

AN ORDINANCE OF THE HAINES BOROUGH AMENDING HAINES BOROUGH CODE CHAPTER 3.82 TO IMPOSE AN EXCISE TAX ON MARIJUANA CULTIVATION FACILITIES IN THE HAINES BOROUGH.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. Sections 4-13 of this ordinance are of a general and permanent nature and shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall be effective January 1, 2018.

Section 4. Amendment of HBC Section 3.82.010. Section 3.82.010 of the Haines Borough Code is hereby amended, as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

3.82.010 Purpose and intent.

It is the intent and purpose of this chapter to:

- a) Provide for the collection of excise tax from the distributor who first brings or transports, or causes to be brought or transported, cigarettes or other tobacco products into the Haines Borough. The excise tax is levied when a distributor brings or transports, or causes to be brought or transported, cigarettes or other tobacco products into the Haines Borough from outside the Haines Borough, **and**
- b) **Provide for the collection of excise tax on the sale or the transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility.**

Section 5. Amendment of HBC Section 3.82.020. Section 3.82.020 of the Haines Borough Code is hereby amended, as follows:

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3.82.020 Definitions.

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- H. "Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

- I. "Marijuana Cultivation Facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.
- J. "Retail Marijuana Store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.
- K. "Marijuana Product Manufacturing Facility" means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Section 6. Amendment of HBC Section 3.82.040. Section 3.82.040 of the Haines Borough Code is hereby amended, as follows:

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3.82.040 Exemptions.

The tax imposed under this chapter does not apply to marijuana if the United States Constitution, the Alaska Constitution, or other federal or state laws prohibit the levying of the tax on the product by the Haines Borough.

Section 7. Amendment of HBC Section 3.82.050. Section 3.82.050 of the Haines Borough Code is hereby amended, as follows:

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3.82.050 Registration.

- A. All distributors **or marijuana cultivation facilities** must register with the Haines Borough and obtain a certificate of registration prior to selling, purchasing, possessing, bringing or transporting **marijuana**, cigarettes, or other tobacco products into the Haines Borough. The registration shall be on a form provided by the borough and must be completed in full. Registration constitutes the distributor's consent to the borough's filing of a lien on real and personal property for delinquent taxes and related interest, penalties and administrative fees and costs.
- B. The registration required by this chapter is in addition to any other registration or license required by law.
- C. The nonrefundable fee for registration or renewal is \$50.00. A certificate is subject to renewal every five years.
- D. A distributor **or marijuana cultivation facility** shall display the certificate of registration prominently at their place of business. A certificate of registration is not assignable or transferable.
- E. The borough may suspend or revoke a certificate of registration if a distributor **or marijuana cultivation facility** fails to comply with the provisions of this chapter.

- F. Any appeal from the borough's failure to issue or renew a certificate of registration, or the borough's suspension or revocation of a certificate, must be filed within 30 days of the date of mailing of the borough's notification to the distributor **or marijuana cultivation facility**.

Section 8. Amendment of HBC Section 3.82.060. Section 3.82.060 of the Haines Borough Code is hereby amended, as follows:

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3.82.060 Quarterly returns; penalties and interest for delinquency.

Every distributor **or marijuana cultivation facility** shall, on or before the last day of the month succeeding the end of each quarter year ending March 31, June 30, September 30 and December 31, complete an excise tax return for the preceding quarter year upon forms to be furnished by the Borough, and sign and transmit the return to the Borough manager. The return must include a total count of the number of packs of cigarettes and the wholesale price of the other tobacco products brought into the Borough during the preceding quarter, the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities (including the total number of ounces, including fractional ounces, sold or transferred, the names and Alaska address of each buyer and transfer, and the weight of marijuana sold or transferred to the respective buys or transferees), the amount of excise tax due, and other information and supporting documentation as the Borough may require.

Section 9. Amendment of HBC Section 3.82.070. Section 3.82.070 of the Haines Borough Code is hereby amended, as follows:

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3.82.070 Delinquency; failure to submit return or to remit taxes.

- A. Whenever the Borough manager reasonably believes a return contains inaccurate reporting or whenever any distributor **or marijuana cultivation facility** has become delinquent in the submission of the required quarterly return or in remitting the excise tax, the Borough manager shall mail to the delinquent distributor **or marijuana cultivation facility's** last known address a written demand by certified mail, return receipt requested, for submission of the corrected or required excise tax return and remittance within ten days. In the event of noncompliance with such demand, the Borough manager may make an excise tax assessment against the delinquent distributor **or marijuana cultivation facility**, the assessment to be based on an estimate of the taxable wholesale price paid by the distributor **or marijuana cultivation facility** during the quarterly period in question. A copy of the assessment shall be sent to the distributor **or marijuana cultivation facility** at their last known address by certified mail, return receipt requested. The distributor **or marijuana cultivation facility** shall have a right to a hearing before the manager at which time the distributor **or marijuana cultivation facility** shall make available for examination the books, papers, records and other documents pertaining to the period involved in the assessment. The distributor **or marijuana cultivation facility** may exercise the right to a hearing by delivering to the manager within 15 days of the date the notice was mailed, a written request for a hearing. The manager shall establish a date and time for a hearing to be held within ten days of receipt of the request unless a later time is mutually agreeable. The person conducting the hearing shall issue an amended assessment if it is determined that an amendment should be made. The amended assessment, or the original assessment if no

amendment is made within five days of the hearing, shall be the final assessment for the purpose of determining liability to the Borough. If no timely request for a hearing is made, the original assessment shall be the final assessment 30 days after the mailing of the notice of the original assessment, unless the seller has submitted an accurate return within the 30 days.

- B. The Borough may file a civil action for collection of any taxes, penalty or interest due after making a demand or assessment under subsection (a) of this section.
- C. Whenever any distributor **or marijuana cultivation facility** fails to submit the required quarterly return after notice given as provided in subsection (a) of this section, the manager shall require such distributor **or marijuana cultivation facility** to submit returns on a monthly basis.

Section 10. Amendment of HBC Section 3.82.080. Section 3.82.080 of the Haines Borough Code is hereby amended, as follows:

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3.82.080 Records maintenance and inspection.

In order to facilitate the administration and enforcement of the provisions of this chapter, each distributor **or marijuana cultivation facility** shall maintain and keep for a period of three years all of the quarterly excise tax returns, reports, forms and other records prescribed by this chapter or as prescribed hereafter by the Borough manager. The manager, or the manager's designee, is specifically authorized and empowered to examine and inspect at all reasonable hours the books, records and other documents of any distributor **or marijuana cultivation facility**, including their state business license, in order to carry out the provisions of this chapter.

Section 11. Amendment of HBC Section 3.82.090. Section 3.82.090 of the Haines Borough Code is hereby amended, as follows:

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3.82.090 Sale of Business; final tax return; liability of purchaser.

- A. If a distributor **or marijuana cultivation facility** sells, assigns, transfers, conveys, leases, forfeits or abandons the business to another person, the distributor **or marijuana cultivation facility** shall make a final excise tax return within 15 days after the date of selling, assigning, transferring, conveying, leasing, forfeiting or abandoning the business showing that all tax obligations imposed by this chapter have been paid. The purchaser, successor, transferee, lessee, assignee, creditor or secured party shall withhold a sufficient portion of the purchase money to pay the amount of any excise taxes, penalties and interest as may be due and unpaid to the Borough. If the purchaser, assignee, transferee, lessee, successor, creditor or secured party fails to withhold from the purchase money, or fails to otherwise provide for or make the payment of the taxes, interest and penalty owed by the business as provided in this chapter, the purchaser, assignee, transferee, lessee, successor, creditor or secured party shall be personally liable for the payment of the taxes, penalties and interest accruing and unpaid to the Borough on account of the operation of the business of any former owner, owners, operators or assigns.
- B. Before the sale, lease, assignment, transfer, or other disposition of the business is completed, the distributor **or marijuana cultivation facility** shall file with the Borough manager an

informational notice identifying the name and address of each person or entity involved in the transaction, the nature of the transaction, and the effective date of the transaction.

Section 12. Amendment of HBC Section 3.82.100. Section 3.82.100 of the Haines Borough Code is hereby amended, as follows:

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3.82.100 Lien for tax, interest and penalties due.

The tax, interest and penalty imposed under this chapter shall constitute a lien in favor of the Borough upon the assets or property of the distributor of tobacco products **or marijuana cultivation facility** within the Borough. The lien arises upon delinquency and continues until liability for the amount is satisfied or the property of the delinquent distributor **or marijuana cultivation facility** is sold at a tax lien foreclosure sale. The lien is not valid as against a mortgagee, pledge, purchaser, or judgment creditor until notice of the lien is filed in the recorder's office for the Haines Recording District.

Section 13. Addition of HBC Section 3.82.031. Section 3.82.031 of the Haines Borough Code is hereby added, as follows:

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3.82.031 Levy of excise tax on Marijuana Cultivation Facilities- rate

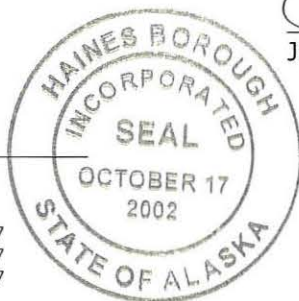
The Haines Borough hereby levies an excise tax of \$5.00 per ounce, or proportionate part thereof, on marijuana that is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. The borough may exempt certain parts of the marijuana plant from the excise tax described in this section or may establish a rate lower than \$5 per ounce for certain parts of the marijuana plant.


ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 10th DAY OF OCTOBER, 2017.

ATTEST:


Julie Cozzi, MMC, Borough Clerk

Date Introduced: 09/12/17
Date of First Public Hearing: 09/26/17
Date of Second Public Hearing: 10/10/17




Jan Hill, Mayor