

ORDINANCE NO. 14-2022

ORDINANCE OF THE BOROUGH OF BROOKLAWN, COUNTY OF CAMDEN AND STATE OF NEW JERSEY TO AMENDING ARTICLE III IN CHAPTER 130, TAXATION, IN THE CODE OF THE BOROUGH OF BROOKLAWN

WHEREAS, the Borough of Brooklawn, (“Borough”) is a municipal entity organized and existing under the laws of the State of New Jersey and located in Camden 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, CREEAMA 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 Borough has amended its zoning ordinance to permit Class I, Class II and Class V licensed cannabis businesses to operate within the Brooklawn Redevelopment Area Overlay Zone within the Borough; and

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

WHEREAS, the Borough desires to impose a two percent (2%) municipal transfer tax on revenues generated by the lawful sale of cannabis by Class I, Class II and/or Class V license holders; and

NOW, THEREFORE BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Brooklawn, County of Camden, and State of New Jersey, that Article III in Chapter 130, Taxation, in the Code of the Borough of Brooklawn, is amended as follows:

ARTICLE III.

Cannabis Municipal Tax

ARTICLE I. ARTICLE III. SECTION 130-11 Cannabis Municipal Tax.

Pursuant to Section 40 of the New Jersey Cannabis Regulatory, Enforcement and Marketplace Modernization Act (CREAMMA), a two percent (2%) municipal transfer tax shall be imposed on the lawful sale of cannabis by any Class I, Class II and/or Class V license holder.

**ARTICLE II. ARTICLE III. SECTION 130-12 Additional to other taxes
and fees.**

The Cannabis Municipal Tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the lawful purchase of cannabis. Any transaction for which the transfer or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966,c30 (C.54:32B-1 et seq.).

**ARTICLE III. ARTICLE III. SECTION 130-13 Payment by purchaser
required; violations and
penalties.**

A. The transfer tax or user tax imposed by this article shall be collected or paid, and remitted to Brooklawn by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item. 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.

B. Every cannabis establishment required to collect a transfer tax or user tax imposed by ordinance pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting tax or user tax from another cannabis establishment as if the transferor user tax was part of the purchase price of the cannabis or cannabis item and payable at the same time; provided, however, that the Tax Collector of Brooklawn shall be joined as a party in any action or proceeding brought to collect the transfer tax.

C. 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 that the transfer tax or user tax will be refunded to the cannabis establishment.

D. All revenues collected from the transfer tax or user tax imposed by ordinance pursuant to this section shall be remitted to Brooklawn Tax Collector on a quarterly basis 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 and user taxes collected for the immediate prior 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. 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.

E. All payments to Brooklawn shall be accompanied by certain supporting data and made in a manner prescribed by the Tax Collector.

F. The Tax Collector shall collect and administer the Local Cannabis Transfer Tax and User Tax imposed by this ordinance. The Borough shall enforce the payment of delinquent Local Cannabis Transfer Tax and User Tax in the same manner and at the same interest rates as provided for municipal real property taxes.

G. In the event that the Local Cannabis Transfer Tax and User 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. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

H. Each assumption or absorption by a licensee of the tax shall be deemed a separate offense and each representation or advertisement by a licensee for each day that the representation or advertisement continues shall be deemed a separate offense.

I. Any licensee who violates any of the provisions of this Section shall, upon conviction thereof, be liable for penalties or any combination thereof as set forth in Chapter 1-15 of the Code of the Borough of Brooklawn, in the discretion of the Judge of the Municipal Court before whom such violation is heard and conviction made. Each day that a violation occurs shall be deemed a separate and distinct violation, subject to the penalty provisions of this Section.

ARTICLE IV.

All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

ARTICLE V.

This Ordinance shall take effect upon passage and publication according to law.

THE BOROUGH OF BROOKLAWN

BY: _____
THERESA M. BRANELLA, MAYOR

ATTEST:

RYAN GILES, BOROUGH CLERK

The foregoing ordinance was introduced by Mayor and Council at its regular meeting held on October 17, 2022. This Ordinance will be considered for adoption on final reading and public hearing to be held on November 21, 2022 at 6:30 p.m. in the Council Meeting Room, Brooklawn Borough Hall, 301 Christiana Street, Brooklawn, New Jersey.

The purpose of this Ordinance is to apply the Cannabis Municipal Tax pursuant to Section 40 of CREAMMA on the lawful sale of cannabis to Class I and Class II licensed cannabis businesses. A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Monday through Thursday (Legal Holidays excluded), at the Office of the Borough Clerk, Brooklawn Borough Hall, 301 Christiana Street, Brooklawn, New Jersey.