

**BOROUGH OF RIVER EDGE  
ORDINANCE #24-06**

**AN ORDINANCE CREATING PART I, ADMINISTRATIVE LEGISLATION,  
CHAPTER 92, TAXATION OF CANNABIS ESTABLISHMENTS, OF THE REVISED  
GENERAL ORDINANCES OF THE BOROUGH OF RIVER EDGE**

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**BE IT ORDAINED**, by the Mayor and Council of the Borough of River Edge, Bergen County, New Jersey as follows:

Section 1. Part I, Administrative Legislation, of the Revised General Ordinances of the Borough of River Edge is hereby amended to include Chapter 92, Taxation of Cannabis Establishments, to read as follows:

CHAPTER 92. Taxation of Cannabis Establishments.

**§ 92-1. Creation and imposition of a municipal tax:**

A. Transfer Tax and User Tax Imposed.

1. There is hereby imposed a transfer tax of two percent (2%) on receipts from the sale of all Cannabis from a Cannabis Retailer.
2. There is hereby imposed a user tax equivalent to the transfer tax rate established in Section 100-4A.1 and 2, on any concurrent license holder, as permitted by section 33 of P.L.2021, c.16 (C.24:6I-46), 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, 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.
3. Such transfer tax shall be collected or paid and remitted to the municipality 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 municipality by the cannabis retailer selling the cannabis item to that consumer.
4. 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. No Cannabis Establishment required to collect a transfer tax imposed hereunder 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 will be refunded to the Cannabis Establishment or the consumer.

B. Tax Liability.

Every Cannabis Establishment required to collect a transfer tax and user tax imposed herein 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 the transfer tax from another Cannabis Establishment or the consumer as if the transfer tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the Cannabis Establishment or consumer, as if the transfer 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.

**§ 92-2. Collection of Taxes and Lien.**

- A. All revenues collected from a transfer tax and user tax imposed pursuant to this section shall be remitted to the Borough of River Edge Chief Financial Officer in

the manner prescribed herein. The Chief Financial Officer shall collect and administer any transfer tax or user tax imposed.

- B. The Borough of River Edge may enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes.
  - 1. In the event that the transfer tax imposed by ordinance pursuant to this section is not paid 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.
  - 2. 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.
  - 3. The Borough shall file in the office of its 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 premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

### **§ 92-3 Administration of Transfer Tax and User Tax.**

- A. The Borough of River Edge Chief Financial Officer is charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the reexamination and corrections of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this chapter.
- B. Should a Cannabis Establishment fail or refuse to provide adequate information to the Chief Financial Officer to determine the amount of tax due, the Chief Financial Officer may use information provided to the Chief Financial Officer from other sources (i.e., the Commission or Department of Treasury) to determine the amount of tax liability.
  - 1. Every Cannabis Establishment is hereby directed and required to give to the Chief Financial Officer, or to any agent designated by him/her, the means, facilities and opportunity for such examinations and investigations, as are hereby authorized.
  - 2. The Chief Financial Officer is hereby authorized to examine the books, papers and records of the Cannabis Establishment to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due.
  - 3. It shall be the duty of the Chief Financial Officer to collect and receive the taxes, fines, and penalties imposed by this chapter. It shall also be the duty of the Chief Financial Officer to keep a record showing the date of such receipt. The Chief Financial Officer is authorized to enter into agreements with the State of New Jersey to obtain information to facilitate administration of the tax. The Chief Financial Officer is authorized to issue a ruling upon written request of a taxpayer or upon its own volition.
- C. Recordkeeping.
  - 1. A Cannabis Establishment liable for the transfer tax or user tax shall be required to keep such records as will enable the filing of true and accurate

returns of the tax and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, in order to enable the Chief Financial Officer or any agent designated to verify the correctness of the declarations or returns filed.

2. If records are not available in the municipality to support the returns which were filed or which should have been filed, the Cannabis Establishment will be required to make them available to the Chief Financial Officer either by producing them at a location in the municipality or by paying for the expenses incurred by the Chief Financial Officer or his agent in traveling to the place where the records are regularly kept.

#### D. Returns.

1. All Cannabis Establishments operating in the municipality are required to file a tax return with the Chief Financial Officer to report their sales during each calendar quarter and the amount of tax in accordance with the provisions of this chapter. Returns shall be filed and payments of tax imposed for the preceding calendar quarter shall be made on or before the last day of April, July, October, and January, respectively.
2. A Cannabis Establishment that has overpaid the transfer tax, or who believes it is not liable for the tax, may file a written request on an amended tax return with the Chief Financial Officer for a refund or a credit of the tax. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for a refund shall be filed with the Chief Financial Officer within two (2) years of the date of the payment.

#### E. Confidentiality.

The returns filed by the Cannabis Establishment, and the records and files of the Chief Financial Officer respecting the administration of the transfer tax, shall be considered confidential and privileged and neither the municipality nor any employee or agent engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the Chief Financial Officer nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the municipality under the tax provisions of this chapter.

#### **§ 92-4. Audit and Assessment.**

- A. The Borough's Chief Financial Officer may initiate an audit by means of an audit notice to be served on any agent at the Cannabis Establishment's principal place of business.
- B. In the event a return is found to be incorrect and transfer or user taxes are owed, the Chief Financial Officer is authorized to assess and collect any tax due and owing. Deficiency assessments (i.e., where a Cannabis Establishment filed a return but is found to owe additional tax) shall include taxes for up to three (3) years to the date when the deficiency is assessed.
- C. If no return has been filed and tax is found to be due, the tax actually due may be assessed and collected with or without the formality of obtaining a return from the

taxpayer. Where no return was filed, there shall be no limit to the period of assessment.

- D. All expenses incurred by the Borough associated with the audit and the collection of the outstanding taxes shall be paid by the delinquent Cannabis Establishment.
- E. Upon proposing an assessment, the Chief Financial Officer shall send the Cannabis Establishment an interim notice by certified mail, return receipt requested, or by electronic means approved by the Cannabis Establishment, advising the taxpayer of additional taxes that are due. Should the taxpayer wish to dispute the assessment administratively by requesting a hearing with the Chief Financial Officer, it must do so within thirty (30) days of the date of such interim notice. If, after the Chief Financial Officer sends an interim notice, a taxpayer fails to timely request a hearing with the Chief Financial Officer or requests a hearing and after conducting a hearing, the Chief Financial Officer determines that the taxes are due, the Chief Financial Officer shall send the Cannabis Establishment by certified mail, return receipt requested, or by electronic means approved by the Cannabis Establishment, a final notice. Should the Cannabis Establishment wish to dispute the assessment set forth in the final notice, the Cannabis Establishment must initiate an appeal in the New Jersey Tax Court within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder.

#### **§ 92-5. Time Limitations.**

- A. The following periods of limitations shall apply to suits for collection of taxes:
  - 1. When a return has been filed but no tax paid, any suit brought to recover the tax due and unpaid shall be filed within two (2) years after the return was due or filed, whichever is later;
  - 2. Where no return was filed or a fraudulent return was filed, there shall be no limits to file suit for the collection of taxes;
  - 3. Where, before the expiration of the time prescribed in this section for the filing a lawsuit against the taxpayer, both the Chief Financial Officer and the taxpayer have consented in writing to its extension after such time, the suit may be filed at any time prior to the expiration of the period agreed upon; and
- B. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

#### **§ 92-6 Hearings and Appeals.**

- A. Any person who receives an interim notice from the Chief Financial Officer may within thirty (30) days after the date of an interim notice, request a hearing with the Chief Financial Officer. Any person who fails to request a hearing in a timely manner waives the right to administratively contest any element of the assessment. The Chief Financial Officer shall accept payments of disputed tax amounts under protest pending appeals; however, any request for refund of such monies must be filed in accordance with this section.
- B. A Cannabis Establishment may, within ninety (90) days after the mailing of any final notice regarding a decision, order, finding, assessment, or action hereunder, or publication of any rule, regulation or policy of the Chief Financial Officer, appeal to the Tax Court pursuant to the jurisdiction granted by N.J.S.A. 2B:13-2a(3) to review actions or regulations of municipal officials by filing a complaint in accordance with the New Jersey Court Rule 8:3-1. The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a final decision of the Chief Financial Officer in respect to a determination of liability for the tax imposed by this chapter.

**§ 92-7. Violations and penalties.**

Any person or business who violates any provision of this chapter shall be subject to the penalties provided by Chapter 268, Article III.

Section 2. All other provisions of the Borough Code are hereby ratified and shall remain unchanged.

Section 3. Any article, chapter, section, paragraph, subsection, clause, or other provision of the Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

Section 4. In case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

Section 5. Upon adoption of this ordinance, after public hearing thereon, the Borough Clerk is directed to publish notice of the passage thereof and to file a copy of this ordinance as finally adopted.

Section 6. This Ordinance shall be part of the Code of the Borough of River Edge as though codified and fully set forth therein. The Borough Clerk shall have this Ordinance codified and incorporated in the official copies of the Code.

Section 7. This Ordinance shall take effect immediately upon publication and final passage according to law.

INTRODUCED: February 26, 2024  
 ADOPTED: March 25, 2024

|                | Motion | Second | Yes | No | Abstain | Absent |
|----------------|--------|--------|-----|----|---------|--------|
| Kaufman        | X      |        | X   |    |         |        |
| Montisano-Koen |        |        | X   |    |         |        |
| Kinsella       |        |        | X   |    |         |        |
| Malbellari     |        |        | X   |    |         |        |
| Benson         |        | X      | X   |    |         |        |
| Glass          |        |        | X   |    |         |        |
| Mayor Papaleo  |        |        |     |    |         |        |

I hereby certify the above to be a true copy of an Ordinance adopted by the Governing Body of the Borough of River Edge on March 25, 2024

  
 Anne Dodd, RMC

  
 Thomas Papaleo, Mayor