

ORDINANCE NO. 13 - 2023

**TOWNSHIP OF FAIRFIELD
CUMBERLAND COUNTY**

AN ORDINANCE BY THE TOWNSHIP OF FAIRFIELD, IN THE COUNTY OF CUMBERLAND, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 406, ENTITLED "TAXATION," OF THE TOWNSHIP CODE TO IMPOSE A TRANSFER TAX ON THE SALE OF CANNABIS BY LICENSED BUSINESSES OPERATING IN THE TOWNSHIP AND A USER TAX ON CONCURRENT LICENSE HOLDERS OPERATING MORE THAN ONE ESTABLISHMENT AND TO LIMIT THE NUMBER OF CLASS 5 RETAILER LICENSES

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to permit the legalization of a controlled form of marijuana called "cannabis" for recreational and personal use by adults 21 years of age and older; and

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

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributor license, for businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 40 of the Act authorizes municipalities by ordinance to impose a transfer tax on the sales of cannabis between a Class 1, 2, 3, or 5 licensee and another such licensed cannabis business; and

WHEREAS, the Act also provides that any municipal ordinance imposing such transfer tax shall include provisions for imposing a user tax, at the equivalent rates, on any concurrent license holder operating more than one business; and

WHEREAS, the Township Committee has determined that licensed cannabis cultivation, manufacturing, wholesale, and retail activities will be designated as conditional permitted uses in

certain limited areas of the Township, and desires to avail itself of the opportunity to enhance the Township's revenue stream for the benefit and general welfare of its residents.

NOW, THEREFORE BE IT ORDAINED AND ENACTED, by the Township Committee of the Township of Fairfield, in the County of Cumberland, State of New Jersey as follows:

Section One. Chapter 406 of the Township Code is hereby amended to add a new Article II, Cannabis Taxation, to read as follows:

Article II Cannabis Taxation.

§406-11 Purpose.

The purpose of this chapter is to impose a tax on the sale of cannabis or cannabis products by licensed commercial cannabis businesses operating in the Township of Fairfield pursuant to the New Jersey Cannabis Regulatory, Enforcement, Assistance, and Marketplace Modernization Act, to specify the type of tax and rate of tax to be levied and the method of collection, and to comply with all requirements for the imposition of a transfer or user tax pursuant to State law. This chapter is enacted solely to raise revenue and not for regulation. This chapter does not authorize the conduct of any business or activity in the Township of Fairfield but provides for the taxation of such businesses or activities as they occur.

§406-12 Definitions.

CANNABIS – This term shall have the same meaning as provided under N.J.S.A. 24:6I-33.

CANNABIS CULTIVATOR – A facility involved in the growing and cultivating of cannabis, and which has been duly issued a Class 1 Cannabis Cultivator license by the New Jersey Cannabis Regulatory Commission, or its successor agency.

CANNABIS MANUFACTURER – A facility involved in the manufacturing, preparation, and packaging of cannabis items, and which has been duly issued a Class 2 Cannabis Manufacturer license by the New Jersey Cannabis Regulatory Commission, or its successor agency.

CANNABIS RETAILER -- Any person or entity that purchases or otherwise obtains cannabis or cannabis items from cannabis cultivators, manufacturers, or wholesalers, and sells these items to consumers from a retail store, and/or may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers and which has been duly issued a Class 5 Cannabis Retailer license by the New Jersey Cannabis Regulatory Commission, or its successor agency.

CANNABIS WHOLESALER – A facility involved in obtaining and selling cannabis items for later resale by other licensees, and which has been duly issued a Class 3 Cannabis Wholesaler license by the New Jersey Cannabis Regulatory Commission, or its successor agency.

§406-13 Imposition of Cannabis Transfer Tax and User Tax.

The Township of Fairfield hereby imposes and shall collect certain local option taxes on cannabis business activity as follows:

- A. A municipal transfer tax is hereby imposed on the receipts of each sale by a licensed cannabis business operating in the Township of Fairfield at the rate of two percent (2%) of the receipts from each sale by a cannabis cultivator, two percent (2%) of the receipts from each sale by a cannabis manufacturer, one percent (1%) of the receipts from each sale by a cannabis wholesaler, and two percent (2%) of the receipts from each sale by a cannabis retailer.
- B. A municipal user tax is hereby imposed, at the equivalent transfer tax rates, 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 section, 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.

§406-14 Payment of Taxes.

All revenues collected pursuant to this section shall be remitted to the Chief Financial Officer of the Township of Fairfield in the manner provided by this ordinance. The taxes imposed by this section shall be computed and paid for each calendar month. Said taxes are due and payable to the Chief Financial Officer on or before the twentieth day of the succeeding month.

§406-15 Administration.

- A. The Chief Financial Officer is hereby authorized and empowered to administer, regulate, and collect payment of all taxes imposed by this ordinance.
- B. The Chief Financial Officer may order an audit of any taxpayer under this chapter for the purpose of ascertaining the correctness or completeness of any return or payment.

§406-16 Penalties.

- A. The payment of delinquent taxes or transfer fees imposed by this ordinance shall be enforced in the same manner as provided for delinquent real property taxes.
- B. 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 the parcel for unpaid property taxes due and owing in the same year.
- C. In the event that a lien is imposed on a delinquent taxpayer pursuant to this section, the Township 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 municipal lien in the same manner as all other municipal liens are enforced.

Section Two. Maximum number of licenses. The Township of Fairfield may issue not more than two (2) Class 5 Cannabis Retailer Licenses. Licensure in all classes may be, but are not required to be, held by the same entity or individual, but an entity may not hold more than one Cannabis Retailer License. Any license conditionally issued by the Township is contingent upon the locally licensed entity's or individual's subsequent receipt of a State license or permit of the same class or type of regulated cannabis activity. Under no circumstances shall a local permit or conditional license for a cannabis establishment issued through the Township be effective until the State has issued the requisite license to operate such a facility.

Section Three. All Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.

Section Four. If any section, paragraph, subdivision, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision and the remainder of this ordinance shall be deemed valid and effective.

Section Five. This ordinance shall take effect immediately upon final passage and publication according to law.


STATE OF NEW JERSEY :


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COUNTY OF CUMBERLAND :

Please take notice that the above Ordinance was adopted by the Township Committee of Fairfield Township after a public hearing on the 20th day of December, 2023.

ATTEST


Linda M. Gonzales, Municipal Clerk


Marvin Pierce, Jr., Mayor

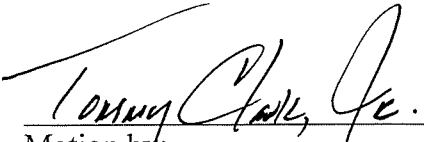
First Reading: November 15, 2023


Publication on First Reading: December 6, 2023

Second Reading/Public Hearing: December 20, 2023

Publication on Second Reading: December 28, 2023

Final Adoption:


Motion by:


Seconded by:

Vote:

Bateman ✓; Byrd *A. Bortolin*; Clark *1st*; Peterson *2nd*; Pierce ✓