

**BOROUGH OF JAMESBURG**  
**GOVERNING BODY MEETING**  
**MINUTES**  
**August 18, 2021**  
**7:00 PM**

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**CALL TO ORDER:** This meeting is being held pursuant to the Open Public Meetings Act of 1974 and all provisions of that Act have been met. Any contracts awarded require the contractor to comply with N.J.S.A.10:5-31 et.seq. and N.J.A.C. 17:27. Also, in the event of a fire and pursuant to the N.J. Uniform Fire Code, members of the audience are requested to take notice of the exits at the front and rear of the Council Chambers as well as in the main hallway.

**FLAG SALUTE:**

Led by Mayor Lowande

**ROLL CALL:**

Mayor Lowande  
Council President Sussman  
Council Member Czarnaki  
Council Member Ludas  
Council Member Rampacek  
Council Member Rutsky  
Council Member Shaughnessy  
Administrator Capabianco- ***ABSENT***  
Borough Attorney – Raffetto

**MOTION TO OPEN TO PUBLIC COMMENT:**

Proposed By: Shaughnessy

Seconded By: Rampacek

No one from the public wished to speak.

**MOTION TO CLOSE TO PUBLIC COMMENT:**

Proposed By: Rampacek

Seconded By: Shaughnessy

## **ORDINANCES FIRST READING BY TITLE**

### **ORDINANCE # 09-21**

#### **AN ORDINANCE PERMITTING THE OPERATION OF CANNABIS WHOLESALER AND CANNABIS DISTRIBUTOR BUSINESSES WITHIN THE GEOGRAPHIC BOUNDARIES OF THE BOROUGH OF JAMESBURG (SUBJECT TO LIMITATIONS, CONDITIONS AND RESTRICTIONS), AND PROHIBITING THE OPERATION OF OTHER CLASSES OF CANNABIS BUSINESSES, AND AMENDING AND SUPPLEMENTING THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF JAMESBURG” IN NUMEROUS RESPECTS.**

**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**, Public Question No. 1 was approved by the voters of Jamesburg Borough (the “Borough”), in the County of Middlesex and State of New Jersey, by a margin of 1,486 (67%) in favor and 733 (33%) opposed; 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 ordinances or 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 of operation of such establishments and distributors, but not the time of operation of delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, section 31b of the Act requires municipalities that wish to prohibit or regulate one or more classes of cannabis-related activities do so only pursuant to an ordinance enacted pursuant to the specific authority to do so by section 31b, and invalidates any ordinance prohibiting one or more types of cannabis-related activities within the jurisdiction of the municipality enacted prior to February 22, 2021 as null and void,

**WHEREAS**, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality, but not to prohibit the delivery of cannabis items and related supplies by a delivery service; and

**WHEREAS**, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 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**, section 40 of the Act permits a municipality to adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality on receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; 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 and to set its own rate or rates, but in no case exceeding: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer; and

**WHEREAS**, the Borough Council has determined that allowing and regulating one or more classes of cannabis business within the Borough is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Borough's residents and members of the public who visit, travel, or conduct business in the Borough, and amending its Land Development Ordinance to permit such cannabis-related activities, including land use and development, specified herein within certain geographic boundaries within the Borough, is also necessary and appropriate;

**NOW THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Jamesburg, in the County of Middlesex, and State of New Jersey, as follows:

1. That, pursuant to section 31b of the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act" (P.L. 2021, c. 16) (the "Act"), all cannabis establishments, cannabis distributors and cannabis delivery services are hereby prohibited from locating in Jamesburg Borough except as provided herein, and subject to the limitations, conditions and restrictions set forth herein, as may be amended from time to time. The above prohibition shall not, however, apply to the delivery of cannabis items and related supplies (including cannabis paraphernalia) by a delivery service within the geographical boundaries of the municipality.
2. That one (1) business that holds a Class 3 Cannabis Wholesaler License, as issued by the State Cannabis Regulatory Commission with the approval of the Borough of Jamesburg, shall be permitted as a conditional use, subject to all of the terms, conditions and restrictions set forth within this Ordinance, in the following zoning districts of the Borough: NC Neighborhood Commercial District, CBD Central Business District, or RB Retail Business District. No more than one (1) cannabis wholesaler shall be permitted to locate within the geographical boundaries of the Borough of Jamesburg.
3. That one (1) business that holds a Class 4 Cannabis Distributor License, as issued by the State Cannabis Regulatory Commission with the approval of the Borough of Jamesburg, shall be permitted as a conditional use, subject to all of the terms, conditions and restrictions set forth within this Ordinance, in the following zoning districts of the Borough: NC Neighborhood Commercial District, CBD Central Business District, or RB Retail Business District. No more than one (1) cannabis distributor shall be permitted to locate within the geographical boundaries of the Borough of Jamesburg.
4. That a transfer tax payable to the Borough of Jamesburg in the amount of one percent (1%) on receipts from the sale of cannabis or cannabis items from a cannabis wholesaler to another cannabis establishment is hereby established, in accordance with the Act and as set forth herein. Additionally, a user tax payable to the Borough of Jamesburg in the amount of one percent (1%) on receipts from the sale of cannabis or cannabis items is hereby established and shall be imposed upon any concurrent license holder operating more than one cannabis establishment, in accordance with the Act and as set forth herein.

5. That Chapter 3, entitled “Police Regulations,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented in order to create a new Section 3-7 thereof, to be entitled “Consumption of Cannabis In Public Places,” as follows (additions are shown with underline):

**3-7 CONSUMPTION OF CANNABIS IN PUBLIC PLACES.**

**3-7.1 Definitions.**

Unless otherwise expressly stated, the following words and terms shall, for the purpose of this Section, have the meanings indicated:

CANNABIS - all parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act., P.L.2021, c.16 (C. 24:6L-1, et seq.) for use in cannabis products, and medical cannabis intended for consumption by registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L.2009, c.307 (C.24:6L-1, et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); but shall under no circumstance include marijuana as defined in N.J.S.2C:35-27 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

CANNABIS ITEM - any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin including any form of medical cannabis intended for consumption by registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis 5 Act,” P.L.2009, c.307 (C.24:6L-1 et al.) and P.L.2015, c.158 6 (C.18A:40-12.22 et al.).

CONSUME – as relates to cannabis items, the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

PUBLIC PLACE – for purposes of this section, a public place shall mean any place to which the public has access that is not privately owned, including but not limited to a public street, roadway, avenue, thoroughfare, lane, alley, plaza, sidewalk, bridge, public transportation facility, public parking space or lot, vehicle used for public transportation, public swimming pool, public park, public playground or other public recreation area, public library, or any other public building, structure or area which is owned or controlled by a State, county or local government unit.

### **3-7.2 Public Consumption Prohibited.**

No person shall smoke, burn, vape, aerosolize or otherwise consume any cannabis item in or upon:

- A. A public place within the Borough of Jamesburg.
- B. A private motor vehicle while the same is in motion or while parked in any public place within the Borough of Jamesburg.
- C. A private property not his/her own, without the express permission of the owner or other person having authority to grant such permission.

### **3-7.3 Violations and Penalties.**

Any person convicted of a violation of this Section shall be subject the General Penalty provisions set forth in Section 1-5 of the Borough Code, as amended from time to time, for each and every violation.

6. That Chapter 27, entitled “The Land Development Ordinance of the Borough of Jamesburg,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented at Section 27-16 thereof, entitled “Definitions and descriptions,” in order to include the following new definitions (additions are shown with underline):

#### **27-16 Definitions and descriptions.**

CANNABIS - all parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act., P.L.2021, c.16 (C. 24:6L-1, et seq.) for use in cannabis products, and medical cannabis intended for consumption by registered qualifying patients pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L.2009, c.307 (C.24:6I-1, et al.) and P.L.2015, c.158 (C.18A:40-12.22 et al.); but shall under no circumstance include marijuana as defined in N.J.S.2C:35-27 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L.2001, c.114 (C.2C:35B-1 et seq.), or marihuana as defined in section of P.L.1970, c.226 (C.24:21-2) and applied to any offense set forth in the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the “New Jersey Hemp Farming Act,” P.L.2019, c.238 (C.4:28-6 et al.).

CANNABIS CULTIVATOR – any licensed person or entity that grows, cultivates, or produces cannabis in the State of New Jersey, and sells, and may transport, this

cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity must hold a Class 1 Cannabis Cultivator License as issued by the State Cannabis Regulatory Commission.

CANNABIS DELIVERY SERVICE – any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity must hold a Class 6 Cannabis Delivery license as issued by the State Cannabis Regulatory Commission.

CANNABIS DISTRIBUTOR – any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity must hold a Class 4 Cannabis Distributor License as issued by the State Cannabis Regulatory Commission with the approval of the Borough of Jamesburg.

CANNABIS ESTABLISHMENT – a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS EXTRACT – a substance obtained by separating resins from cannabis by: (1) a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane; (2) a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or (3) any other process identified by the State Cannabis Regulatory Commission by rule or regulation.

CANNABIS ITEM - any usable cannabis, cannabis product, cannabis extract, and any other cannabis resin including any form of medical cannabis intended for consumption by registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical Cannabis 5 Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158 6 (C.18A:40-12.22 et al.).

CANNABIS MANUFACTURER – any licensed person or entity that processes cannabis items in the State of New Jersey by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or

entity must hold a Class 2 Cannabis Manufacturer License as issued by the State Cannabis Regulatory Commission.

CANNABIS PARAPHERNALIA – any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing a cannabis item into the human body. “Cannabis paraphernalia” does not include drug paraphernalia as defined in N.J.S.A. 2C:36-1 and which is used or intended for use to commit a violation of Chapter 35 or 36 of Title 2C of the New Jersey statutes.

CANNABIS PRODUCT - a product containing usable cannabis, cannabis extract, or any other cannabis resin and other ingredients intended for human consumption or use, including a product intended to be applied to the skin or hair, edible cannabis products, ointments, and tinctures.

CANNABIS RETAILER – 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 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 must hold a Class 5 Cannabis Retailer License as issued by the State Cannabis Regulatory Commission.

CANNABIS WHOLESALER – any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity must hold a Class 3 Cannabis Wholesaler License as issued by the State Cannabis Regulatory Commission with the approval of the Borough of Jamesburg.

CONSUMER – a person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older, but not for resale to others.

CONSUMPTION – as relates to cannabis items, the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

DELIVERY – as relates to cannabis items, the transportation of cannabis items and related supplies to a consumer.



PLAYGROUND – any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

PUBLIC BUILDING – a building owned or controlled by a State, county or local government unit.

PUBLIC PARK – a park, recreation facility or area or playground owned or controlled by a State, county or local government unit.

7. That Chapter 27, entitled “The Land Development Ordinance of the Borough of Jamesburg,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented at Section 27-24 thereof, entitled “Prohibited Uses in all Districts,” in the following specific respects (additions are shown with underline):

**27-24 Prohibited Uses in all districts.**

All uses not expressly permitted by this Ordinance are prohibited in all districts (unless permitted by conditional use permit as elsewhere in this Ordinance provided), such prohibition to include but not be limited to the following:

- A. Adult Entertainment Uses.
- B. Drug Paraphernalia Stores.
- C. Junk Shops.
- D. Junk Yard.
- E. Massage Parlors.
- F. Mobile Homes.
- G. Any use which, pursuant to the standards set forth in this Ordinance emits excessive or objectionable amounts of dust, fumes, noise, smoke, vibrations or waste products.
- H. The use of any portable building or structure, stationary vehicle or stand of any description for the purpose of displaying or selling of food, merchandise or commodities of any kind.

- I. The use of a building or structure of a temporary nature on any lot or parcel of land for living or sleeping purposes in any district on either a temporary or permanent basis.
  - J. Billboards.
  - K. The conversion of single-family detached dwellings into two- or multi-family dwellings.
  - L. All cannabis operations and all classes of licensed cannabis businesses, except for one (1) cannabis wholesaler and one (1) cannabis distributor which may be permitted as a conditional use in certain zoning districts as set forth in this Chapter. This prohibition shall not, however, apply to the delivery of cannabis items and related supplies (including cannabis paraphernalia) by a delivery service within the geographical boundaries of the municipality.
8. That Chapter 27, entitled “The Land Development Ordinance of the Borough of Jamesburg,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented at Article IX thereof, entitled “NC Neighborhood Commercial Zone,” in the following specific respects (additions are shown with underline):

**ARTICLE IX**  
**NC NEIGHBORHOOD COMMERCIAL ZONE**

**27-59 Conditional Uses.**

The following conditional uses shall be permitted in the zone:

- A. Earth terminal or earth terminal antennae, subject to the requirements of Section 27-107.
  - B. Public utility installations, subject to the requirements of Section 27-108.
  - C. One (1) cannabis wholesaler, subject to the requirements of Section 27-114.1.
  - D. One (1) cannabis distributor, subject to the requirements of Section 27-114.2.
9. That Chapter 27, entitled “The Land Development Ordinance of the Borough of Jamesburg,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented at Article X thereof, entitled “CBD

Central Business District Zone,” in the following specific respects (additions are shown with underline):

**ARTICLE X**

**CBD CENTRAL BUSINESS DISTRICT ZONE**

**27-65 Conditional Uses.**

The following conditional uses shall be permitted in the zone:

- A. Earth terminal or earth terminal antennae, subject to the requirements of Section 27-107.
- B. Public utility installations, subject to the requirements of Section 27-108.
- C. Childcare centers, subject to the requirements of Section 27-109.
- D. One (1) cannabis wholesaler, subject to the requirements of Section 27-114.1.
- E. One (1) cannabis distributor, subject to the requirements of Section 27-114.2.

10. That Chapter 27, entitled “The Land Development Ordinance of the Borough of Jamesburg,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented at Article XIV thereof, entitled “RB Retail Business Zone,” in the following specific respects (additions are shown with underline):

**ARTICLE XIV**

**RB RETAIL BUSINESS ZONE**

**27-85 Conditional Uses.**

The following conditional uses shall be permitted in the zone:

- A. Earth terminal or earth terminal antennae, subject to the requirements of Section 27-107.
- B. Public utility installations, subject to the requirements of Section 27-108.
- C. Childcare centers, subject to the requirements of Section 27-109.
- D. One (1) cannabis wholesaler, subject to the requirements of Section 27-114.1.
- E. One (1) cannabis distributor, subject to the requirements of Section 27-114.2.

11. That Chapter 27, entitled “The Land Development Ordinance of the Borough of Jamesburg,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented at Article XVIII thereof, entitled “Conditional Uses,” in order to create a new Section 27-114.1, which shall be entitled “Cannabis Wholesaler,” as follows (additions are shown with underline):

**27-114.1 Cannabis Wholesaler.**

One (1) cannabis wholesaler shall be permitted as a conditional use in the NC Neighborhood Commercial District, CBD Central Business District, or RB Retail Business District, subject to site plan review and the following conditions (to the extent not inconsistent with State law or regulation):

- A. No more than one (1) cannabis wholesaler shall be permitted to locate within the geographical boundaries of the Borough of Jamesburg.
- B. The facility shall meet all of the requirements for licensure by the New Jersey Cannabis Regulatory Commission and/or the New Jersey Department of Health, and be approved by the Borough of Jamesburg.
- C. Enclosed building: All cannabis wholesaling activities shall take place within an enclosed building. The cannabis wholesaler shall be the sole occupant of its building.
- D. Security: All structures shall be designed incorporating safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.
  - 1. There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility, which video shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than thirty (30) days.
  - 2. Plans and reports depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents, exempt from disclosure as public records.
- E. Hours of Operation: The maximum permitted hours of operation for a cannabis wholesaler shall be between 9:00 a.m. and 9:00 p.m. (EST).

- F. There shall be no direct sales to the public from the property. Nothing herein shall permit the retail sale of cannabis items or cannabis products to consumers, the dispensing of cannabis items or cannabis products directly to consumers, or the direct point sale or distribution of cannabis items or cannabis products except to other cannabis businesses licensed by the State.
- G. Noise: Cannabis wholesaler facilities shall operate in compliance with state and local noise laws and regulations, except in emergency situations requiring the use of a backup generator.
- H. Odor: Cannabis wholesaler operations shall utilize available technology to filter and recirculate air, so that odors are not discernable by a reasonable person beyond the property line.
- I. Location: A cannabis wholesaler may not be located within one thousand (1,000) linear feet of a public or private school (including a college, junior college or university), nor within five hundred (500) linear feet of any of the following uses: a church or similar place of worship, a family day care home, a child care center, a playground, a public park, or a public building. The distance limitations referenced herein shall be measured from the lot line of the other use to the nearest portion of the building containing a cannabis wholesaler operation. The subsequent approval of a school or any other use referenced above in proximity to the cannabis wholesaler use shall not render any existing cannabis wholesaler business a nonconforming use.
- J. Emergency power: Cannabis wholesaling operations shall have a backup generator, capable of maintaining at a minimum all electronic security systems in the event of a power failure.
- K. Signs: Cannabis wholesaling facilities shall only be permitted to have one sign, displaying the business name and/or site address only, in compliance with sign requirements for the applicable Zone.
- L. Lighting: No light generated by any cannabis wholesaling activities shall result in measurable light changes at the nearest property boundary to each structure.
- M. Consumption: No cannabis or cannabis product shall be smoked, eaten or otherwise consumed on the premises of any cannabis wholesaling facility.

- N. A cannabis wholesaler shall undertake best efforts to employ at least one (1) Jamesburg resident per every ten (10) employees of the cannabis wholesaler operation.

12. That Chapter 27, entitled “The Land Development Ordinance of the Borough of Jamesburg,” of the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”), is hereby amended and supplemented at Article XVIII thereof, entitled “Conditional Uses,” in order to create a new Section 27-114.2, which shall be entitled “Cannabis Distributor,” as follows (additions are shown with underline):

**27-114.2 Cannabis Distributor.**

One (1) cannabis distributor shall be permitted as a conditional use in the NC Neighborhood Commercial District, CBD Central Business District, or RB Retail Business District, subject to site plan review and the following conditions (to the extent not inconsistent with State law or regulation):

- A. No more than one (1) cannabis distributor shall be permitted to locate within the geographical boundaries of the Borough of Jamesburg.
- B. The facility shall meet all of the requirements for licensure by the New Jersey Cannabis Regulatory Commission and/or the New Jersey Department of Health, and be approved by the Borough of Jamesburg.
- C. Enclosed building: All cannabis distributing activities shall take place within an enclosed building. The cannabis distributor shall be the sole occupant of its building.
- D. Security: All structures shall be designed incorporating safety and security barriers, to prevent the unlawful and unauthorized entry into the structures as prescribed by State law.
1. There shall be controlled access to the site, with 24/7 on-site video monitoring of the exterior and interior of the facility, which video shall be retained and stored for the period prescribed by State law, but in no case shall such video be retained and stored for less than thirty (30) days.
3. Plans and reports depicting or describing access and security details information concerning the facility shall be deemed and protected as confidential security documents, exempt from disclosure as public records.

- E. Hours of Operation: The maximum permitted hours of operation for a cannabis distributor shall be between 9:00 a.m. and 9:00 p.m. (EST).
- F. There shall be no direct sales to the public from the property. Nothing herein shall permit the retail sale of cannabis items or cannabis products to consumers, the dispensing of cannabis items or cannabis products directly to consumers, or the direct point sale or distribution of cannabis items or cannabis products except to other cannabis businesses licensed by the State.
- G. Noise: Cannabis distributor facilities shall operate in compliance with state and local noise laws and regulations, except in emergency situations requiring the use of a backup generator.
- H. Odor: Cannabis distributor operations shall utilize available technology to filter and recirculate air, so that odors are not discernable by a reasonable person beyond the property line.
- I. Location: A cannabis distributor may not be located within one thousand (1,000) linear feet of a public or private school (including a college, junior college or university), nor within five hundred (500) linear feet of any of the following uses: a church or similar place of worship, a family day care home, a child care center, a playground, a public park, or a public building. The distance limitations referenced herein shall be measured from the lot line of the other use to the nearest portion of the building containing a cannabis distributor operation. The subsequent approval of a school or any other use referenced above in proximity to the cannabis distributor use shall not render any existing cannabis wholesaler business a nonconforming use.
- J. Emergency power: Cannabis distributor operations shall have a backup generator, capable of maintaining at a minimum all electronic security systems in the event of a power failure.
- K. Signs: Cannabis distributor facilities shall only be permitted to have one sign, displaying the business name and/or site address only, in compliance with sign requirements for the applicable Zone.
- L. Lighting: No light generated by any cannabis distributor activities shall result in measurable light changes at the nearest property boundary to each structure.

M. Consumption: No cannabis or cannabis product shall be smoked, eaten or otherwise consumed on the premises of any cannabis distributor facility.

N. A cannabis distributor shall undertake best efforts to employ at least one (1) Jamesburg resident per every ten (10) employees of the cannabis wholesaler operation.

13. That the “Revised General Ordinances of the Borough of Jamesburg” (also referenced as the “Borough Code”) is hereby further amended and supplemented in order to establish a new Chapter 28 thereof, to be known as “Cannabis Operational Requirements,” as follows (additions are shown with underline):

**Chapter 28 Cannabis Businesses - Operational and Financial Requirements.**

**28-1 Purpose.**

This Chapter is enacted to regulate the operation of cannabis wholesaler and cannabis distributor businesses which are located in the Borough of Jamesburg, pursuant to and in accordance with the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), also known as P.L. 2021, c. 16.

**28-2 Definitions.**

The definitions set forth in Article II of “The Land Development Ordinance of the Borough of Jamesburg” (Chapter 27) shall also be applicable to this Chapter.

**28-3 Businesses Authorized; Prerequisites.**

- A. No more than one (1) cannabis wholesaler and no more than one (1) cannabis distributor shall be permitted to locate within the geographical boundaries of the Borough of Jamesburg, subject to the time, manner and other restrictions set forth in Chapter 27.
- B. All other cannabis establishments, cannabis distributors and cannabis delivery services are hereby prohibited from locating in Jamesburg Borough. This prohibition shall not, however, apply to the delivery of cannabis items and related supplies (including cannabis paraphernalia) by a delivery service within the geographical boundaries of the municipality.
- C. A cannabis wholesaler or cannabis distributor must receive site plan and conditional use approval from the Jamesburg Borough Combined Land Use Board before it may conduct business within the Borough.



- D. Any applicant for a cannabis wholesaler or cannabis distributor facility shall coordinate with the Chief of Police, or his or her designee, regarding the measures to be taken to ensure the security of the facility and the safety of the public and facility employees. Such measures may include, but are not limited to, facility access controls, surveillance systems, and site lighting consistent with the requirements of State law.

#### **28-4 Governing Body Approval of Applications.**

Whenever the State Cannabis Regulatory Commission (the "Commission") established by the Act forwards to the municipality any application for initial licensing or renewal of an existing license for any cannabis establishment, distributor, or delivery service pursuant to section 19 of the Act or for a cannabis consumption area pursuant to section 28 of P.L.2019, c.153 (C.24:6I-21), or otherwise solicits the position of the municipality on any matter related to cannabis-related activities within the municipality, or upon the request of an applicant for or holder of such license, the governing body shall determine whether the application complies with the municipality's restrictions on the number of cannabis establishments, distributors, or delivery services, and on their location, manner, or times of operation, and promptly inform the Commission, applicant for or holder of a license whether the application complies with same and whether it either approves or denies each application or other request for municipal authorization forwarded to it. Notwithstanding the forgoing, nothing herein shall prohibit any elected or appointed official or employee from expressing their opinions or views on cannabis-related matters in their personal or individual official capacity, or endorsing an applicant for or holder of a license issued by the Commission, provided that such official shall not represent that their opinions or views are those of the municipality unless based on a duly adopted ordinance or resolution of the municipality, or other action of a majority of the governing body.

#### **28-5 Operational Requirements.**

A cannabis wholesaler or cannabis distributor facility issued a permit or license by the State of New Jersey, with approval of the Borough, and operating in the Borough under this Chapter shall at all times comply with the following operational requirements:

- A. A cannabis wholesaler or cannabis distributor facility shall comply with the zoning code, the building code, and the property maintenance code at all times.
- B. The facility must hold at all times a valid license or permit issued by

the State of New Jersey to undertake cannabis wholesaler or cannabis distributor activities at the permitted property. A State issued license is valid only for the location identified on the license and until the expiration date printed on the license and cannot be transferred to another location in the Borough without a new application. The State issued license shall be prominently displayed inside the permitted premises in a location where it can be easily viewed by law enforcement and administrative authorities.

C. Cannabis wholesaler and cannabis distributor operations shall be conducted solely within the permitted premises on the permitted property. No wholesaling or distributing facility shall be permitted to operate from a moveable, mobile or transitory location, except for the permitted transportation of cannabis items to and from the facility pursuant to the terms of the State license or permit.

D. No person under the age of 18 shall be permitted to enter into the permitted premises without a parent or legal guardian.

E. A cannabis wholesaler or cannabis distributor facility shall at all times maintain a security system that meets State law requirements, and shall also include:

- 1) Security surveillance cameras installed to monitor all entrances along with the interior and exterior of the permitted premises;
- 2) Burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week; and
- 3) All security recordings and documentation shall be preserved for at least thirty (30) days and made available to law enforcement upon request for inspection.

F. All cannabis in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the permitted premises.

G. The amount of cannabis on the permitted property and under the control of the permit holder, owner or operator of the facility shall not exceed the amount permitted by the State license.

- H. Cannabis offered for sale and distribution must be packaged and labeled in accordance with State law.
- I. No pictures, photographs, drawings, or other depictions of cannabis or cannabis paraphernalia shall appear on the outside of any permitted premises nor be visible outside of the permitted premises on the permitted property.
- J. The words “marijuana,” “cannabis” and any other words used or intended to convey the presence or availability of marijuana shall not appear on the outside of the permitted premises nor be visible outside of the permitted premises on the permitted property. Cannabis wholesaler and cannabis distributor facilities shall only be permitted to have one sign, displaying the business name and/or site address only, in compliance with sign requirements for the applicable Zone.
- K. Sales to the public, public consumption, or use of cannabis, alcohol, cannabis or other controlled substances on the permitted premises is prohibited.
- L. The facility’s operation and design shall minimize any impact to adjacent uses, including the control of any odor such that no odor is detectable beyond the permitted property. No facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors beyond the boundaries of the property on which the facility is operated; or creating any other nuisance that hinders the public health, safety and welfare of the residents of the Borough.
- M. No person operating or employed by a cannabis wholesaler or cannabis distributor facility shall provide or otherwise make available cannabis to any person who is not legally authorized to possess same under state law.
- N. All necessary building, electrical, plumbing and mechanical permits must be obtained for the permitted premises.
- O. Cannabis may be transported within the Borough under this ordinance by a company licensed to do so by the State, and to effectuate its purpose, only:

- 1) In a manner consistent with all applicable State laws and rules, as amended;
  - 2) In a secure manner designed to prevent the loss of the cannabis;
  - 3) Using vehicles that do not have exterior markings including the words "marijuana," "cannabis," or any similar or slang words; pictures or other renderings of the cannabis plant; advertisements for cannabis or for its sale, transfer, cultivation, delivery, transportation or manufacture; or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting cannabis.
- P. No vehicle may be used for the ongoing or continuous storage of cannabis, but may only be used incidental to, and in furtherance of, the transportation of cannabis and cannabis products.
- Q. Any cannabis wholesaler or cannabis distributor operating in the Borough shall undertake its best efforts to employ at least one (1) Jamesburg resident per every ten (10) employees of the cannabis wholesaler or cannabis distributor operation.
- R. No cannabis or cannabis product shall be smoked, eaten or otherwise consumed on the premises of any cannabis wholesaler or cannabis distributor facility.
- S. All cannabis wholesaler and cannabis distributor activities shall take place within an enclosed building. The cannabis wholesaler or cannabis distributor shall be the sole occupant of its building.
- T. The maximum permitted hours of operation for a cannabis wholesaler or cannabis distributor shall be between 9:00 a.m. and 9:00 p.m. (EST).
- U. Cannabis wholesaler and cannabis distributor facilities shall operate in compliance with state and local noise laws and regulations, except in emergency situations requiring the use of a backup generator.
- V. A cannabis wholesaler or cannabis distributor may not be located within one thousand (1,000) linear feet of a public or private school (including a college, junior college or university), nor within five

hundred (500) linear feet of any of the following uses: a church or similar place of worship, a family day care home, a child care center, a playground, a public park, or a public building. The distance limitations referenced herein shall be measured from the lot line of the other use to the nearest portion of the building containing a cannabis wholesaler or cannabis distributor operation. The subsequent approval of a school or any other use referenced above in proximity to the cannabis wholesaler or cannabis distributor use shall not render any existing cannabis wholesaler or cannabis distributor business a nonconforming use.

W. Cannabis wholesaler and cannabis distributor operations shall have a backup generator, capable of maintaining at a minimum all electronic security systems in the event of a power failure.

#### **28-6 Inspection.**

Subject to the requirements and limitations of state law, the municipality shall have the reasonable right to inspect the premises of any approved cannabis wholesaler or cannabis distributor facility during its regular hours of operation to ensure compliance with local ordinances and regulations.

#### **28-7 Public Nuisance Declared.**

Operation of any prohibited or unpermitted cannabis business operation within the municipality in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

#### **28-8 Cannabis Control Board.**

At any time, the Borough of Jamesburg may create a “Cannabis Control Board,” representing a local regulatory authority that is responsible for processing applications submitted to operate a cannabis wholesaler or cannabis distributor facility within the Borough.

#### **28-9 Fees.**

At any time, the Borough may establish a schedule of annual operating, registration and application fees for a cannabis wholesaler or cannabis distributor license.

#### **28-10 Transfer Tax and User Tax Imposed.**

- A. There is hereby imposed a transfer tax payable to the Borough of Jamesburg in the amount of one percent (1%) on receipts from the sale of cannabis or cannabis items from a cannabis wholesaler to another cannabis establishment, in accordance with the Act and as set forth herein.
- B. Additionally, there is hereby imposed a user tax upon any concurrent license holder operating more than one cannabis establishment, which shall be payable to the Borough of Jamesburg in the amount of one percent (1%) on receipts from the sale of cannabis or cannabis items, in accordance with the Act and as set forth herein. The user tax 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) above, from the license holder's establishment that is located in the municipality to any of the other license holder's establishments, whether located in the Borough or another municipality.
- C. The transfer and user taxes referenced in subsections (A) and (B) above shall be in addition to any other tax imposed by law. The transfer tax or user tax shall be collected or paid, and remitted to the municipality by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.

#### **28-11 Tax Liability.**

Every cannabis establishment required to collect a transfer tax or user tax imposed pursuant to this Chapter shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this Chapter. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

No cannabis establishment required to collect a transfer tax or user tax 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 that the transfer tax or user tax will be refunded to the cannabis establishment.

#### **28-12 Collection of Taxes and Lien.**

All revenues collected from a transfer tax or user tax imposed pursuant to this Chapter shall be remitted to the chief financial officer in the manner prescribed herein. The chief financial officer shall collect and administer any transfer tax or user tax imposed pursuant to this Chapter. The municipality shall enforce the payment of delinquent taxes or transfer fees imposed pursuant to this Chapter in the same manner as provided for municipal real property taxes.

In the event that the transfer tax or user tax imposed pursuant to this Chapter is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. 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.

The municipality shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance 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.

#### **28-13 Administration of Transfer Tax and User Tax.**

The chief financial officer is charged with the administration and enforcement of the provisions of this Chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Chapter, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Chapter. Should a cannabis establishment fail or refuse to provide adequate information to the chief financial officer to determine the amount of tax due, the chief financial officer may use information provided to the chief financial officer from other sources (i.e., the Commission or Department of Treasury) to determine the amount of tax liability.

- A. It shall be the duty of the chief financial officer to collect and receive the taxes, fines, and penalties imposed by this Chapter. It shall also be the duty of the chief financial officer to keep a record showing the date of such receipt.

The chief financial officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the tax. The chief financial officer is authorized to issue a ruling upon written request of a taxpayer or upon its own volition.

- B. The chief financial officer is hereby authorized to examine the books, papers and records of any taxpayer to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every taxpayer is hereby directed and required to give to the chief financial officer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.

#### **28-14 Recordkeeping.**

Taxpayers liable for the transfer tax or user tax required by this Chapter are required to keep such records as will enable the filing of true and accurate returns or the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, in order to enable the chief financial officer or any agent designated by him/her to verify the correctness of the declarations or returns filed. If records are not available in the municipality to support the returns which were filed or which should have been filed, the taxpayer will be required to make them available to the chief financial officer either by producing them at a location in the municipality or by paying for the expenses incurred by the chief financial officer or his/her agent in traveling to the place where the records are regularly kept.

#### **28-15 Returns.**

All cannabis establishments operating in the municipality are required to file a transfer tax and/or user tax return with the chief financial officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this Chapter. Returns shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively. A taxpayer who has overpaid the transfer tax or user tax, or who believes it is not liable for the tax, may file a written request on an amended tax return with the chief financial officer for a refund or a credit of the tax. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for a refund shall be filed with the chief financial officer within two (2) years of the date of the payment.

#### **28-16 Confidentiality.**

The returns filed by taxpayers, and the records and files of the chief financial officer respecting the administration of the transfer tax or user tax, shall be considered confidential and privileged and neither the municipality nor any



employee or agent engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the chief financial officer nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the municipality under the tax provisions of this Chapter.

#### **28-17 Audit and Assessment.**

The chief financial officer may initiate an audit by means of an audit notice. If, as a result of an examination conducted by the chief financial officer, a return has not been filed by a taxpayer or a return is found to be incorrect and transfer taxes or user taxes are owed, the chief financial officer is authorized to assess and collect any tax due. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the taxpayer. Deficiency assessments (i.e., where a taxpayer has filed a return but is found to owe additional tax) shall include taxes for up to three (3) years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment.

Upon proposing an assessment, the chief financial officer shall send the taxpayer an interim notice by certified mail, return receipt requested, which advises the taxpayer of additional taxes that are due. Should the taxpayer wish to dispute the assessment administratively by requesting a hearing with the chief financial officer, it must do so within thirty (30) days of the date of such interim notice. If, after the chief financial officer sends an interim notice, a taxpayer fails to timely request a hearing with the Chief financial officer or requests a hearing and after conducting a hearing, the chief financial officer determines that the taxes are due, the chief financial officer shall send the taxpayer by certified mail, return receipt requested, a final notice. Should the taxpayer wish to dispute the assessment set forth in the final notice, he or she must initiate an appeal in the New Jersey Tax Court within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

#### **28-18 Time Limitations.**

The following periods of limitations shall apply to suits for collection of taxes: When a return has been filed but no tax paid, any suit brought to recover the tax

due and unpaid shall be filed within two (2) years after the return was due or filed, whichever is later. Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes. Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the taxpayer, both the chief financial officer and the taxpayer have consented in writing to its extension after such time, the suit may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

#### **28-19 Hearings.**

Any person who receives an interim notice from the chief financial officer may, within thirty (30) days after the date of an interim notice, request a hearing with the chief financial officer. Any person who fails to request a chief financial officer's hearing in a timely manner waives the right to administratively contest any element of the assessment. The chief financial officer shall accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with this section.

#### **28-20 Appeals.**

Any aggrieved taxpayer may, within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder, or publication of any rule, regulation or policy of the chief financial officer, appeal to the Tax Court pursuant to the jurisdiction granted by N.J.S.A. 2B:13-2a(3) to review actions or regulations of municipal officials by filing a complaint in accordance with the New Jersey Court Rule 8:3-1. The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a final decision of the chief financial officer in respect to a determination of liability for the tax imposed by this Chapter.

#### **28-21 Enforcement; Violations and Penalties.**

Violations of the provisions and requirements set forth or referenced herein may be enforced in any manner the municipality deems appropriate, including but not limited to bringing an appropriate ordinance enforcement action. When an ordinance enforcement action is brought, the General Penalty provisions set forth in Section 1-5 of the Borough Code, as amended from time to time, shall apply. In addition to any other remedies, the Borough may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this ordinance. The rights and remedies provided herein are civil in nature. The imposition of a fine shall not exempt the violator from compliance with the provisions of this ordinance.

**BE IT FUTHER ORDAINED**, that if any section, subsection or part of this Ordinance is adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not impair or invalidate the remainder of this Ordinance.

**BE IT FUTHER ORDAINED**, that all parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.

**BE IT FUTHER ORDAINED**, that this Ordinance shall take effect upon final adoption and publication as provided by law.

## RECORD OF VOTE

FIRST READING DATE: July 21, 2021

<u>COUNCIL MEMBER</u>	<u>MOTION</u>	<u>2nd</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<a href="#">Council Member Czarneski</a>		<u>X</u>	<u>X</u>			
<a href="#">Council Member Ludas</a>			<u>X</u>			
<a href="#">Council Member Rampacek</a>	<u>X</u>		<u>X</u>			
<a href="#">Council Member Rutsky</a>			<u>X</u>			
<a href="#">Council Member Shaughnessy</a>			<u>X</u>			
<a href="#">Council President Sussman</a>			<u>X</u>			
<a href="#">Mayor Lowande</a>						

PUBLICATION: July 30, 2021

SECOND READING: August 18, 2021

PUBLIC HEARING: August 18, 2021

<b>COUNCIL MEMBER</b>	<b>MOTION TO OPEN</b>	<b>2nd</b>	<b>VOTE</b>	<b>MOTION TO CLOSE</b>	<b>2nd</b>	<b>VOTE</b>	<b>MOTION TO ADOPT</b>	<b>2nd</b>	<b>VOTE</b>
Council Member Czarneski			Y	Y		Y			Y
Council Member Ludas			Y			Y			Y
Council Member Rampacek	Y		Y			Y			Y
Council Member Rutsky			Y			Y			Y
Council Member Shaughnessy		Y	Y		Y	Y		Y	Y
Council President Sussman			Y			Y	Y		Y
Mayor Lowande									

## **PUBLIC COMMENT ON ORDINANCE #09-21**

Bertin Lefkovic – 27 Lake Street – Mr. Lefkovic asked if the Referendum question was sent to the County. He also asked why the Mayor and Council will not allow a Cultivator or Manufacturer in town. Mayor Lowande and Councilmember Sussman addressed his question. Smell is one of the concerns as well as the limited space we have in town. Mt. Lefkovic thanked all for considering other classes in the future.

Brian Taylor – 9 Hillside Ave. – Mr. Taylor asked Council why are they in such a hurry to pass this Ordinance. We will be locked into this now for 5 years, if denied we have time to look into it again. Many surrounding towns opted out for now. Wait until after the election in November where the referendum question will be on the ballot, let the voters be heard. We receive no money on distribution and only 1% on wholesale.

Councilmember Rutsky responded. She does not feel the Council hurried this. They spent time researching and weighing the pros and cons. Allowing these classes will definitely benefit the town. Borough Attorney Raffetto explained applicants would have to go in front of the Cannabis Commission as part of the process. We can always amend the Ordinance at a later date to add restrictions including location.

## **ORDINANCE #10-21**

### **AN ORDINANCE AMENDING ORDINANCE #02-21 RELATING TO THE ESTABLISHMENT OF SALARY AND COMPENSATION LIMITS FOR CERTAIN OFFICES, POSITIONS AND EMPLOYEES IN THE BOROUGH OF JAMESBURG, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY.**

**WHEREAS**, the Borough Council previously adopted Ordinance #02-21 on February 17, 2021, which established limits for salary and compensation of certain offices, positions and employees in the Borough of Jamesburg, County of Middlesex and State of New Jersey; and

**WHEREAS**, due to certain vacancies which have occurred relating to certain positions, it is necessary for the Borough Council to amend Ordinance #02-21 in order to revise the salary limits relating to the positions of Business Administrator, Chief Financial Officer, and Qualified Purchasing Official, as set forth below.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Jamesburg, in the County of Middlesex and State of New Jersey, that Ordinance #02-21, as adopted on February 17, 2021, is hereby amended and revised in the following limited respects (additions are shown with underline; deletions are shown with ~~strikeout~~):

<b><u>SALARY/POSITION</u></b>	<b><u>PAY SCHEDULE</u></b>	<b><u>MINIMUM</u></b>	<b><u>MAXIMUM</u></b>
BUSINESS ADMINISTRATOR	PAYABLE BI-MONTHLY PER ANNUM	<del>\$15,000.00</del> <u>\$80,000.00</u>	<del>\$20,000.00</del> <u>\$120,000.00</u>
<u>CHIEF FINANCIAL OFFICER – TEMPORARY</u>	<u>PAYABLE BI-MONTHLY PER ANNUM</u>	<u>\$3,000.00</u>	<u>\$10,000.00</u>
QUALIFIED PURCHASING OFFICIAL	PAYABLE BI-MONTHLY PER ANNUM	<del>\$3,000.00</del> <u>\$2,000.00</u>	\$5,000.00

**BE IT FUTHER ORDAINED**, that if any section, subsection or part of this Ordinance is adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not impair or invalidate the remainder of this Ordinance.

**BE IT FUTHER ORDAINED**, that the remaining portions of Ordinance #02-21 shall remain in full force and effect except as modified above.

**BE IT FUTHER ORDAINED**, that this Ordinance shall take effect upon final adoption and publication as provided by law.

RECORD OF VOTE:

FIRST READING: August 2, 2021

<b>COUNCIL MEMBER</b>	<b>MOTION TO INTRODUCE</b>	<b>2nd</b>	<b>VOTE</b>
Council Member Czarneski			X
Council Member Ludas		X	X
Council Member Rampacek	X		X
Council Member Rutsky			X
Council Member Shaughnessy			X
Council President Sussman			X
Mayor Lowande			

PUBLICATION: August 6, 2021

SECOND READING: August 18, 2021

PUBLIC HEARING: August 18, 2021

COUNCIL MEMBER	MOTION TO OPEN	2nd	VOTE	MOTION TO CLOSE	2nd	VOTE	MOTION TO ADOPT	2nd	VOTE
Council Member Czarneski	Y		Y			Y	Y		Y
Council Member Ludas		Y	Y		Y	Y			Y
Council Member Rampacek			Y	Y		Y			Y
Council Member Rutsky			Y			Y			Y
Council Member Shaughnessy			Y			Y		Y	Y
Council President Sussman			Y			Y			Y
Mayor Lowande									

### **PUBLIC COMMENT ON ORDINANCE #10-21**

Brian Taylor – 9 Hillside Avenue – Mr. Taylor asked the salary changes that are taking place with this Ordinance. Borough Attorney Raffetto explained there is a salary range for positions by Ordinance then salary is set forth by Resolution. The changes to this Ordinance are for the CFO and BA.

Shannon Spillane – 29 A Lincoln Ave. – Ms. Spillane is a crossing guard in town. She asked is crossing guards were capped out or would they be seeing a raise. This is something that will be looked into

### **CONSENT AGENDA:**

All matters listed on tonight's Consent Agenda are to be considered as one vote by the Borough Council and will be enacted by one motion. Any resolutions listed on the agenda with \*\* next to their respective number are to be considered as part of the Consent Agenda. There will be no discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and considered separately.

### **CONSENT AGENDA RESOLUTIONS:**

RESOLUTION #120-08-18-21\*\*

### **APPROVE PAYMENT OF VOUCHERS**

**WHEREAS**, The Chief Financial Officer has certified and submitted a consolidated bill list for the payment of claims; and

**WHEREAS**, all vouchers listed herewith have been encumbered and sufficient funds are available for payment; and

**WHEREAS**, the required signatures of the Department Head or the Committee Chair, the Finance Chairperson, the Vendor, and the Chief Financial Officer, have all been obtained on each voucher on the attached list.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Jamesburg, that the voucher list submitted is hereby approved for payment in the total amount of \$2,090,136.08.

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas		X	X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy			X			
Council President Sussman			X			
Mayor Lowande						

RESOLUTION #121-08-18-21\*\*

#### **RESOLUTION ACCEPTING MINUTES**

**BE IT RESOLVED** THAT THE FOLLOWING MINUTES BE AND ARE HEREBY ACCEPTED AND FILED:

*MAYOR AND COUNCIL*

July 21, 2021

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas		X	X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy			X			
Council President Sussman			X			
Mayor Lowande						

RESOLUTION #122-08-18-21\*\*

#### **RESOLUTION ACCEPTING EXECUTIVE SESSION MINUTES**

**BE IT RESOLVED** THAT THE FOLLOWING MINUTES BE AND ARE HEREBY ACCEPTED AND FILED:

MAYOR AND COUNCIL

July 21, 2021

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas		X	X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy			X			
Council President Sussman			X			
Mayor Lowande						

RESOLUTION #123-08-18-21\*\*

RESOLUTION ACCEPTING SPECIAL MEETING MINUTES

**BE IT RESOLVED** THAT THE FOLLOWING MINUTES BE AND ARE HEREBY ACCEPTED AND FILED:

MAYOR AND COUNCIL

August 2, 2021

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas		X	X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy			X			
Council President Sussman			X			
Mayor Lowande						



RESOLUTION # 125-08-18-21\*\*

**Authorizing submission of grant application and authorizing the Mayor to execute the grant agreement with the New Jersey Department of Transportation for the Road Improvements Vine St., Sedgwick St., Worth St., and Reade St. Project**

**WHEREAS**, the Borough of Jamesburg wishes to apply to the New Jersey Department of Transportation for Municipal Aid 2022 Grant Funds through the N.J.D.O.T. Electronic SAGE Program; and

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Jamesburg, County of Middlesex, New Jersey formally approves the grant application for the Various Improvement Reconstruction Project.

**BE IT FURTHER RESOLVED**, that the Mayor and the Borough Clerk are hereby authorized to submit an electronic grant application identified as MA-2022 Road Improvements – 00620.

**BE IT FURTHER RESOLVED**, that the Mayor and Borough Administrator are hereby authorized to sign the grant agreement on behalf of the Borough of Jamesburg and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas		X	X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy			X			
Council President Sussman			X			
Mayor Lowande						

RESOLUTION #126-08-18-21\*\*

**APPOINT PART-TIME CROSSING GUARD**

I, MARLENE LOWANDE, MAYOR, WITH THE ADVICE AND CONSENT OF THE BOROUGH COUNCIL DO HEREBY APPOINT THE FOLLOWING AS PART-TIME CROSSING GUARD EFFECTIVE SEPTEMBER 1, 2021

KATHERINE ANANIA

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas		X	X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy			X			
Council President Sussman			X			
Mayor Lowande						

## **NON-CONSENT AGENDA RESOLUTIONS:**

RESOLUTION #119-08-18-21

### **A RESOLUTION RESCINDING RESOLUTION #126-11-18-20 AND THE SHARED SERVICES AGREEMENT WITH THE BOROUGH OF SPOTSWOOD CONCERNING THE DEPUTY COURT ADMINISTRATOR POSITION, AND AUTHORIZING A NEW SHARED SERVICES AGREEMENT WITH THE BOROUGH OF SPOTSWOOD RELATING TO THE VIOLATIONS CLERK POSITION.**

**WHEREAS**, on November 18, 2020, the Jamesburg Borough Council adopted Resolution #126-11-18-20, which authorized the Borough of Jamesburg (“Jamesburg”) to enter into a Shared Services Agreement with the Borough of Spotswood (“Spotswood”), pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., relating to the provision of a Deputy Court Administrator for Spotswood; and

**WHEREAS**, subsequent thereto, the parties executed a Shared Services Agreement relating to the Deputy Court Administrator position; and

**WHEREAS**, Jamesburg and Spotswood (collectively the “parties”) wish to mutually rescind that Agreement, and to enter into a new Shared Services Agreement relating to the provision of a Violations Clerk to Spotswood by Jamesburg instead; and

**WHEREAS**, the new understanding between the parties is set forth in the attached proposed Shared Services Agreement relating to the Violations Clerk position.

**NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED**, by the Borough Council of the Borough of Jamesburg, in the County of Middlesex and State of New Jersey, as follows:

1. That Resolution #126-11-18-20, which approved a Shared Services Agreement between Jamesburg and Spotswood relating to the position of Deputy Court Administrator, is hereby rescinded.
2. That the Shared Services Agreement between the parties relating to the Deputy Court Administrator position is also hereby rescinded.

3. That Jamesburg is hereby authorized to enter into a new Shared Services Agreement with Spotswood relating to the position of Violations Clerk, as set forth in the attached.
4. That the Mayor is authorized to execute and the Municipal Clerk to attest the attached Agreement relating to the Violations Clerk position on behalf of Jamesburg.
5. That a certified copy of this Resolution shall be provided to each of the following:
  - a. Borough of Spotswood;
  - b. Division of Local Government Services (Department of Community Affairs);
  - c. Michael N. Capabianco, Borough Administrator; and
  - d. Frederick C. Raffetto, Esq., Borough Attorney.

COUNCIL MEMBER	MOTION	2 <sup>nd</sup>	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas		X	X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy			X			
Council President Sussman			X			
Mayor Lowande						

- Mayor Lowande explained the original agreement was for a deputy court administrator. Since we hired a violations clerk the agreement had to be redone.

RESOLUTION #124-08-18-21

#### **SELF-EXAMINATION OF BUDGET RESOLUTION**

**WHEREAS**, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

**WHEREAS**, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

**WHEREAS**, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Borough of Jamesburg has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2017 budget year.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Borough of Jamesburg that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
  - a. Payment of interest and debt redemption charges
  - b. Deferred charges and statutory expenditures
  - c. Cash deficit of preceding year
  - d. Reserve for uncollected taxes
  - e. Other reserves and non-disbursement items
  - f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
  - a. All estimates of revenue are reasonable, accurate and correctly stated,
  - b. Items of appropriation are properly set forth
  - c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

**BE IT FURTHER RESOLVED** that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption

**RESOLUTION #124-08-18-21**

**SELF-EXAMINATION OF BUDGET RESOLUTION**

COUNCIL MEMBER	MOTION	2nd	AYES	NAYS	ABSTAIN	ABSENT
Council Member Czarneski			X			
Council Member Ludas			X			
Council Member Rampacek	X		X			
Council Member Rutsky			X			
Council Member Shaughnessy		X	X			
Council President Sussman			X			
Mayor Lowande						

## **COUNCILMATIC COMMITTEE REPORTS:**

- **FINANCE COMMITTEE**  
Council Member Rampack

### **Finance Report:**

Our retired BA/CFO has come back to help us transition the office from Scott to Michael. She has been working hard organizing the office and make sure all of our bills are paid and urgent tasks are completed.

### **Library Report:**

The library is open and patrons are welcome to visit and check out books. There are two new exciting projects that are currently being worked on. The first one is a Little Free Library - this is a small receptacle that will contain free books for people to give and take, similar to the "give a penny, take a penny" concept. The second project are Birding Backpacks. These are backpacks that will contain maps, binoculars, and other resources for patrons to check out of the library and use throughout the town and in the park to view birds and wildlife.

### **Sign Project:**

Previously, before Covid, I had mentioned starting a program to replace the advertisement signs that are located on the bottom of the "Welcome to Jamesburg" signs when you enter town. I am picking this project back up and working on getting quotes from companies on the costs of these signs and then going to send letters to business to see if they'd like to participate. Costs for these would be covered by the businesses and considered advertising for them. Thank you to Bill for helping me get some of the sign details and measurements. Daria, if you would work on this with me once I have the details in place, I would really appreciate it.

- **EDUCATION COMMITTEE**  
Council Member Shaughnessy

At our last meeting, I announced that the August Board of Education would mark a return to in-person meetings. Tomorrow night's meeting will instead be virtual. The district has decided that an abundance of caution is wiser, given the rising number of cases in the area.

The meeting tomorrow night will be virtual, but will be no less important. At the meeting, a presentation will be given that details the plan for a safe reopening for the 2021 – 2022 school year. Students will be in school for full days five days a week. All hopes are that we will be able to stay that way throughout the whole school year.

Students will be masked, per the state mandate. Be aware that this will be another year wherein we must be prepared for change, and understand that all plans are flexible. There may be a change between tomorrow night's presentation and the start of school on September 8.

Letters will be sent out next week to all registered students regarding teacher placements.

- **POLICE COMMITTEE**  
Council President Sussman

The Jamesburg Police Department is accepting applications from PTC certified officers for the position of SLEO II. Applications are available at Police Headquarters. Captain Ceras, Detective Dennis and Patrolman Bruno all attended training in July. The Police responded to 2 OD's of CDS where Narcan was deployed both times.

- **PERSONNEL COMMITTEE**  
Council Member Czarneski

Councilwoman Ludas and I met with our new BA, Michael Capabianco last week and touched base on how his first day went. We touched on some areas we feel need improving and had a productive meeting. Looking forward to Michael starting full time and what he will bring to the Borough and our town.

- **PUBLIC WORKS COMMITTEE**  
Council Member Rutsky

Tilly Davison Park fence is done and we are waiting on Ballards to come in for Veterans Park.

"Back to School Food Truck Event" is ready to go on Thursday, September 9th 4-8 pm. I'd like to thank Sue Boulogne, The DPW the Jamesburg Fire Department and Police Department in advance for their support with making this a successful evening for Jamesburg.

- **ENVIRONMENT/ GREEN COMMITTEE:**  
Council Member Ludas

We will have an Environment/Green Team meeting in September to schedule Fall clean ups at the Church Street Creek, the Nature Park Area and the downtown area.

- **CHIEF OF POLICE**  
Chief Craparotta

Absent – No Report

- **ADMINISTRATOR'S REPORT**  
Michael Capabianco

Absent – No report

- PUBLIC SAFETY COMMITTEE / RECREATION / COMMUNITY EVENTS:  
Mayor Marlene Lowande

Thank you to Paulie for taking all the boxes downstairs and all the PPE supplies to the Senior Center.

October 9<sup>th</sup> we will be having our scarecrow making at the Firehouse in honor of the end of Fire Prevention Week.

Fred, myself and Sue worked tirelessly and put in lots of hours on the Cannabis items. We are looking forward to things getting better.

**MOTION TO ADJOURN:**

Proposed By: Rampacek

Seconded By: Czarneski

**TIME OF ADJOURNMENT:**

7:38 PM