

**BOROUGH OF LITTLE FERRY  
STATE OF NEW JERSEY  
ORDINANCE NO. 1627-15-24**

**An Ordinance of the Borough of Little Ferry, Bergen County, New Jersey, Amending  
Chapter 12 Taxation, to include Section 12-2 Cannabis Transfer Tax in the Code of the  
Borough of Little Ferry**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Little Ferry, that Chapter 12 of the Ordinances of the Borough of Little Ferry is hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged:

**WHEREAS**, Section 40 of the New Jersey Cannabis Regulatory Enforcement Assistance and Marketplace Modernization Act, hereinafter 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**, N.J.S.A. 24:6I-10(i) permits a municipality to adopt an ordinance imposing a transfer tax on the sale of Adult-Use Cannabis that is located in the Township and to set its own tax rate, but in no case, exceed two-percent (2%) for cannabis cultivator, manufacturer and retailer and one-percent (1%) for wholesalers. The tax percentage is based on the receipts for each sale and is paid directly to the municipality in the manner prescribed by the municipality. Any delinquencies are

treated the same as delinquent property taxes. The tax cannot apply to delivery services to consumers or transfers for the purpose of bulk transportation.

**NOW THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Little Ferry, Bergen County, New Jersey, as follows:

Chapter 12 Taxation, of the Borough Code is hereby Amended and supplemented by the addition of a new section, Section 12-2 Cannabis Transfer Tax, as follows:

## §12-2 Cannabis Transfer Tax

### §12-2.1 Purpose

It is the purpose of this article to implement the provisions of P.L. 2021, c. 16, which authorizes the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed two percent (2%) of the receipts from each sale by a cannabis cultivator; two percent (2%) of the receipts from each sale by a cannabis manufacturer; one percent (1%) of the receipts from each sale by a cannabis wholesaler; and two percent (2%) of the receipts from each sale by a cannabis retailer, which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the cannabis establishment.

Unless otherwise defined herein, the Borough adopts by reference the terms and definitions established by Section 40 of Public Law 2021-16 (N.J.S.A. 24:61-33).

### §12-2.2 Transfer and user taxes and fees imposed.

A. There is hereby imposed a transfer tax of 2% on receipts from the retail sales of cannabis items by a cannabis retailer. There is hereby imposed a user tax of 2% on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax from the license holder's establishment that is located in Little Ferry to any of the other license holder's establishments, whether located in Little Ferry or another municipality, except that the user tax shall not be applicable to inventory transfers from one cannabis retail facility to another cannabis retail facility if those cannabis retail facilities are owned and operated by the same licensed entity.

B. Such taxes and fees shall be collected or paid and remitted to the municipality by the cannabis facility from the cannabis facility purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. The transfer or user tax and fees 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. No cannabis facility required to collect a transfer tax or fee imposed hereunder 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 fee or user tax or fee will not be separately charged and stated to another cannabis facility or the consumer or that the transfer tax or fee will be refunded to the cannabis facility or the consumer.

#### §12-2.3 Tax liability.

Every cannabis facility required to collect a transfer tax imposed by ordinance 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 facility shall have the same right with respect to collecting the transfer tax from another cannabis facility or the consumer as if the transfer tax was a part of the sale and payable at the same time, or with respect to nonpayment of the transfer tax or user tax by the cannabis facility or consumer, as if the transfer 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.

#### §12-2.4 Collection of taxes; liens.

All revenues collected from a transfer tax imposed by ordinance pursuant to this chapter shall be remitted to the Chief Financial Officer or his designee in the manner prescribed herein. The Chief Financial Officer or his designee shall collect and administer any transfer tax imposed by ordinance pursuant to this chapter. The municipality may enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this chapter in the same manner as provided for municipal real property taxes. In the event that the transfer tax imposed by ordinance pursuant to this chapter is not paid as and when due by a cannabis facility, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis facility'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 lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

#### §12-2.5 Administration of 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 facility fail or refuse to provide adequate information to the Chief Financial Officer or his designee to determine the amount of tax due, the Chief Financial Officer or his designee may use information provided to the Chief Financial Officer or his designee from other sources (i.e., the Commission or Department of Treasury) to determine the amount of tax liability.

#### §12-2.6 Quarterly statement and payments.

A. Each cannabis retail facility shall send a statement by mail or electronically to the Borough on or before the last day of each annual quarter or such other term as required by the state. The statement must contain an account of the amount of cannabis or cannabis products sold or transferred to consumers and/or cannabis delivery facilities during the preceding quarter, setting out:

- (1) The total number of ounces, including fractional ounces, sold or transferred;
- (2) The quantity of cannabis products sold or transferred;
- (3) If to a cannabis delivery service, the cannabis delivery facility's licensing information;
- (4) Such other information as may be necessary for the Borough to determine and verify the tax or fee due to the Borough.

B. The cannabis facility shall pay quarterly, or at such term set by the Borough, all taxes or fees, computed at the rates prescribed in this chapter, on the respective total quantities of the cannabis sold or transferred during the preceding quarter or applicable period. The quarterly return shall be filed and the tax paid on or before the 15th day of the month to cover the preceding quarter. Failure to file the quarterly tax return and pay the applicable taxes on or before the 15th day of the month shall constitute a violation of this chapter. The Chief Financial Officer or his designee 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. Such information will be made available within three days of being requested.

#### §12-2.7 Recordkeeping.

Taxpayers liable for the transfer tax 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 years from the filing date or due date, whichever is later, in order to enable the Chief Financial Officer or his designee 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 or his designee either by producing them at a location in the municipality or by paying for the expenses incurred by the Chief Financial Officer or his designee in traveling to the place where the records are regularly kept.

#### §12-2.8 Delinquent payments and unpaid tax.

Delinquent payments under this chapter shall be subject to the interest rate imposed upon unpaid taxes. If a cannabis facility fails to pay the tax to the Borough of Little Ferry, the cannabis facility's conditional use approval may be revoked.

#### §12-2.9 Confidentiality.

The returns filed by taxpayers, and the records and files of the Chief Financial Officer or his designee respecting the administration of the transfer 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.

#### §12-2.10 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 or his designee, a return has not been filed by a taxpayer or a return is found to be incorrect and transfer 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 years to the date when the deficiency is assessed. Where no return was filed, there shall be no limit to the period of assessment.

#### **SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

