TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY

ORDINANCE #2/25

ORDINANCE TO AMEND CHAPTER 231-62 OF THE CODE TO MODIFY THE MUNICIPAL TAX PROCEDURES FOR CANNABIS RETAILERS

WHEREAS, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act"), enacted in February 2021, established the New Jersey Personal-Use Cannabis Program, which includes a process for the licensure of "Cannabis Business Establishments," as defined by the Act; and

WHEREAS, the Town of West New York (the "Town") has expressly authorized the operation of retail cannabis in a specified zoning district and subject to certain restrictions pursuant to Ordinance No. 15/21; and

WHEREAS, the Town may adopt an ordinance imposing a transfer tax and/or user tax on the sale of any usable cannabis or cannabis products by a cannabis establishment located within the Town, pursuant to N.J.A.C. 17:30-5.1; and

WHEREAS, the Town previously adopted Ordinance No. 15/21 which, in part, imposed a tax on the sale of retail cannabis within the Town, which is reflected in Chapter 231-62 of the Code of the Town of West New York (the "Code"); and

WHEREAS, the Board of Commissioners seeks to amend Chapter 231-62 of the Code entitled "Fees/Taxation" to clarify the applicability of the transfer tax or user tax on cannabis retailers and codify the procedures for remitting the transfer tax and user tax to the Town.

NOW, THEREFORE, BE IT ORDAINED that the Board of Commissioners of the Town of West New York in the County of Hudson, State of New Jersey, do hereby amend Chapter 231-62 as follows:

SECTION ONE:

Chapter 231-62 of the Code entitled "Fees/Taxation" shall be deleted in its entirety and replaced to provide as follows:

A. Local Cannabis Retailer Tax.

1. The Town of West New York requires a Local Cannabis Retailer Tax on the sale of any cannabis or cannabis items by any Cannabis Retailer within the Town, which Local Cannabis Retailer Tax shall be imposed upon all receipts from the retail sales of cannabis items by a Cannabis Retailer to retail consumers who are 21 years of age or older.

2. The Local Cannabis Retailer Tax established pursuant to Subsection A(1) hereinabove shall be set at 2% for "Cannabis Retailers" as defined in Chapter 414-11 of the Code.

B. Collection of Local Cannabis Retailer Taxes.

1. The Local Cannabis Retailer Tax imposed pursuant to this section shall be in addition to any other tax imposed by law.

2. The Local Cannabis Retailer Tax shall be collected and paid to the Town by the Cannabis Retailer selling the cannabis item to that consumer.

3. The Local Cannabis Retailer 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 for the cannabis or cannabis item.

4. Every Cannabis Retailer required to collect the Local Cannabis Retailer Tax imposed by this section shall be personally liable for the Local Cannabis Retailer Tax imposed, collected, or required to be collected under this section.

5. Each Cannabis Retailer shall remit the collected taxes to the Chief Financial Officer of the Town 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-5OC form that they filed with the State. No tax shall be considered remitted unless and until the Cannabis Retailer files a copy of the ST-5OC form.

6. 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 Local Cannabis Retailer Taxes collected for the prior year months of October, November and December. The revenues due on May 1 of each year shall include all Local Cannabis Retailer Taxes collected for the immediate prior months of January, February and March. The revenues due on August 1 of each year shall include all Local Cannabis Retailer Taxes collected for the immediate prior months of April, May and June. The revenues due on November 1 of each year shall include all Local Cannabis Retailer Taxes collected for the immediate prior months of July, August and September.

7. There shall be no extension of the Local Cannabis Retailer Tax due date without a resolution by the Board of Commissioners authorizing a specific extension.

C. Penalties for failing to pay the Local Cannabis Retailer Tax.

1. In the event that the Local Cannabis Retailer Tax imposed by this section is not paid as and when due by a cannabis business, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis business 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. In the event of a delinquency, the Chief Financial Officer shall file with 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 business. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

2. In the event that the Local Cannabis Retailer Tax imposed by this section is not remitted by the cannabis establishment within thirty days of when it is due, the cannabis establishment’s municipal license to operate shall be suspended until that tax is remitted. This suspension shall be in addition to the lien imposed by Subsection C(1).

D. Cannabis business licensing.

1. Cannabis Retailers must possess a valid current license issued by the Town of West New York in order to operate its cannabis business, in addition to any licensing requirements established by the State of New Jersey.

2. The Cannabis Retailer shall be required to submit an application for a license, to be accompanied by a fee of $6,000, with all documentation as set forth in the application as required by the Town of West New York.
3. The annual license renewal fee is $15,000 and must be paid by December 1 preceding the next calendar year licensing period.

SECTION TWO:

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION THREE:

Repealer. To the extent that any provision of the Code of the Town of West New York is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control.

SECTION FOUR:

In order to avoid accidental repeal of existing provisions, the Town Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION FIVE:

This Ordinance shall take effect upon passage and publication as required by law.

SUMMARY OF ORDINANCE

This Ordinance amends Chapter 231-62 entitled "Fees/taxation" to codify the Town of West New York's collection of a Local Cannabis Retailer Tax for cannabis establishments.

Introduced: January 29, 2025
Adopted: February 26, 2025

Statement

The foregoing ordinance having been previously adopted for first reading and published was further considered by the Mayor and Board of Commissioners of the Town of West New York on **February 26, 2025** and at said date was duly and finally adopted after public hearing thereon.

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Adelinny Plaza, RMC
Town Clerk

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Commissioner Marcos A. Arroyo

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Commissioner Victor M. Barrera

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Commissioner Marielka A. Diaz

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Commissioner Adam W. Parkinson

_____
Mayor Albio Sires
Board of Commissioners

Attest: _____
Adelinny Plaza, RMC
Town Clerk