Borough of Neptune City
Regular Meeting of the Mayor and Council

Agenda
Monday, February 27, 2023
7:00 pm

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.

1. **CALL TO ORDER**
   Roll Call
   Open Public Meetings Act Statement
   Flag Salute

2. **CLOSED SESSION** – None

3. **RECEIPT OF MINUTES**
   Regular Meeting 02/13/2023

4. **RECEIPT OF COMMUNICATIONS**
   Neptune City Police Department – 2022 Annual Report
   Neptune City Police Department – January 2023 Report
   Neptune City Land Use Board – Report on Proposed Ordinance 2023-01 "Amending Chpt. 139 of the Borough Code entitled Class 5 Cannabis Retailer" Pursuant to N.J.S.A. 40:55D-26
   Thomas and Kocsis – Letter to NJ Dept. of Transportation re: Route 35 North Stop and Yield Signage

5. **PRESENTATIONS**
   Proclamation Recognizing Black History Month
   Proclamation Recognizing American Heart Health Month

6. **MAYOR'S REPORT** - Mayor Wardell

7. **COUNCIL REPORTS**
   ADMINISTRATION & FINANCE – Council President Brian Thomas
   SPECIAL SERVICES – Councilmember Scott Dellett
   ADMINISTRATION & JUSTICE – Councilmember Dana Farley
   LAW & ORDINANCE – Councilmember Glen Kocsis
   PUBLIC WORKS – Councilwoman Danielle Pappas
   HUMAN SERVICES – Councilmember Pamela Renee

8. **ADMINISTRATOR'S REPORT** - Administrator Jardine

9. **PUBLIC COMMENTS ON AGENDA ITEMS** - *There will be a four minute per person limit on all public comments.*

10. **UNFINISHED BUSINESS**

ORDINANCE PUBLIC HEARING / ADOPTION

Ordinance 2023-01 - Amending Chapter 139 of the Borough Code Entitled 'Class 5 Cannabis Retailer'
Public Hearing / Adoption

Due to the proposed substantive changes, Ordinance 2023-01 will be reintroduced as amended (see below). Accordingly, the public hearing on amended Ordinance 2023-01 will now be scheduled for March 27, 2023.

Ordinance 2023-01 Amended - Amending Chapter 139 of the Borough Code, Section 41 'C Commercial Zone', Section 40 'HC Highway Commercial Zone' and Section 53 'Class 5 Cannabis Retailer' *First Reading/Reintroduction* Public Hearing (03/27/2023)

11. **NEW BUSINESS**

CONSENT AGENDA RESOLUTIONS

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 2023-30 - Auth. Payment of the Bills
Resolution 2023-31 - Auth. The Transfer of 2022 Appropriation Reserves
Resolution 2023-32 - Calling for a Moratorium on All Offshore Wind Activity Until Investigations are Held

12. **PUBLIC PARTICIPATION** - *There will be a four minute per person limit on all public comments.*

13. **CLOSED SESSION** - None

14. **ADJOURN**

The next Council Meeting will be held
Monday, March 13, 2023 at Borough Hall

PRESENTATIONS

Proclamation Recognizing Black History Month
Proclamation Recognizing American Heart Health Month

PROCLAMATION
Recognizing Black History Month
WHEREAS, during Black History Month, we honor the extraordinary contributions made by African Americans throughout the history of our Republic, and we renew our commitment to liberty and justice for all; and
WHEREAS, during Black History Month we recognize the achievements of African Americans and their role in shaping history, along with the contributions that African Americans have made to enhance the economic, cultural, spiritual and political development of our country; and
WHEREAS, it is now possible to reduce this terrible toll dramatically through proper diet, exercise and medical care; and
WHEREAS, during Black History Month, we recognize the essential role of African Americans in shaping the story of America and honor their courage and contributions.
NOW, THEREFORE, I, Andrew Wardell, Mayor of the Borough of Neptune City, along with the Governing Body do hereby proclaim February 2023 as Black History Month, and urge all our citizens to observe the month with programs, ceremonies and activities.

PROCLAMATION
Recognizing American Heart Health Month
WHEREAS, the American Heart Association is the only voluntary health agency whose sole mission is to reduce early death and disability from heart disease and stroke; and
WHEREAS, heart attacks and strokes kill and disable more people each year than all other health-related causes combined; and
WHEREAS, it is now possible to reduce this terrible toll dramatically through proper diet, exercise and medical care; and
WHEREAS, the American Heart Association and its local affiliates have engaged in a concerted effort to focus public attention on the opportunities we have to protect ourselves against the ravages of these afflictions; and
NOW, THEREFORE, I, Andrew Wardell, Mayor of the Borough of Neptune City, along with the Governing Body do hereby remind our citizens of the vital importance of preventive health care and to support educational programs to help fight against heart disease and stroke; and
BE IT FURTHER PROCLAIMED, that Governing Body of Neptune City hereby recognize the month of February as Heart Health Month.

UNFINISHED BUSINESS

ORDINANCE PUBLIC HEARING / ADOPTION
Ordinance 2023-01 - Amending Chapter 139 of the Borough Code Entitled 'Class 5 Cannabis Retailer' *Public Hearing/Adoption*

Due to the proposed substantive changes, Ordinance 2023-01 will be reintroduced as amended (see below). Accordingly, the public hearing on amended Ordinance 2023-01 will now be scheduled for March 27, 2023.

Ordinance 2023-01 Amended - Amending Chapter 139 of the Borough Code, Section 41 ‘C Commercial Zone’, Section 40 ‘HC Highway Commercial Zone’ and Section 53 'Class 5 Cannabis Retailer' *First Reading/Reintroduction* (Public Hearing 03/27/2023)

ORDINANCE 2023-01
BOROUGH OF NEPTUNE CITY
COUNTY OF MONMOUTH
AMENDING CHAPTER 139 OF THE BOROUGH CODE, SECTION 41 "C COMMERCIAL ZONE," SECTION 40 "HC HIGHWAY COMMERCIAL ZONE," AND SECTION 53 "CLASS 5 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.

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 1.

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 Cannabis Retailer without a Cannabis Consumption Area~~[1]

SECTION 2.

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

C. Conditional uses subject to the issuance of conditional use permit pursuant to borough ordinances:

(1) Those conditional uses set forth in the Residential Commercial Zone with the exception of any conditional uses related to residential purposes.

(2) Class 5 Licensed Cannabis Retailer without a Cannabis Consumption Area.[2] Specific conditions for this conditional use are set forth in § 139-53.

SECTION 3.

Chapter 139, "Zoning", Article V, General Performance Standard, §Section 139-53 Class 5 Licensed Cannabis Retailer, is hereby amended 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,

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[1] ~~Hours of operation for Class 5 Retailer License shall be limited to 9:~~**~~00~~** ~~A.M. to 10~~ **~~9:00~~** ~~P.M. in the C Commercial Zone.~~

[2] **Hours of operation for Class 5 Retailer License shall be limited to 10:00 A.M. to 9:00 P.M. Mondays through Saturdays, and 11:00 A.M. to 8:00 P.M. on Sundays in the HC Commercial Zone.**

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 Borough. 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.

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**-1** et seq., which haven**'t** 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. **Conditions on Conditional Use.**—~~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. 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.~~ **Any Class 5 Cannabis Retailer is subject to the following conditions on conditional use:**

1. **Shall only be located in Borough districts zoned as HC Highway Commercial.**
2. **Shall not be permitted within one thousand (1,000) feet of another Class 5 licensed Cannabis Retailer.**

3. **Shall have vehicular ingress/egress to NJ State Highway 33.**
4. **Shall not be located on any property that abuts a Residential zone.**
5. **Shall not be permitted within two hundred (200) feet of a Borough district zoned as Residential. Said two hundred (200) feet shall be measured in the normal way that a pedestrian would properly walk from the nearest entrance of said residential property to the nearest entrance of the premises sought to be licensed.**
6. **A Class 5 Cannabis Retailer may not locate within one thousand (1,000) feet from any school identified on the Borough's Official Drug Free School and Park Zones Map, and pursuant to regulations and definitions in N.J.S.A. 2C:35-7, et seq., and N.J.S.A. 2C:35-7.1, et seq.**
7. **There shall not be any drive-through associated with any Class 5 Cannabis Retailer.**

H. Hours of Sale. Hours of operation for Class 5 Cannabis Retailer License businesses shall be limited to ~~9~~**10:00** A.M. to ~~10~~ **9:00** P.M. **Mondays through Saturdays, and 11:00 A.M. to 8:00 P.M. on Sundays** in the **HC**~~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. **Nuisance. With respect to the operation of any cannabis license, the following is hereby declared to be an unlawful public nuisance:**
   - **a. Odors or noise which are disturbing to people of reasonable sensitivity who may be residing near or present on nearby property, including areas open to the public.**
   - **b. Repeated dispatches to the property by law enforcement.**
   - **c. Disruption to and/or obstruction of the free passage of persons and/or vehicles in the immediate vicinity of the property.**
   - **d. Any other condition or act which may be deemed a violation of this Chapter.**
2. 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.
3. 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.
4. 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.
5. 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.
6. **Reissuing of licenses. The Borough may reissue any licenses that become inactive or revoked by utilizing the same licensing process as outlined in this Chapter.**
7. 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.~~ **The cannabis retail facility shall be responsible for ensuring compliance with all interior capacity restrictions, including but not limited to, customer wait lines. Should the Borough's Police Department be necessary to provide security related to customer management, the cannabis retailer shall be responsible for the sole costs of such security.**

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 4.

Following introduction and prior to adoption, the Clerk shall cause a copy of this Ordinance to be referred to the Borough of Neptune City Land Use Board for review, pursuant to N.J.S.A. 40:55D-26.

SECTION 5.

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

SECTION 6.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 7.

This Ordinance shall take effect upon its passage and publication according to law.

NEW BUSINESS

CONSENT AGENDA RESOLUTIONS

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 2023-30 - Auth. Payment of the Bills

Resolution 2023-31 - Auth. The Transfer of 2022 Appropriation Reserves

Resolution 2023-32 - Calling for a Moratorium on All Offshore Wind Activity Until Investigations are Held

RESOLUTION 2023-30
BOROUGH OF NEPTUNE CITY
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
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 $ 130,655.27

Vendor Name	Description	Amount
COUNCIL, APRIL	COMM CENTER RENTAL DEPOSIT	$ 150.00
I.P. VIDEO CORPORATION	TRAINING: NCPD	$ 340.20
I.P. VIDEO CORPORATION	TRAINING: NCPD	$ 322.20
PETERSON, CAROLE	CC RENTAL DEPOSIT: 1-21-2023	$ 250.00
HOME DEPOT CREDIT SERVICES	BATTERIES-TOOLS	$ 349.00
HOME DEPOT CREDIT SERVICES	BATTERIES-TOOLS	$ 529.00
HOME DEPOT CREDIT SERVICES	BATTERIES-TOOLS	$ 1,199.00
OPEN SYSTEMS INTEGRATOR, INC	Fire Alarm Testing	$ 750.00
ESI Equipment, Inc.	Extrication equipment	$ 51,320.64
GRAINGER,W.W.INC.	Storage cabinets	$ 2,308.19
WITMER PUBLIC SAFETY GROUP	Fire equipment	$ 996.00
WITMER PUBLIC SAFETY GROUP	Fire equipment	$ 660.00
WITMER PUBLIC SAFETY GROUP	Fire equipment	$ 870.00
WITMER PUBLIC SAFETY GROUP	Fire equipment	$ 852.00
STAPLES CREDIT PLAN	SUPPLIES-ADMIN	$ 38.98
STAPLES CREDIT PLAN	SUPPLIES-ADMIN	$ 22.99
STAPLES CREDIT PLAN	SUPPLIES-ADMIN	$ 211.55
STAPLES CREDIT PLAN	OFFICE SUPPLIES-NC MUN COURT	$ 87.74
EMBLEM AUTHORITY	PATCHES	$ 436.00
DELL MARKETING L.P.	COMPUTER-NCFD	$ 1,257.26
STAPLES CREDIT PLAN	OFFICE SUPPLIES-ADMIN	$ 110.47
CBP LALO, LLC	BASKETBALL UNIFORMS	$ 937.50
AMAZON CAPITAL SERVICES	DECOYS-NCPD	$ 45.97
SEA BREEZE FORD, INC.	JAN PARTS INV	$ 45.15
CARGORAXX, LLC	FLARE BOX	$ 1,575.50
BRADLEY CAR CARE	TIRE SERVICES JANUARY 2023	$ 25.00
BRADLEY CAR CARE	TIRE SERVICES JANUARY 2023	$ 25.00
JCP&L	SERVICE: JANUARY 2023	$ 1,089.94
JCP&L	SERVICE: JANUARY 2023	$ 1,413.30
JCP&L	SERVICE: JANUARY 2023	$ 805.21
NJ AMERICAN WATER COMPANY	SERVICE: JANUARY 2023	$ 13.57
QUAGLIATO, MATTHEW	CELL PHONE ALLOWANCE-FEB 2023	$ 100.00
CANO, HOOVER	CELL PHONE ALLOWANCE-FEB 2023	$ 100.00

VOLLBRECHT, MICHAEL	CELL PHONE ALLOWANCE-FEB 2023	$	100.00
JARDINE, ALBERT	CELL PHONE ALLOWANCE-FEB 2023	$	100.00
HELLWIG, KELLY	CELL PHONE ALLOWANCE-FEB 2023	$	100.00
REYNOLDS,ROBERT SR.	CELL PHONE ALLOWANCE-FEB 2023	$	50.00
LAUENSTEIN, ERIC	CELL PHONE ALLOWANCE-FEB 2023	$	35.00
JCP&L	SERVICE: JANUARY 2023 SEWERS	$	1,187.61
NJ DEPT HEALTH & SENIOR SERV	DOG LIC STATE FEE: JAN 2023	$	184.20
CUMMINS IRRIGATION	sprinkler maint contract	$	3,050.00
TOWNSHIP OF NEPTUNE	2023 TELEPHONIC NOTIFICATION	$	2,800.00
TOWNSHIP OF NEPTUNE	SHARED EMS: JANUARY 2023	$	5,899.73
FBI-LEEDA	2023 DUES	$	50.00
SEA GIRT ANIMAL HOSPITAL	VET FOR LUKE	$	85.20
NJ STATE ASSOC CHIEF OF POLICE	2023 MEMBERSHIP DUES	$	275.00
JSUMC	LIFE SUPPORT/EMT PROGRAM	$	144.00
MONMOUTH COUNTY SPCA	SERVICE: JANUARY 2023	$	1,187.50
S&S ASSOCIATES, LLC	SERVICE: FEBRUARY 2023	$	900.00
ZOOM VIDEO COMMUNICATIONS INC	SERVICE: MARCH & APRIL 2023	$	29.98
LANGUAGE LINE SERVICES, INC	SERVICE: JANUARY 2023	$	10.20
AVAKIAN,LEON S INC.	PROF SERV: JAN-FEBRUARY 2023	$	2,767.50
AVAKIAN,LEON S INC.	PROF SERV: JAN-FEBRUARY 2023	$	1,837.50
AVAKIAN,LEON S INC.	PROF SERV: JAN-FEBRUARY 2023	$	350.00
AVAKIAN,LEON S INC.	PROF SERV: JAN-FEBRUARY 2023	$	1,712.50
AVAKIAN,LEON S INC.		$	310.00
COOPER ELECTRIC SUPPLY CO.	REPIN ATS WIRE	$	289.13
SCHINDLER ELEVATOR CORP.	SERVICE:CALL FEB 6, 2023	$	739.96
NJ REGISTRAR'S ASSOCIATION	SPRING CONFERENCE-2023	$	50.00
ELECTRO MAINTENANCE, INC.	ELECTRICAL ISSUE BORO HALL	$	687.50
DE LAGE LANDEN FINANCIAL SERV.	COPIER LEASE: JANUARY 2023	$	663.01
DE LAGE LANDEN FINANCIAL SERV.	COPIER LEASE: DEC-JAN 2023	$	640.11
DELISA DEMOLITION & DISPOSAL	SERVICE: TRASH AND TIPPING	$	5,210.05
DELISA DEMOLITION & DISPOSAL	SERVICE: TRASH AND TIPPING	$	22,166.66
SCHINDLER ELEVATOR CORP.	SERVICE: JANUARY 2023	$	281.90
CANO, HOOVER	FBINNA QRTLY MTG	$	70.00
STATE OF NJ/DEPT OF LABOR	U/E QTR END: 12-31-2022	$	2,151.50
USA BUILDING MAINTENANCE, INC.	EMERGENCY REPAIR-COMM CENTER	$	1,943.00
CABLEVISION-MUNICIPAL	SERVICE: FEBRUARY 2023	$	185.60
CABLEVISION-MUNICIPAL	SERVICE: FEBRUARY 2023	$	50.96
CABLEVISION-MUNICIPAL	SERVICE: FEBRUARY 2023	$	190.83
EDWARDS, MATTHEW	CONFERENCE	$	223.58
COLLINS, VELLA & CASELLO, LLC	PROF SERVICE: JANUARY 2023	$	350.00
COLLINS, VELLA & CASELLO, LLC	PROF SERVICE: JANUARY 2023	$	87.50
COLLINS, VELLA & CASELLO, LLC	PROF SERVICE: JANUARY 2023	$	175.00
J. SWANTON FUEL OIL COMPANY	DELIVERY: FEBRUARY 2023	$	282.22
J. SWANTON FUEL OIL COMPANY	DELIVERY: FEBRUARY 2023	$	289.09
READY REFRESH, BY NESTLE	SERVICE: JANUARY 2023	$	258.39
CLEARY GIACOBBE ALFIERI JACOBS	TAX APPEALS	$	66.00
ARCHER & GREINER	PROF SERV: NOV-DEC 2022	$	300.00
ARCHER & GREINER	PROF SERV: NOV-DEC 2022	$	800.00

ARCHER & GREINER	PROF SERV: NOV-DEC 2022	$ 100.00
	BILL LIST TOTAL FOR 2/27/2023	**$ 130,655.27**

RESOLUTION 2023-31
BOROUGH OF NEPTUNE CITY
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
AUTHORIZING THE TRANSFER OF 2022 APPROPRIATION RESERVES

WHEREAS, it is determined that various line items within the 2022 calendar year operating budget need additional funds to cover necessary expenditures; and

WHEREAS, it is also determined that sufficient balances remain in various expense accounts to cover these expenditures; and

WHEREAS, New Jersey Statute 40A:4-58 allows for the transfer of funds between line items during the last two months during the fiscal year and the first three months of the following year.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council that the Chief Financial Officer is hereby authorized to make the attached budget transfers.

TRANSFERS FROM

Police	**Other Expenses**	**$**	**7,700.00**
Vehicle Maintenance	**Other Expenses**		**10,000.00**
		$	**17,700.00**

TRANSFERS TO

Group Insurance for Employees	**Other Expenses**	**$**	**1,200.00**
Fire Department	**Other Expenses**		**2,000.00**
Neptune Township EMS Service	**Other Expenses**		**14,500.00**
		$	**17,700.00**

RESOLUTION 2023-33
BOROUGH OF NEPTUNE CITY
COUNTY OF MONMOUTH, STATE OF NEW JERSEY
CALLING FOR A MORATORIUM ON ALL OFFSHORE WIND ACTIVITY UNTIL INVESTIGATIONS ARE HELD

WHEREAS, the Borough of Neptune City, along with at least 30 other New Jersey communities stand united in their concern for the unprecedented number of whales and dolphins that have recently washed ashore; and

WHEREAS, on February 13, 2023, a humpback whale washed ashore in Manasquan, and a week later the tenth in the New Jersey/New York area washed ashore since December 5, 2022, as have four dolphins; and

WHEREAS, the extraordinary number of marine mammal strandings coincides with ongoing activity from acoustic survey vessels for the development of offshore wind; and

WHEREAS, the Borough is not opposed to exploring clean energy, the Mayor and Council are concerned about the impacts these projects may already be having on our environment; and

WHEREAS, because the unprecedented number of marine mammal deaths have occurred over a short period of time, the Borough encourages suspension of all offshore wind activity until proper investigations are conducted that examine the potential risks of exploring this energy source.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Neptune City that the Borough of Neptune City, in the County of Monmouth, State of New Jersey calls for a moratorium on all offshore wind activity until investigations are held.

The next Council Meeting will be held Monday, March 13, 2023 at Borough Hall