

ORDINANCE 2025 –02

AN ORDINANCE OF THE BOROUGH OF SOUTH RIVER, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AMENDING CHAPTER 120 OF THE BOROUGH CODE OF THE BOROUGH OF SOUTH RIVER, ENTITLED “CANNABIS”

BE IT ORDAINED, by the governing body of the Borough of South River, County of Middlesex, State of New Jersey, as follows:

SECTION 1. The Borough Code of the Borough of South River is hereby amended and supplemented so as to amend Chapter 120, entitled “Cannabis” so as to amend Section 120-6 entitled “Classes of Licenses permitted within the Borough” to read in its entirety as follows:

§ 120-6 Classes of Licenses Permitted within the Borough.

The following Classes of Licenses, as set forth by P.L. 2021, c. 16, are permitted to operate within the Borough:

- A. Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- B. Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- C. Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- D. Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- E. Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- F. 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 purchases 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.

SECTION 2. The Borough Code of the Borough of South River is hereby amended and supplemented so as to amend Chapter 120, entitled “Cannabis” so as to delete Section 120-7 entitled “Classes of Licenses Prohibited within the Borough” in its entirety and replace with the following:

§ 120-7 RESERVED.

SECTION 3. The Borough Code of the Borough of South River is hereby amended and supplemented so as to amend Chapter 120, entitled “Cannabis” so as to amend Section 120-8 entitled “Number of Licenses in the Borough” which shall read entirely as follows:

§ 120-8 Number of Licenses Permitted within the Borough.

- A. Class 1 – Five (5) total licenses.
- B. Class 2 - Five (5) total licenses.

- C. Class 3- Five (5) total licenses.
- D. Class 4 - Five (5) total licenses.
- E. Class 5- One (1) total license
- F. Class 6 - Five (5) total licenses.

SECTION 4. The Borough Code of the Borough of South River is hereby amended and supplemented so as to amend Chapter 120, entitled "Cannabis" so as to amend Section 120-10 entitled "Imposition and Rate of Cannabis Tax" which shall read entirely as follows:

§ 120-10 Imposition and Rate of Cannabis Tax.

- A. A transfer tax to be paid to the Borough by the Licensee as set forth below is imposed upon each of the following:
 - i. From a cannabis cultivator to another cannabis cultivator; and
 - ii. From one cannabis establishment to another cannabis establishment; and
 - iii. From a cannabis retailer to retail consumers who are 21 years of age or older; and
 - iv. By any combination thereof.
- B. The transfer tax authorized by this Section shall be assessed at the following rates:
 - 1. 2% of the receipts from each sale by a cannabis cultivator;
 - 2. 2% of the receipts from each sale by a cannabis processor;
 - 3. 1% of the receipts from each sale by a cannabis wholesaler; and
 - 4. 2% of the receipts from each sale by a cannabis retailer.
- C. 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.
- D. 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.
- E. 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.
- F. For each calendar quarter, no later than thirty days after the close of the quarter, or at such other times as the Borough shall require:
 - (a) Every licensee shall file with the Borough a return setting out, in form satisfactory to the Borough:
 - (1) The amount of sales by the licensee; and
 - (2) The amount of tax owing based upon the sales; and
 - (3) copies of any New Jersey ST-50 sales and Use tax quarterly return if required to file with the State of New Jersey; and
 - (4) a month by month summary of the cannabis sales and transfers for the quarter; and
 - (5) copies of all documents filed and submitted to the State of New Jersey representing cannabis sales or transfers upon which the State relies for the collection of State sales and use taxes including quarterly sales and use tax returns, as well as any other documents or data the Borough reasonably requires for the calculation of transfer and/or user taxes due in accordance with this ordinance.
 - (b) Simultaneously with the return, every licensee shall remit payment to the Borough such amounts as shown on the return or otherwise required by this Chapter.

(c) The Borough may require licensees to submit such other information as the Borough deems necessary for proper administration of this tax.

(d) The Borough is charged with enforcement and collection of this tax and is empowered to promulgate and enforce reasonable regulations for its enforcement and collection.

(e) 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

(f) 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.

(g) The Borough 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.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 7. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Borough Council of the Borough of South River, in the County of Middlesex, State of New Jersey, held on January 13th, 2025, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 3rd day of February, 2025, at 7:00 p.m., or as soon thereafter as this matter can be reached, at the Council Chamber of the Criminal Justice Building located at 61 Main Street, South River, New Jersey, and/or virtually via Zoom meeting code 826 6082 9597: password: 000000 at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

Introduced 1-13-25

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Balazs</i>			X			
<i>Councilman DeSantis</i>		X	X			
<i>Councilman Dziemian</i>			X			
<i>Councilman Giannakopoulos</i>			X			
<i>Councilman Gurchensky</i>			X			
<i>Council President Ciulla</i>	X		X			

Alyssa Hager, RMC
Municipal Clerk
Borough of South River