

CITY OF PLAINFIELD

MC 2024-16

AN ORDINANCE OF THE CITY OF PLAINFIELD, IN THE COUNTY OF UNION, AMENDING CHAPTER 20, THE CANNABIS TRANSFER TAX AND USER TAX, ARTICLE I, SECTION 20:1-1E

WHEREAS, On August 16, 2021, the City Council of the City of Plainfield adopted Ordinances No. 2021-25 adopting Chapters 20; and

WHEREAS, since this initial adoption the City Council have amended the Cannabis Transfer Tax and User Ordinance to respond to new issues and concerns as they arise, and

WHEREAS, the Administration continues to review and refine the ordinance in order to identify necessary changes; and

WHEREAS, it is the intent of the City of Plainfield to regulate the imposition of tax of cannabis businesses throughout the City.

NOW, THEREFORE BE IT ENACTED By the City Council of the City of Plainfield, that:

Section 1.

The City Council has determined that the Cannabis Transfer Tax and User Tax ordinance amendment is appropriate and hereby adopts this Ordinance amendment as proposed.

Section 2.

The validity or enforceability of any provision of this Ordinance shall not affect the remaining provision of this ordinance, which shall remain in full force and effect.

Section 3.

A notice of this action shall be published in the official newspaper authorized to publish legal notices for the City.

Section 4.

This ordinance shall take effect twenty (20) days after final passage and approval, as provided by law.

EXHIBIT A SECTION 20:1-1E.

AMENDMENT TO -20:1-1E. Cannabis Tax Collection and Remittance Procedure.

E. Collection of transfer tax and user tax.

- i. The transfer tax or user tax shall be collected or paid, and remitted to the City of Plainfield by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis items, or from the consumer at the point of sale, on behalf of the City of Plainfield by the cannabis retailer selling the cannabis item to that consumer.

- ii. 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.
- iii. Every cannabis establishment required to collect a transfer or user tax imposed by this section shall be personally liable for the transfer tax or user tax imposed, collected or required to be collected under this section.
- iv. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the cannabis consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to nonpayment of the transfer or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was 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.
- v. No cannabis establishment required to collect a transfer tax or user tax imposed by this section shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.

F. Remittance of transfer and user tax.

- i. Each cannabis establishment collecting transfer and/or user 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 cannabis establishment's Chief Financial Officer, Comptroller, or other similarly situated person showing the gross revenues for the cannabis establishment for each month of the quarter. No tax shall be considered remitted unless and until said report is supplied. Cannabis retailers shall also file a copy of their ST-50C form that they filed with the State. No tax shall be considered remitted unless and until the cannabis retailers file a copy of the ST-50C form.

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 or user 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 and user taxes collected for the immediate prior months of January, February and March. The revenues due on August 1 of each year shall include all transfer taxes and user 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 and user 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 and/or user tax which will coincide with the ten (10) day grace period typically permitted for property tax payments.

- ii. There shall be no extension of the cannabis transfer tax/ user tax grace period without a resolution of the governing body authorizing a specific extension.
- iii. Each cannabis establishment 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.
- iv. Each cannabis establishment shall file with the City on a monthly basis a copy of its METRC seed to sale inventory management system report.

- v. The Chief Financial Officer of the City 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.

G. Penalties for nonpayment.


- i. In the event that the transfer tax or user tax imposed by this section 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.
- ii. The City 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 cannabis establishment's premises.
- ~~iii. The City of Plainfield shall enforce the payment of delinquent taxes or transfer fees imposed by this section in the same manner as provided for municipal real property taxes.~~
- iv. In the event that the transfer tax or user tax imposed by this section is not remitted by the cannabis establishment within 30 days of when it is due, that cannabis establishment'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.
- v. In the event that the transfer tax or user tax imposed by this section is not remitted by the cannabis establishment within 90 days of when it is due, that cannabis establishment'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.

H. Violations

- i. 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.
- ii. 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. [AMENDMENT]


ADOPTED BY THE MUNICIPAL COUNCIL

April 8, 2024


Abubakar Jalloh, R.M.C.
Municipal Clerk

CLERK'S CERTIFICATION

I, Abubakar Jalloh, City Clerk of the City of Plainfield do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Plainfield City Council.


 Abubakar Jalloh, R.M.C.
 Municipal Clerk

| ✓ Vote Record - Ordinance MC 2024-16 | | | | | | |
|---|--------------------|----------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| | | | Yes/Aye | No/Nay | Abstain | Absent |
| <input checked="" type="checkbox"/> Adopted | Richard Wyatt | Seconder | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Adopted as Amended | Charles McRae | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Defeated | Steve Hockaday | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Tabled | Terri Briggs Jones | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Repealed | Robert Graham | Mover | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Failed | Julienne Cherry | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Vetoed | Darcella Sessomes | Voter | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Consensus | | | | | | |