

**BOROUGH OF FREEHOLD
COUNTY OF MONMOUTH**

#2023/23

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 3 “REVENUE AND
FINANCE” OF THE CODE OF THE BOROUGH OF FREEHOLD PERTAINING TO
TRANSFER AND USER TAXES ON THE SALE/TRANSFER OF MEDICAL
CANNABIS**

WHEREAS, the Borough of Freehold (the “Borough”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, Chapter 3 establishes the regulations for the collection of transfer and/or user taxes on the sale/transfer of cannabis; and

WHEREAS, said Chapter requires revision.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FREEHOLD AS FOLLOWS:

Section 1

Title 3 “Revenue and Finance” of the Code of the Borough of Freehold shall be amended as follows; additions to the current ordinance are noted in underline; deletions are struck through.

[Chapter 3.20 Cannabis Business Sales Tax – Deleted in toto and replaced as follows:]

Chapter 3.21 Medical Cannabis Transfer Tax

3.21.010 Tax imposed; transfer tax.

a. As authorized by N.J.S.A. 24:6I-10(i), there is hereby a transfer tax imposed on any medical cannabis dispensed by the dispensary, including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient’s caregiver.

b. This transfer tax shall be imposed at the rate of two percent (2%) on all sales or transfers of cannabis products from a Medical Cannabis Dispensary.

c. The Medical Cannabis Transfer Tax shall be in addition to any other tax or fee imposed pursuant to statute, state and federal, or local ordinance or resolution by any government entity upon a Medical Cannabis Dispensary.

3.21.020 Collection of transfer tax.

a. The transfer tax shall be collected or paid, and remitted to the Borough of Freehold by the Medical Cannabis Dispensary.

b. The transfer 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.

c. Every Medical Cannabis Dispensary is required to pay a transfer tax imposed by this section shall be personally liable for the transfer tax imposed, collected or required to be collected under this section.

3.21.030 Remittance of transfer tax.

a. Each Medical Cannabis Dispensary collecting transfer taxes pursuant to this chapter shall remit the collected taxes to the Chief Financial Officer of the municipality on a quarterly basis along with a report certified as true and accurate by the Medical Cannabis Dispensary's Chief Financial Officer, Comptroller, or other similarly situated person showing the gross revenues for the Medical Cannabis Dispensary for each month of the quarter. No tax shall be considered remitted unless and until said report is supplied.

Remittance shall be payable for the prior three month's activities and due at the same time as quarterly dates for the collection of property taxes. The revenues due on February 1 of each year shall include all transfer taxes collected for the prior year months of October, November and December. The revenues due on May 1 of each year shall include all transfer taxes for the immediate prior months of January, February and March. The revenues due on August 1 of each year shall include all transfer taxes collected for the immediate prior months of April, May and June. The revenues due on November 1 of each year shall include all transfer taxes collected for the immediate prior months of July, August and September.

There shall be a ten (10) day grace period for the payment of said transfer tax which will coincide with the ten (10) day grace period typically permitted for property tax payments. There shall be no extension of the cannabis transfer tax grace period without a resolution of the governing body authorizing a specific extension.

b. Each Medical Cannabis Dispensary shall file on an annual basis no later than February 1 of each year a financial report from an independent accountant certifying as to the annual revenue for the preceding year.

d. The Chief Financial Officer of the Borough may order an audit of any taxpayer under this chapter for purpose of ascertaining the correctness or completeness of any return of payment. 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.

3.21.040 – Penalties for nonpayment.

a. In the event that the transfer tax imposed by this section is not paid as and when due by a Medical Cannabis Dispensary, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the Medical Cannabis Dispensary'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.

b. The Borough shall file in the Office of the 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 Medical Cannabis Dispensary's premises.

c. The Borough of Freehold shall enforce the payment of delinquent taxes imposed by this section in the same manner as provided for municipal real property taxes.

d. In the event that the transfer tax imposed by this section is not remitted by the cannabis establishment within 30 days of when it is due, that Medical Cannabis Dispensary's municipal license to operate shall be suspended until that tax is remitted. This suspension shall be in addition to any monetary penalties that are imposed by this section.

e. In the event that the transfer tax imposed by this section is not remitted by the Medical Cannabis Dispensary within 90 days of when it is due, that Medical Cannabis Dispensary's municipal license to operate shall be revoked and forfeited. This revocation shall be in addition to any monetary penalties that are imposed by this section.

3.21.050 Violations

a. For violation of any provision of this section, the penalty upon conviction shall be the maximum fine permitted under New Jersey State law for the violation of a municipal ordinance in accordance with N.J.S.A. 40:49-5, or imprisonment for a period not exceeding the maximum time permitted under New Jersey State law for the violation of a municipal ordinance, in accordance with N.J.S.A. 40:49-5, or both.

b. Separate violation for each day. Each day that a violation of this section is allowed to exist shall constitute a separate violation or offense and shall be subject to the penalty as prescribed herein.

Section 2

All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

Section 3

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

Section 4

This ordinance shall take effect immediately after final passage, approval and publication as required by law.

Introduction: September 5, 2023

Public Hearing/Adoption: September 18, 2023