

Township of Lawrence
County of Mercer

Ordinance No. 2421-22

AN ORDINANCE OF THE TOWNSHIP OF LAWRENCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 2415-22 AND THE LAWRENCE TOWNSHIP ADMINISTRATIVE CODE, CHAPTER 405, "TAXATION", IN ORDER TO ESTABLISH ARTICLE II, "CANNABIS TAX"

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" ("CREAMMA"), which legalized the recreational use of marijuana by adults 21 years of age or older, and established a comprehensive regulatory and licensing scheme for commercial recreational (adult-use) cannabis operations, use, and possession; and

WHEREAS, Section 31b of CREAMMA stipulated, in part, that municipal regulation or prohibition of the operation of any one or more classes of cannabis establishments, distributors, or delivery services ("cannabis businesses") within municipal boundaries must be adopted within 180 days of the effective date of the Act (*i.e.*, August 22, 2021); and

WHEREAS, the Township of Lawrence adopted Ordinance No. 2400-21 on July 20, 2021, restricting the operation of cannabis businesses within its geographical boundaries to certain designated areas and zones; and

WHEREAS, Section 8 of Ordinance No. 2400-21 provides for the imposition of a municipal transfer tax pursuant to Section 40 of CREAMMA; and

WHEREAS, with the adoption of N.J.A.C. 17:30-1, et seq., the governing body of the Township of Lawrence now wishes to amend and supplement Chapter 405, "Taxation", in order to further implement the provisions of Section 8 of Ordinance No. 2400-21; and

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Lawrence in Mercer County, New Jersey that Chapter 405, "Taxation", shall be amended and supplemented in order to establish Article II, "Cannabis Tax", as follows:

Section 1. Addition of Article II, "Cannabis Tax", to Chapter 405 of the Code.

Article II. Cannabis Tax

§405-8 Sales Tax

Cannabis products shall be subject to the New Jersey "Sales and Use Tax Act", N.J.S.A. 54:32- 1, et seq., and, as set forth herein, a local cannabis transfer tax on the sale of cannabis or cannabis items by a cannabis cultivator, retailer or establishment that is located in the municipality, and a local cannabis user tax on any concurrent license holder operating more than one cannabis establishment.

§405-9 Cannabis Transfer Tax

- A. Pursuant to P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (“CREAMMA”), there shall be a transfer tax imposed on the receipts from the sale of cannabis and cannabis items, as defined in N.J.S.A. 24:6I-33, from the following licensed person or entity located in the Township:
- 1) From a cannabis cultivator to another cannabis cultivator; and/or
 - 2) From one cannabis establishment to another cannabis establishment; and/or
 - 3) From the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; and/or
 - 4) By any combination thereof.
- B. The transfer tax rate shall be assessed at 2% of receipts from each sale by a cannabis cultivator, cannabis retailer and cannabis manufacturer.
- C. The transfer tax rate shall be assessed at 1% of receipts each sale by a cannabis wholesaler.
- D. The transfer tax shall be in addition to any other tax or fee imposed by law.
- E. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, under this Article, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under N.J.S.A. 54:32B-1, et seq., “Sales and Use Tax Act”.
- F. 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 or cannabis item.

§405-10 Cannabis User Tax

- A. There shall be a user tax imposed on any concurrent license holder operating more than one cannabis establishment.
- B. The user tax rate shall be assessed at 2% on any concurrent license holder operating more than one cannabis establishment. 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 this Article, 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 municipality or another municipality.
- C. The user tax shall be in addition to any other tax or fee imposed by law.

- D. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under N.J.S.A. 54:32B-1, et seq., “Sales and Use Tax Act”.
- E. The 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.

§405-11 Collection of Cannabis Transfer and User Taxes

In accordance with the provisions of CREAMMA:

- A. Every cannabis establishment required to collect the transfer and user taxes imposed by this Article shall be personally liable for the transfer and user tax imposed, collected, or required by this Article and CREAMMA.
- B. Any cannabis establishment collecting a transfer tax or user tax shall have the same right with respect to collecting the tax from another cannabis establishment or the consumer as if the tax was a part of the sale and payable at the same time. With respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the tax was part of the purchase price of the cannabis or cannabis item and payable at the same time, provided that the CFO of the municipality which imposes the transfer tax and user tax is joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
- C. No cannabis establishment required to collect the transfer and user taxes imposed by this Article 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.

§405-12 Remittance of Cannabis Taxes; Delinquencies.

- A. All revenues collected from a transfer tax or user tax imposed by this Ordinance shall be remitted to the CFO of the Township on a quarterly basis along with the cannabis establishment’s calculation of the tax remittance and its quarterly sales and use tax report, including gross sales. The CFO shall collect and administer any transfer tax or user tax imposed by ordinance pursuant to this section.
- B. Every cannabis establishment required to collect transfer tax or user tax shall be personally liable.
- C. Delinquent taxes. If the transfer tax or user tax is not paid when due, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment’s premises.

- D. 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.
- E. The Township shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance of cannabis taxes 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.
- F. Any annual municipal permit issued by the Township shall not be renewed for the cannabis establishment should any transfer or user tax pursuant to this Article be delinquent.

§405-13 Violations and Penalties

Civil penalties for violation of an ordinance or regulation governing the number of cannabis establishments, distributors, or delivery services that may operate in the Township, or their location, manner, or the times of operations, shall be as follows:

- A. For cannabis license holders, \$2,500 for the first offense and \$3,500 for any subsequent offense, as well as such penalties as may otherwise be provided by law.
- B. For individuals, a minimum fine of \$250.00 but not to exceed a maximum of \$2,000.00, as well as such penalties as may otherwise be provided by law.

Section 2. Severability. If any article, section or part of this ordinance shall be declared to be unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, no such determination shall be deemed to invalidate the remaining articles, sections or part of this ordinance.

Section 3. Repealer. All ordinances and all provisions thereof inconsistent with this ordinance or any part hereof are hereby repealed. Nothing in this ordinance is intended to limit inspections provided for by an applicable ordinances that may be in addition to the inspection provided for herein.

Section 4. Effect. This ordinance shall take effect twenty (20) days after adoption.

Adopted: April 5, 2022

RECORD OF VOTE

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Bobbitt	X						
Mr. Kownacki	X						
Ms. Lewis	X					X	
Mr. Powers	X						X
Mayor Ryan	X						