

ORDINANCE NO. 2021- 43

AN ORDINANCE AUTHORIZING THE IMPOSITION OF CERTAIN MUNICIPAL TRANSFER AND USER TAXES ON CERTAIN SALES OF CANNABIS AND CANNABIS ITEMS AND PROVIDING FOR LOCAL REGULATIONS RELATING THERETO.

WHEREAS, P.L. 2021, c.16, known as the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the “Act”), provides, in part, that a municipality may adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment, and specifically, at the discretion of the municipality, a transfer tax may be imposed on: receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof; and

WHEREAS, each municipality shall set its own rate or rates, but in no case shall a rate exceed: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; two percent of the receipts from each sale by a cannabis retailer; two percent on medical cannabis dispensed at medical cannabis dispensaries; and

WHEREAS, the City of Vineland (the “City”) has previously authorized by Ordinance the establishment and licensing of a medical cannabis dispensary which pursuant to the Jake Honig Compassionate Use Medical Cannabis Act (N.J.S.A. 24:6I-1 et. seq.) may be subject to the imposition of a local transfer tax, not to exceed two percent of the medical cannabis price, on the receipts from medical cannabis dispensed at local medical cannabis dispensaries including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient’s caregiver; and

WHEREAS, a local tax ordinance adopted pursuant to the Act shall also include provisions for imposing a user tax, at the equivalent transfer tax rates, on any concurrent license holder, as permitted by the Act, operating more than one cannabis establishment; and

WHEREAS, such 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 an ordinance adopted pursuant to the Act, 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; and

WHEREAS, the City authorizes, per the Act, the licensing, among others, of the following medical cannabis and cannabis establishments:

- Medical Cannabis Dispensary
- Class I Cannabis Cultivator License
- Class II Cannabis Manufacturer License
- Class III Cannabis Wholesaler License
- Class V Cannabis Retailer License

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VINELAND, IN THE COUNTY OF CUMBERLAND AND STATE OF NEW JERSEY, IN ACCORDANCE WITH AND SUBJECT TO THE ACT, AS FOLLOWS:

1. The City shall impose transfer taxes upon the following cannabis sales and at the following transfer tax rates: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; two percent of the receipts from each sale by a cannabis retailer; and two percent on medical cannabis sales made at local dispensaries.

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2. The City shall impose, at the equivalent transfer tax rates, a user tax on any concurrent license holder operating more than one cannabis establishment. Such 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 section 1 hereinabove, from the license holder's establishment that is located in the City to any other license holder's establishments, whether located in the City or another municipality.
3. Such transfer tax or user tax imposed, as provided above, shall be in addition to any other tax imposed by law. Any transaction for which such transfer tax or user tax is imposed, or could be imposed, as provided herein, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act" P.L. 1966, c.30 (C.54:32B-1 et.seq).
4. Such transfer or user tax shall be collected or paid and remitted to the City by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the City by the cannabis retailer and/or cannabis dispensary, as the case may be, selling the cannabis item to that consumer, and/or cannabis patient.
5. The transfer 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 the cannabis item.
6. Every cannabis establishment required to collect a transfer or user tax imposed by this ordinance shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this ordinance. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to the non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the Chief Financial Officer of the City shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
7. No cannabis establishment required to collect a transfer tax or user tax imposed by this ordinance 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 or 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.
8. All revenues collected from a transfer tax or user tax imposed by this ordinance shall be remitted to the City's Chief Financial Officer in the manner provided by the City for such remittances. The City Chief Financial Officer shall collect and administer any transfer tax or user tax imposed by this ordinance. The City shall enforce the payment of delinquent taxes or transfer fees imposed by this ordinance in the same manner as provided for City real property taxes.
9. In the event that the transfer tax or user tax imposed by this ordinance is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises 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 taxes due and owing in the same year.
10. The City shall file in the office of 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 establishment's premises. The lien shall be enforced as a City lien in the same manner as all other City liens are enforced.

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11. DEFINITIONS: As used in this ordinance, each of the following terms shall mean the same as each term is defined in the Act.

- A. Cannabis
- B. Cannabis cultivator
- C. Cannabis establishment
- D. Cannabis grower
- E. Cannabis items
- F. Cannabis manufacturer
- G. Cannabis retailer
- H. Cannabis wholesaler
- I. Consumer
- J. Premises

This Ordinance shall take effect upon adoption and publication according to Law.

Passed first reading:

Passed final reading:

President of Council

Approved by the Mayor:

Mayor

ATTEST:

City Clerk