

**TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE

No. **21-068**

1ST READING _____ <u>December 7, 2021</u>	DATE TO MAYOR _____
2ND READING & PUBLIC HEARING <u>Dec. 21, 2021</u>	DATE RESUBMITTED TO COUNCIL _____
WITHDRAWN _____ LOST _____	DATE EFFECTIVE _____

APPROVED AS TO FORM AND LEGALITY _____ FACTUAL CONTENTS CERTIFIED TO BY _____

TOWNSHIP ATTORNEY _____ TITLE

ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON, NEW JERSEY, PART II, GENERAL LEGISLATION, CHAPTER 449, TAXATION, ARTICLE II, CANNABIS TAXATION

Be It Ordained by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the *Code of the Township of Hamilton, New Jersey, Part II, General Legislation, Chapter 449, Taxation*, as amended and supplemented, be further amended and supplemented as follows:

Chapter 449

TAXATION

Article I. HOTEL TAX

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Article II. CANNABIS TAXATION

§ 449-6. Purpose.

It is the purpose of this Article to implement the provisions of both N.J.S.A. 40:48I-1 and 24:6I-46 of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act ("CREAMMA") which authorizes a municipality to impose Cannabis Transfer and User Taxes. All terms herein shall be defined the same as defined in N.J.S.A. 24:6I-33, section 3 of CREAMMA and Chapter 153 Cannabis.

§ 449-7. Cannabis Transfer Tax.

- A. There shall be a transfer tax imposed on the receipts from the sale of cannabis and cannabis items from the following licensed person or entity located in this municipality:
 - (1) From a cannabis cultivator to another cannabis cultivator; and/or
 - (2) From one cannabis establishment to another cannabis establishment; [and/or]
 - (3) [By any combination thereof.] From the retail sale of cannabis; and/or

EXPLANATION: Matter underlined thus in this legislation is new matter.
Matter contained in brackets [thus] is to be omitted from the law.

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(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 pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.
- E. Any transaction for which the transfer tax is imposed, is exempt from the tax imposed under the 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.

§ 449-8. 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 pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis. Any transaction for which the user tax is imposed, is exempt from the tax imposed under the Sales and Use Tax Act.
- D. 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.

§ 449-9. Collection of Cannabis Transfer and User Tax.

In accordance with the provisions of CREAMMA:

- 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 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

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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.

§ 449-10. Remittance of Cannabis Taxes; Delinquencies.

- A. 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.
- 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 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.
- F. The annual Township permit issued pursuant to Chapter 153 shall not be renewed for the cannabis establishment should any transfer or user tax pursuant to this Chapter be delinquent.

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Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

PRESIDENT

MUNICIPAL CLERK

RECORD OF VOTE													
First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
ANTHONY P. CARABELLI, JR.							ANTHONY P. CARABELLI, JR.						
RICHARD L. TIGHE, JR.							RICHARD L. TIGHE, JR.						
CHARLES F. WHALEN							CHARLES F. WHALEN						
NANCY PHILLIPS							NANCY PHILLIPS						
PASQUALE "PAT" PAPERIO, JR.							PASQUALE "PAT" PAPERIO, JR.						

X - Indicates Vote A.B. - Absent N.V. - Not Voting RES. - Moved SEC. - Seconded

REJECTED _____

JEFFREY S. MARTIN, MAYOR

DATE

APPROVED _____

RECONSIDERED BY COUNCIL _____ OVERRIDE VOTE AYE _____ NAY _____