of a license renewal or any other remedies allowed by law.
- J. If the Licensee is the owner of the parcel of real property comprising the cannabis establishment premises, and if the transfer tax or user tax is not paid when due, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises. The annual Borough license issued pursuant to this Chapter shall not be renewed for the cannabis establishment should any transfer or user tax pursuant to this Chapter be delinquent.
- K. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.

- L. The Borough shall file with the Tax Collector, a statement showing the amount and due date of the unpaid balance of cannabis taxes and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.**

DATE INTRODUCED: November 14, 2022

PUBLIC HEARING: December 12, 2022

**Ordinance 2022-16** – Bond Ordinance Providing for the Acquisition of Fire Department Equipment Appropriating \$85,000 and Authorizing the Issuance of \$80,750 Bonds or Notes of the Borough for Financing part of the Cost Thereof - *First Reading /Introduction* (Public Hearing 11/28/2022)

Mayor Wardell read the ordinance by title. The public hearing will be on November 28, 2022.

Motion to introduce ordinance 2022-16 by C/Dellett; seconded by C/Thomas

C/Kocsis asked if that what was budgeted for; Administrator Jardine explained it was budgeted for in the Fire Departments Capital Budget. Mayor Wardell explained the Borough borrows from itself. The purchase is for a hose, extrication equipment and sets of gear.

Roll Call - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

#### **ORDINANCE NO. 2022-16**

#### **BOROUGH OF NEPTUNE CITY, COUNTY OF MONMOUTH**

#### **BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF FIRE DEPARTMENT EQUIPMENT APPROPRIATING \$85,000 AND AUTHORIZING THE ISSUANCE OF \$80,750 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE COST THEREOF.**

**BE IT ORDAINED** by the Borough Council of the Borough of Neptune City, in the County of Monmouth, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

**Section 1.** The capital improvement described in Section 3 of this Bond Ordinance is hereby authorized by the Borough of Neptune City, New Jersey. For the capital improvement described in Section 3, there is hereby appropriated the sum of \$85,000 and \$4,250 as the down payment for the said purpose as required by the Local Bond Law.

**Section 2.** In order to finance the cost of the Acquisition of Fire Department Equipment, negotiable bonds are hereby authorized to be issued in the principal amount of \$80,750 pursuant to the Local Bond Law. In anticipation of issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

**Section 3.** The Acquisition of Fire Department Equipment is hereby authorized and the purpose for which the bonds are to be issued. The minimum period of usefulness is ten years.

**Section 4.** All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of *N.J.S.A. 40A:2-8(a)*. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate, and the maturity schedule of the notes sold, the price obtained, and the name of the purchaser.

**Section 5.** The capital budget of the Borough of Neptune City is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency therewith; and the resolutions promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Municipal Clerk and is available for public inspection.

**Section 6.** The following additional matters are hereby determined, declared, recited and stated:

**(a)** The purchase described in Section 3 of this bond ordinance is not a current expense. It is an improvement that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

**(b)** The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the Office of the Clerk, and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local

Government Services in the Department of Community Affairs of the State of New Jersey. The gross debt of the Borough of Neptune City is increased by the authorization of the bonds or notes provided in this bond ordinance by \$80,750, and the obligations authorized herein will be within all debt limitations prescribed by law.

(c) An aggregate amount not exceeding \$2,000 for items of expense listed in and permitted under *N.J.S.A. 40A:2-20* may be included in the costs of the purchase authorized in Section 3 hereof and is included in the foregoing estimate thereof.

**Section 7.** The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of an interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and interest thereon without limitation on rate or amount.

**Section 8.** That in the event any moneys are received by the Borough from the United States of America, or from the State of New Jersey or any of its agencies, or from any other sources for the purchase provided for herein prior to the issuance of any of the bonds or notes authorized by this ordinance, the amount of such bonds or notes authorized herein shall be reduced by the amount so received prior to the issuance of any such bonds or notes.

**Section 9.** This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

DATE INTRODUCED: November 14, 2022

PUBLIC HEARING: November 28, 2022

## Consent Agenda

*(All matters listed hereunder are considered to be routine in nature and will be enacted in one motion. Any member of the Governing Body may request an item be removed for separate consideration).*

**Resolution 2022-128** - Authorize Payment of the Bills

**Resolution 2022-129** - Authorize Advertisement for RFPs for 2023 Borough Professionals

**Resolution 2022-130** - Authorize Budget Transfer (Number 1)

**Resolution 2022-131** - Authorize Board of Recreation Appointment

**Resolution 2022-132** - Authorize Refund of Tax Overpayment (Block 89 Lot 10.32)

Motion to approve Resolutions 2022-128 through 2022-132 as a group by C/Renee; seconded by C/Dellett

Roll Call - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

## RESOLUTION 2022-128

### AUTHORIZING PAYMENT OF THE BILLS

**BE IT RESOLVED** that the bills as presented, all have been certified and approved as complete as to form, goods having been delivered, and/or services performed and sufficient funds being available for payment for said bills, be paid in the amount of \$99,505.25

Vendor Name	Item Description	Amount
GENERAL CODE	ECODE ANNUAL MAINTENANCE-2022	\$ 1,195.00
THE NEW COASTER, LLC.	INV# 509351 INTRO ORD 2022-14	\$ 81.22
NJ CONFERENCE OF MAYORS	MEMBERSHIP DUES 2023	\$ 395.00
MONMOUTH COUNTY CLERK	OPRS-RIM 9/1/22-8/31/2023	\$ 3,500.00
QUADIENT FINANCE USA, INC.	POSTAGE: SEPT-OCT 2022	\$ 589.90
CLEARY GIACOBBE ALFIERI JACOBS	PROFESSIONAL SERV-SEPT 2022	\$ 3,169.60
PLOSIA COHEN, LLC	PROF SERV: OCT 202 INV# 53015	\$ 3,642.20
GESCHKE, WILLIAM	REIMBURSEMENT-MEDICAL	\$ 3,250.04
TROCCHIO, LOUIS	MEDICAL REIMBURSEMENT	\$ 680.40
THE RODGERS GROUP, LLC	ACCREDITATION COUNSULTING	\$ 3,325.00
QUAGLIATO, MATTHEW	REIMBURSEMENT-CHIEFS ASSN INTV	\$ 35.94
TURETZKIN, HARRY	REIMBURSEMENT-FIRE PREV DINNER	\$ 302.63
BILLS WORK CLOTHING	CLOTHING ALLOW-E. LAUENSTEIN	\$ 314.00
DYNAMIC TESTING SERVICE	RANDOM TESTING: 10-19-2022	\$ 180.00
SEABOARD WELDING SUPPLY	REFILL OXYGEN: OCTOBER 2022	\$ 18.50

DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 22,166.66
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 758.10
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 712.95
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 4,001.65
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 6,427.27
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 7,255.03
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 399.00
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 391.65
DELISA DEMOLITION & DISPOSAL	SERVICE: SEPT-OCT 2022	\$ 6,465.20
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 3.69
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 19.90
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 19.90
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 26.64
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 116.80
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 312.52
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 168.00
GENUINE PARTS COMPANY	OCTOBER PARTS PUCHASES	\$ 330.27
SEA BREEZE FORD, INC.	OCTOBER EST PARTS PURCHASES	\$ 320.22
SEA BREEZE FORD, INC.	OCTOBER EST PARTS PURCHASES	\$ 33.60
BRADLEY CAR CARE	OCT EST TIRE & SERVICE COST	\$ 100.00
SCHINDLER ELEVATOR CORP.	SERVICE: OCTOBER 2022	\$ 281.90
S&S ASSOCIATES, LLC	SERVICE: OCT 2022 NCPD	\$ 900.00
S&S ASSOCIATES, LLC	SERVICE: OCT 2022 NCPD	\$ 900.00
MONMOUTH COUNTY SPCA	SERVICE: SEPTEMBER 2022 +TNR	\$ 1,187.50
STOP & SHOP	CANDY FOR MOVIE NIGHT OCT 2022	\$ 98.60
NEPTUNE REALTY ASSOC.	2022 PARKING LOT LEASE-COM CNT	\$ 2,750.00
JANITOR SUPPLY COMPANY	toilet paper parks	\$ 233.34
DEMCO	LIBRARY SUPPLIES	\$ 80.37
NOAH'S ARK WORKSHOP	CLASS-NC LIBRARY 11-15-2022	\$ 305.78
UDOVIC DESIGN, LLC	CLASS-NC LIBRARY 11-21-2022	\$ 85.00
DEMCO	LIBRARY SUPPLIES	\$ 1,385.01
JERSEY SHORE FLORIST	9/11 MEMORIAL WREATH-2022	\$ 250.00
JCP&L	SERVICE: OCT 2022 COMM CNTR	\$ 456.09
VERIZON WIRELESS (CELL PHONES)	SERVICE: OCT-NOV 2022	\$ 330.21
VERIZON (FIOS LINE)	SERVICE: OCT-NOV 2022	\$ 249.66
VERIZON WIRELESS (CELL PHONES)	SERVICE: SEPT-OCT 2022 NCPD	\$ 1,383.16
NJ AMERICAN WATER	HYDRANTS-OCTOBER 2022	\$ 4,313.31
TOWNSHIP OF NEPTUNE	SHARED EMS SERV: SEPT 2022	\$ 5,784.05
KDI	STAPLE REFILL- COPIER NCPD	\$ 54.59
DE LAGE LANDEN FINANCIAL SERV.	COPIER LEASE: OCT-NOV 2022	\$ 1,405.56
SHORE INDUSTRIAL SUPPLY CORP	PLUMBING PARTS SEWER MACHINE	\$ 32.24
WARSHAUER ELECTRIC	generator repair e.end	\$ 836.98
WARSHAUER ELECTRIC	generator repair e.end	\$ 282.50
JOHN GUIRE SUPPLY, LLC	HIGH PRESSURE HOSE SEWER MACHI	\$ 141.88
MONMOUTH TELECOM	SERVICE: OCT-NOVEMBER 2022	\$ 1,289.72
J. SWANTON FUEL OIL COMPANY	DELIVERY: #71043 #71292	\$ 733.74

J. SWANTON FUEL OIL COMPANY	DELIVERY: #71043 #71292	\$ 747.83
GRAINGER	light repair laird av	\$ 14.10
GRAINGER	light repair laird av	\$ 196.20
COWLEY'S TERMITE & PEST	SERVICE: 2022 BORO HALL	\$ 462.00
COWLEY'S TERMITE & PEST	SERVICE: COMM CNTR 2022	\$ 59.00
COWLEY'S TERMITE & PEST	SERVICE: COMM CNTR 2022	\$ 59.00
ALLIED FIRE & SAFETY EQUIP CO.	Fire extinguisher inspection	\$ 367.60
ALLIED FIRE & SAFETY EQUIP CO.	Fire extinguisher inspection	\$ 275.60
ALLIED FIRE & SAFETY EQUIP CO.	Fire extinguisher inspection	\$ 456.40
NJ NATURAL GAS CO	SERVICE: SEPT-OCT 2022	\$ 149.85
TREASURER STATE OF NEW JERSEY	DCA ELEVATOR INSPECT FEE 2022	\$ 258.00
	<b>BILL LIST TOTAL FOR NOVEMBER 14, 2022</b>	<b>\$ 99,505.25</b>

**RESOLUTION 2022-129****AUTHORIZING MUNICIPAL CLERK TO ADVERTISE RFP'S FOR 2023 BOROUGH PROFESSIONALS**

**WHEREAS**, the Governing Body of the Borough of Neptune City is desirous of advertising for proposals for professional appointments for 2023; and

**WHEREAS**, notice will be published on the League of Municipalities website and the Borough website on Tuesday, November 15, 2022 for receipt of proposals on Wednesday, December 7, 2022.

**Now, Therefore, Be It Resolved** the Mayor and Council of the Borough of Eatontown, County of Monmouth, State of New Jersey that the Municipal Clerk is hereby authorized to advertise requests for proposals on Tuesday, November 15, 2022 with receipts of proposals on Wednesday, December 7, 2022.

**RESOLUTION 2022-130****AUTHORIZE BUDGET TRANSFER**

**WHEREAS**, N.J.S.A. 40A:4-58 provides for appropriations transfers during the last two months of the fiscal year, when it has been determined that it is necessary to expend for any purposes specified in the budget an amount in the excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over and above the amount deemed to be necessary to fulfill the purpose of such appropriation.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Neptune City that the following transfers be made in the 2022 Municipal Budget:

	Budget Account	Amount
<b>TRANSFERS FROM (INSIDE CAPS):</b>		
	Audit Services - Other Expenses	\$ 2,500.00
	Buildings and Grounds - Other Expenses	
	Community Center - Other Expenses	4,000.00
	Planning Board - Salaries	
	Code Enforcement - Salaries	
	Construction Official - Other Expenses	
	Group Insurance for Employees	
	Recreation - Other Expenses	
	Gasoline and Diesel	
<b>TOTAL TRANSFERS FROM (INSIDE CAPS)</b>		<b>\$ 6,500.00</b>
<b>TRANSFERS TO (INSIDE CAPS):</b>		
	Financial Administration - Other Expenses	\$ 500.00



	<b>Liability Insurance - Other Expenses</b>	<b>2,000.00</b>
	<b>Buildings and Grounds - Other Expenses</b>	<b>4,000.00</b>
	<b>Fire Hydrants</b>	
	<b>Municipal Court - Salaries and Wages</b>	
	<b>Municipal Court - Other Expenses</b>	
	<b>Recreation - Salaries and Wages</b>	
	<b>Water</b>	
<b>TOTAL TRANSFERS TO (INSIDE CAPS)</b>		<b>\$ 6,500.00</b>

**RESOLUTION 2022-131****AUTHORIZE BOARD OF RECREATION APPOINTMENT**

**WHEREAS**, the Neptune City Board of Recreation is in need of a member; and

**WHEREAS**, due to this need the Mayor has appointed James Connor to fill the position for a 5-year unexpired term ending 12/31/2026.

**NOW THEREFORE BE IT RESOLVED** that the Mayor and Council of the Borough of Neptune City hereby appoint James Connor to fill the unexpired term on the Neptune City Board of Recreation.

**RESOLUTION 2022-132****AUTHORIZE REFUND OF TAX OVERPAYMENT**

**WHEREAS**, it has been determined by the Tax Collector that the taxpayers indicated below are entitled to tax overpayment refunds; and

**WHEREAS**, it is the desire of the Governing Body to have these overpayments returned to the respective taxpayers.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Neptune City, County of Monmouth, State of New Jersey, that the Tax Collector is hereby authorized to make overpayment refunds in the amount shown to the tax payers listed below:

Block 89 Lot 10.32 in the amount of \$11,000 to Diane Rogers.

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the Tax Collector and Finance Officer.

**Public Participation**

Mayor Wardell congratulated Patrolman Emmons; he thanked the Chief and Department for their thoroughness in the employment search.

Mr. Bill Sciarappa, Tucker Drive, confirmed the transcript of the meeting will be sent to the Land Use Board.

Mr. Pat McMillan noted he pulled 1,500 feet out of thin air, but was making the point that there should be distance.

Mr. Louise Gager, Smock Street, expressed her thanks to C/Dellett, C/Thomas and the Girls Scouts for cleaning up the property next to her. She asked if there would be an ordinance on property maintenance.

Ms. Kelly Strazadas, expressed disappoint that there was a fundraiser hosted by Senator Gopal that neither the Fire Department nor First Aid participated.

C/Kocsis requested the Councilmembers not on the committee forward their comments and concerns to himself or the Mayor.

C/Renee welcomed Patrolman Emmons, questioned if the volunteer sheet was still available on the website and offered thanks to C/Dellett.

There was a five minute recess at 9:16 pm

**Resolution 2022-133 - Authorize Executive Session\***

- 1) Attorney-Client Privilege

Motion to approve Resolution 2022-133 by C/Dellett; seconded by C/Renee

Roll Call - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

**RESOLUTION 2022-133**

**AUTHORIZING EXECUTIVE SESSION UNDER THE OPEN PUBLIC MEETINGS ACT FOR THE GOVERNING BODY OF THE BOROUGH OF NEPTUNE CITY**

**WHEREAS**, pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., a municipality may exclude the public from a meeting of the Municipal Council where the Council intends to discuss certain matters for which privacy is needed in order to protect the public interest or certain enumerated private interests; and

**WHEREAS**, it is necessary for the Mayor and Council of the Borough of Neptune City to discuss in session not open to the public certain matters that are required by law to be confidential, more specifically:

1) Attorney-Client Privilege

**WHEREAS**, it is anticipated that the minutes from the deliberations conducted in closed session may be disclosed to the public upon the determination that the public interest will no longer be served by such confidentiality.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Neptune City do hereby authorize the above referenced executive session to be held closed to the public on November 14, 2022.

Motion to return from Closed Session by C/Thomas; seconded by C/Kocsis

Roll Call - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

**Adjourn -9:35pm**

Motion to Adjourn meeting by C/Pappas;

C/Farley thanked Mayor Wardell for handling things well and being a great role model. Seconded to adjourn by C/Thomas.

Voice Vote - AYE: C/Dellett, C/Farley, C/Kocsis, C/Pappas, C/Renee, C/Thomas

  
By: C. DiCorcia Williams RMC,  
Borough Clerk