

ORDINANCE NO. 17-2022

**ORDINANCE OF THE TOWNSHIP OF GREENWICH, COUNTY OF GLOUCESTER,
STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT THE CODE OF THE
TOWNSHIP OF GREENWICH, CHAPTER 625 ENTITLED “TAXATION” TO
ESTABLISH ARTICLE II “CANNABIS MUNICIPAL TAX”**

WHEREAS, the Township of Greenwich (“Township”) is a municipal entity organized and existing under the laws of the State of New Jersey and located in Gloucester County; and

WHEREAS, on February 21, 2021, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (“CREAMMA”) was signed into law; and

WHEREAS, CREAMMA both legalizes and decriminalizes adult use cannabis within New Jersey; and

WHEREAS, the law establishes six (6) specific classes of cannabis businesses that may be licensed by the State and allows each municipality to determine whether or not each of these types of businesses shall be permitted within their municipal boundaries; and

WHEREAS, the Township, through Ordinance 8-2021, permits Class 1 (cultivator), 2 (manufacturer), 3 (wholesaler), 4 (distributor) and 6 (delivery) licensed cannabis businesses to operate within certain designated districts within the Township of Greenwich; and

WHEREAS, Section 40 of CREAMMA authorizes the imposition of a municipal tax on the lawful sale of cannabis; and

WHEREAS, the Township desires to impose a two percent (2%) municipal transfer tax on revenues generated by the lawful sale of cannabis by Class 1 and 2 license holders, and a one percent (1%) municipal tax on revenues generated by the lawful sale of cannabis by Class 3 license holders; and

NOW, THEREFORE BE IT ORDAINED, by the Mayor and Township Council of the Township of Greenwich, County of Gloucester, and State of New Jersey as follows:

SECTION 1. Chapter 625 of the Greenwich Township Code entitled “Taxation” is hereby amended and supplemented as follows:

Article II.

§ 625-18 Cannabis Municipal Tax.

A. Pursuant to Section 40 of the New Jersey Cannabis Regulatory, Enforcement and Marketplace Modernization Act (CREAMMA), the following municipal tax

shall be collected from the following cannabis license holders:

1. A two percent (2%) municipal transfer tax shall be imposed on the lawful sale of cannabis produced by any Class 1 and 2 license holder.

2. A one percent (1%) municipal transfer tax shall be imposed on the lawful sale of cannabis produced by any Class 3 license holder.

B. The transfer tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.

C. Any transaction for which the transfer tax is imposed, is exempt from the tax imposed under the “Sales and Use Tax Act”.

D. 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.

§ 625-19 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 the same rate as the transfer tax above assessed at 2% of receipts from each sale by a cannabis cultivator or cannabis manufacturer. The tax rate shall be assessed at 1% of receipts each sale by a cannabis wholesaler.

C. The use 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 on the license holder’s establishment that is located in the municipality to any of the other license holder’s establishments, whether located in this municipality or any other municipality.

D. The user tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.

E. Any transaction for which the user tax is imposed, is exempt from the tax imposed under the “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.

§ 625-20 Collection of transfer and user tax

In accordance with the provisions of N.J.S.A 40:48I-1, et. seq.:

A. Every cannabis establishment required to collect the transfer and user taxes imposed by this Chapter shall be personally liable for the transfer and user tax imposed, collected, or required by this Chapter and N.J.S.A. 40:48I-1, et. seq.

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 Chapter 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.

D. Each cannabis establishment collecting transfer and user taxes pursuant to this chapter shall be remitted to the CFO of the municipality on a monthly basis.

E. 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.

F. 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.

G. The municipality 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.

SECTION 2. The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. All other ordinances in conflict with or inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this ordinance but shall be confined in its effect to the provision directly involved in the controversy in which such judgment shall have been rendered.

Introduced at a meeting of the Mayor and Council of the Township of Greenwich held on the 21st day of November 2022 and passed upon a second reading of the Mayor and Council held on the 19th day of December, 2022 and effective twenty (20) days after adoption and publication as required by law.

ATTEST:

TOWNSHIP OF GREENWICH

HOLLY TROPEA, Acting
Municipal Clerk

VINCENT GIOVANNITTI, Mayor

Introduced: November 21, 2022
Advertised: December 2, 2022
Adopted: December 19, 2022