

## **CHAPTER 35**

### **CANNABIS BUSINESS TAX ORDINANCE**

#### **Sec. 35-1. Title.**

This chapter shall be known as the Cannabis Business Tax Ordinance. This chapter shall be applicable in the unincorporated territory of the county of Sonoma, which shall be referred to herein as "county."

(Ord. No. 6188 , § 1, 12-13-2016)

#### **Sec. 35-2. General tax.**

The cannabis business tax is enacted solely for general governmental purposes for the county and not for specific purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the county's general fund and used for general governmental purposes.

(Ord. No. 6188 , § 2, 12-13-2016)

#### **Sec. 35-3. Purpose of the ordinance.**

This chapter is adopted to achieve the following purposes, among others, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (a) To impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by commercial cannabis businesses in the unincorporated area of the county, pursuant to the state Medical Cannabis Regulation and Safety Act, specifically California Business and Professions Code section 19348, or other enabling legislation;
- (b) To impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing nonmedical marijuana and marijuana products and accessories by commercial cannabis businesses in the unincorporated area of the county pursuant to the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" approved by the voters in the November 2016 election, or other enabling legislation, notwithstanding if state law uses the term "marijuana" or "cannabis";
- (c) To impose a tax on lawful commercial cannabis business in accordance with the authority granted by California Revenue and Taxation Code section 7284 to impose a business license tax;
- (d) To specify the type of tax and rate of tax to be levied and the method of collection; and
- (e) To comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue.

(Ord. No. 6188 , § 3, 12-13-2016)

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## Sec. 35-4. Definitions.

Terms that are not defined in this chapter shall have the meanings ascribed to them in Section 26-02-14004-020 (Definitions) of Chapter 26 of the Sonoma County code. The following words and phrases shall have the meanings set forth below when used in this chapter:

"Business" shall include all activities engaged in or caused to be engaged in within the unincorporated area of the county, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

"Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

"Cannabis cultivation area" means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.

"Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, medical cannabis does not include industrial hemp as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Commercial cannabis business" means any commercial business activity relating to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the county, whether or not carried on for gain or profit.

"Commercial cannabis business tax," "business tax," or "commercial cannabis tax" means the tax due pursuant to this chapter for engaging in commercial cannabis business in the unincorporated area of the county.

"Commercial cannabis cultivation" means cultivation conducted by, for, or as part of a commercial cannabis business.

"County permit" means a permit issued by the county to a person to authorize that person to operate or engage in a commercial cannabis business.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. For purposes of this chapter, "cultivation" does not include a cannabis nursery.

"Delivery" means the commercial transfer of cannabis or cannabis products from a dispensary.

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"Dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including a person that delivers cannabis and cannabis products as part of a retail sale. Where a dispensary performs its functions through a technology platform of any type or character, the technology platform shall also be deemed a dispensary for purposes of this chapter, and shall have the same duties and liabilities as the principal. Compliance with the provisions of this chapter by either the principal or the technology platform shall, however, be considered compliance by both.

"Distributor" or "distribution" or "distribution facility" means a person involved in the procurement, sale, and/or transport of cannabis and cannabis products between two (2) or more cannabis businesses.

"Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

"Engaged in business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the unincorporated area of the county or coming into the unincorporated area of the county from an outside location to engage in such activities. A person shall be deemed engaged in business within the county if:

- (1) Such person or person's employee maintains a fixed place of business within unincorporated area of the county for the benefit or partial benefit of such person;
- (2) Such person or person's employee owns or leases real property within the unincorporated area of county for business purposes;
- (3) Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of county for sale in the ordinary course of business;
- (4) Such person or person's employee regularly conducts solicitation of business within the unincorporated area of county;
- (5) Such person or person's employee performs work or renders services in the unincorporated area of county; and
- (6) Such person or person's employee utilizes the streets within the unincorporated area of county in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

"Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the unincorporated area of county.

"Fiscal year" means July 1 through June 30 of the following calendar year.

"Greenhouse" means a permanent structure, including glasshouses, conservatories, hothouses, or similar structures for the covered propagation and growing of plants, constructed with a translucent roof and/or walls.

"Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction there from on account of the cost of the property sold, the cost of materials used,

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labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

- (1) Cash discounts where allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;
- (6) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- (7) Cash value of sales, trades or transactions between departments or units of the same business;
- (8) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
- (9) Transactions between a partnership and its partners;
- (10) Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:
  - a. The voting and non-voting stock of which is owned at least eighty percent (80%) by such other corporation with which such transaction is had; or
  - b. Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or
  - c. At least eighty percent (80%) of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.
- (11) Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection (9) above;
- (12) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar (\$1.00);
- (13) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

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"Hoop house" means a temporary structure used for season extension or crop protection erected for less than one hundred eighty (180) days. Hoop houses do not include light deprivation, ventilation, artificial lighting, or any electrical components. The ends are left open and the material covering the structure is removable.

"Indoor" means indoor cultivation of cannabis within any type of structure using exclusively ~~aerobic~~ artificial lighting.

"Manufacturer" means a person that conducts the production, preparation, or compounding of manufactured cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

"Mixed-light" means cultivation of cannabis in a greenhouse or other similar structure using natural light, light deprivation, and/or any combination of natural and supplemental artificial lighting.

"Nursery" means a person that produces only clones, immature plants, and seeds used specifically for the planting propagation, and cultivation of cannabis.

"Operator" means the individual authorized to represent the person applying for or operating pursuant to a permit authorizing any commercial cannabis activity pursuant to this chapter.

"Outdoor" means cultivation of cannabis using no artificial lighting conducted in the ground or in containers.

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe or any other group or combination acting as a unit and includes the plural as well as the singular number.

"Personal cannabis cultivation" means cultivation within the residency, plant number, and/or square footage limitations provided in Chapter 26-88-258 exclusively for noncommercial use.

"Sale" means and includes any sale, exchange, or barter.

"Square foot" or "square footage" means the maximum amount of cannabis cultivation area for commercial cannabis cultivation authorized by a county permit issued to a person engaging in commercial cannabis business, or by a state license in the absence of a county permit or license, not deducting for unutilized square footage, and shall be the basis for the tax base for cultivation.

"State" means the state of California.

"State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law.

"Testing laboratory" means a laboratory, facility, entity, or site in the state of California that offers or performs tests of cannabis or cannabis products, and that is accredited by an accrediting body independent from all other persons involved in commercial cannabis activity in the state, and holds a valid state license and a valid local license or permit.

"Transporter" means a person engaged in the transfer of cannabis or cannabis products from the business location of one (1) commercial cannabis business to the business location of another commercial cannabis business, for the purposes of conducting commercial cannabis activity.

"~~T~~reasurer-tax collector" means the treasurer-tax collector of the county of Sonoma, his or her deputies or any other county officer charged with the administration of the provisions of this chapter.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6241 , § II(A), 8-28-2018; Ord. No. 6188 , § 4, 12-13-2016)

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## Sec. 35-5. Tax imposed.

There is established and imposed a cannabis business tax at the rates set forth in this chapter. Every person who is engaged in commercial cannabis business in the unincorporated area of the county shall pay an annual cannabis business tax.

(a) Tax on Commercial Cannabis Cultivation.

- (1) Every person who is engaged in commercial cannabis cultivation in the unincorporated area of the county shall pay an annual commercial cannabis business tax either: (1) at a rate of up to ten dollars (\$10.00) per square foot of outdoor cultivation area, twenty-two dollars (\$22.00) per square foot of mixed-light cultivation area, and thirty-eight dollars (\$38.00) per square foot of indoor cultivation area, or (2) at a rate of up to ten percent (10%) of gross receipts per fiscal year. When the rate is determined on a square footage basis, on July 1 of each fiscal year succeeding the year of imposition of a square footage based tax on commercial cannabis cultivation, the amount of the tax shall be increased by the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San-Francisco-Oakland-San Jose areas as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made. ~~Notwithstanding the foregoing, for FY 21-22 and FY 22-23, the tax rate shall not be increased by any increase in the most recent CPI.~~ The tax under this subsection shall not be imposed unless and until the board of supervisors, by ordinance, takes action to: (1) specify whether the tax on commercial cannabis cultivation will be imposed on a square footage or gross receipts basis, and (2) set a tax rate not to exceed the maximum rates established herein.
- (2) For cultivation license types based on plant count, the square footage based tax will be calculated using up to one hundred (100) square feet per plant allowed under the permit.
- (3) Notwithstanding the maximum tax rate established in subsection (a)(1), the board of supervisors may, in its discretion, at any time by ordinance, implement a lower tax rate for all persons engaged in commercial cannabis cultivation in the unincorporated area of the county or establish differing tax rates for different categories of commercial cannabis cultivation, including commercial cannabis cultivation for medical or adult use, subject to the maximum rate established in subsection (a)(1). The board of supervisors may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (a)(1). Notwithstanding the maximum square foot per plant established in subsection (a)(2) for cultivation license types based on plant count, the board of supervisors may, in its discretion, at any time by ordinance, implement a lower square footage per plant, and may, by ordinance, also increase such square footage from time to time, not to exceed the maximum square footage established in subsection (a)(2).
- (4) Pursuant to subsection (a), the commercial cannabis business tax on commercial cannabis cultivation is to be imposed on a square footage basis, and is set at the following rates, with permit types as defined in Chapter 26 of the Sonoma County code:

<b>Permit Type</b>	<b>Rate Per Square Foot</b>
<u>Outdoor</u>	<u>\$0.75</u>
<u>Mixed-Light</u>	<u>\$3.00</u>
<u>Indoor</u>	<u>\$12.50</u>

Permit Type	Rate Per Square Foot
<b>Outdoor</b>	
1C: Cottage	\$1.00
1: Specialty	\$1.50
2: Small	\$2.00
3: Medium	\$2.00
<b>Mixed Light</b>	
1C: Cottage	\$2.25
1B: Specialty	\$4.50
2B: Small	\$6.50
3B: Medium	\$6.50
<b>Indoor</b>	
1C: Cottage	\$3.75
1A: Specialty	\$7.50
2A: Small	\$11.25
3A: Medium	\$11.25

- (5) Pursuant to subsection (a), the square footage based tax for cultivation license types based on plant count will be calculated using 25 square feet per plant allowed under the permit.
- (6) Notwithstanding Subsection 35-5(a)(3), the board of supervisors shall not increase the tax rates set forth in Subsection 35-5(a)(4) or the square feet per plant set forth in Subsection 35-5(a)(5) until July 1, 2019, at the earliest.
- (7) ~~Notwithstanding subsection 35-5(a)(4), and pursuant to subsection 35-5(a)(3), the board of supervisors is implementing a lower tax rate for all persons engaged in commercial cannabis cultivation in the unincorporated area of the county for fiscal years 2021-22 and 2022-23 only. The cultivation tax rates are hereby reduced by forty five percent (45%) as follows:~~

Permit Type	Rate Per Square Foot
<b>Outdoor</b>	
1C: Cottage	\$0.62
1: Specialty	\$0.93
2: Small	\$1.24
3: Medium	\$1.24
<b>Mixed Light</b>	
1C: Cottage	\$1.39
1B: Specialty	\$2.78
2B: Small	\$4.02
3B: Medium	\$4.02
<b>Indoor</b>	
1C: Cottage	\$2.32
1A: Specialty	\$4.64
2A: Small	\$6.96
3A: Medium	\$6.96

- (b) Tax on All Other Commercial Cannabis Business.

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- (1) Every person who is engaged in commercial cannabis business, including but not limited to as a distributor, distribution facility, testing laboratory, transporter, manufacturer, nursery, dispensary, or engaging in delivery of cannabis in the unincorporated area of the county shall pay an annual commercial cannabis business tax at a rate of up to ten percent (10%) of gross receipts per fiscal year. The tax under this chapter shall not be imposed unless and until the board of supervisors, by ordinance, takes action to set a tax rate not to exceed the maximum rates established herein.
  - (2) Notwithstanding the maximum tax rate established in subsection (b)(1), the board of supervisors may, in its discretion, at any time by ordinance, implement a lower tax rate for all persons engaged in commercial cannabis business in the unincorporated area of the county or establish differing tax rates for different categories of commercial cannabis business, including commercial cannabis business for medical or adult use, subject to the maximum rate established in subsection (b)(1). The board of supervisors may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (b)(1).
  - (3) Pursuant to subsection (a), the cannabis business tax on every person who is engaged in commercial cannabis business, including but not limited to as a distributor, distribution facility, testing laboratory, transporter, manufacturer, cannabis nursery, dispensary, or engaging in delivery of cannabis in the unincorporated area of the county is set at the following rates:

Operator	Percentage of Gross Receipts
Manufacturer	3%
Transporter	0%
Distributor	0%
Cannabis Nursery	0%
Dispensary	2%
Testing Laboratory	0%

- (4) Notwithstanding Subsection 35-5(b)(2), the board of supervisors shall not increase the tax rates set forth in Subsection 35-5(b)(3) until July 1, 2019, at the earliest.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6203 , § II, 6-13-2017; Ord. No. 6188 , § 5, 12-13-2016)

## **Sec. 35-6. Reporting and remittance of tax.**

The commercial cannabis business tax imposed by this chapter shall be imposed on a fiscal year basis and shall be due and payable in installments as follows:

- (a) Each person owing a commercial cannabis business tax other than on outdoor commercial cannabis cultivation, and each person on whom a zero-percent tax rate is imposed, shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the treasurer-tax collector and remit to the treasurer-tax collector the tax due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any time pay the tax due for the entire fiscal year. Each business shall pay on or before the last day of the month following the close of each calendar quarter.
  - (1) For outdoor commercial cannabis cultivation, the taxes owed are due and payable in two (2) installments, the due dates of which are to be prescribed by the treasurer-tax collector. Each person owing a commercial cannabis business tax on outdoor commercial cannabis cultivation shall, on or before the due dates prescribed and published by the treasurer-tax collector, prepare and submit a tax statement on the form prescribed by the treasurer-tax collector and remit to



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the treasurer-tax collector the tax due. The taxpayer may at any time pay the tax due for the entire fiscal year. Each outdoor commercial cannabis cultivation business shall pay on or before the due date prescribed and published by the treasurer-tax collector.

- (b) If the commercial cannabis business tax is owed on commercial cannabis cultivation, and the Board has specified that the square footage basis shall apply, the square footage tax due shall be paid based on the square footage of cultivation authorized by the county permit. Alternatively, a cultivation area (cannabis canopy) verification form may be submitted to the treasurer-tax collector that verifies a square footage cultivation amount different than that authorized by the county permit, and the tax due shall be based on that verified square footage amount. The tax statement may include a request for adjustment of the tax due to square footage authorized but not utilized for cultivation, and/or crop loss, along with evidence substantiating the square footage utilized and/or crop loss. It shall be the responsibility of the operator to timely request a cannabis canopy verification from the Department of Agriculture, Weights & Measures (AWM) prior to harvest and to provide evidence substantiating the change in square footage due to square footage utilized and/or crop loss. The decision to verify the square footage of cultivation as an amount different than that authorized by the county permit shall be made at the sole discretion of AWM. The decision to prorate or adjust the tax will be made at the sole discretion of the county and such verification shall be final and conclusive. A fee may be adopted by the board of supervisors and collected by the agency having jurisdiction AWM to pay for the cost of a cultivation area verification to adjust the verified square footage. or the treasurer tax collector to pay for the cost of investigating, verifying, and opining on such request for adjustment of the tax.
- (c) All tax statements shall be completed on forms prescribed by the treasurer-tax collector. ~~The tax statement may include a request for adjustment of the tax due to square footage authorized but not utilized for cultivation, and/or crop loss, along with evidence substantiating the square footage utilized and/or crop loss. The substantiating evidence must include a cultivation area (canopy) verification performed by the department of agriculture/weights and measures. The cultivation area (canopy) verification shall be requested by the operator and performed prior to the harvest, and must be provided to the treasurer tax collector to confirm an adjustment on a tax statement. Any decision to prorate or adjust the tax will be made at the sole discretion of the county. A fee may be adopted by the board of supervisors and collected by the agency having jurisdiction or the treasurer tax collector to pay for the cost of investigating, verifying, and opining on such request for adjustment of the tax.~~
- (d) The treasurer-tax collector may, as part of administering the tax and in his or her discretion, accept as complete any payment that is within ten dollars (\$10.00) of the amount due and owing at the time of payment without further action to collect the remainder due or refund the amount overpaid absent a request for refund as provided in this chapter. Nothing in this section shall be construed as releasing any person from the payment of any money which is due and owing to the county.
- (e) The treasurer-tax collector may, at his or her discretion, establish shorter or longer report and payment periods for any taxpayer as the treasurer-tax collector deems necessary to insure collection of the tax.
- (f) ~~The Treasurer-Tax Collector or~~ The treasurer-tax collector may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6241 , § II(B), 8-28-2018; Ord. No. 6203 , § II, 6-13-2017; Ord. No. 6188 , § 6, 12-13-2016)

## **Sec. 35-7. Registration.**

In order that the county will have an accurate record of parties collecting the cannabis business tax, prior to commencing business each person engaged in commercial cannabis cultivation and commercial cannabis business

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shall register such cannabis business with the treasurer-tax collector, submitting any information deemed necessary by the treasurer-tax collector.

(Ord. No. 6188 , § 7, 12-13-2016)

### **Sec. 35-8. Payments and communications—Timely remittance.**

Whenever any payment, statement, report, request or other communication is due, it must be received by the treasurer-tax collector on or before the final due date. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the county is open to the public.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6188 , § 8, 12-13-2016)

### **Sec. 35-9. Payment—When taxes deemed delinquent.**

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not received by the treasurer-tax collector on or before the due date as specified in Sections 35-6 and 35-8.

(Ord. No. 6188 , § 9, 12-13-2016)

### **Sec. 35-10. Notice not required by county.**

The treasurer-tax collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

(Ord. No. 6188 , § 10, 12-13-2016)

### **Sec. 35-11. Penalties and interest.**

- (a) Any person who fails or refuses to pay any commercial cannabis business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:
  - 1. A penalty equal to ten percent (10%) of the amount of the tax; and
  - 2. If the tax remains unpaid for a period exceeding one (1) calendar month beyond the due date, an additional penalty equal to ten percent (10%) of the amount of the tax.
  - 3. Interest shall be applied at the rate of one and one-half percent (1.5%) per month on the first day of the month for the full month, and will continue to accrue monthly on the tax until the balance is paid in full.
- (b) Whenever a check or electronic payment is submitted in payment of a commercial cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus the return check fee, penalties and interest as provided for in this section, and any other amount allowed under state law.
- (c) The cannabis business tax due shall be that amount due and payable from the first date on which the person was engaged in cannabis business in the unincorporated area of the county, together with applicable penalties and interest calculated in accordance with subsection (a) above.

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- (d) Any person whose cannabis business tax is delinquent by at least sixty (60) calendar days may be subject to revocation of the county permit associated with the subject cannabis business.
  - (e) The treasurer-tax collector is authorized to make an assessment in the manner provided for in Sections 35-25 and 35-26 of the anticipated tax liability for up to the following four (4) quarters, or, if for outdoor commercial cannabis cultivation, for the following two installments, if any person has failed to file one (1) or more returns or payments, or who has filed one (1) or more delinquent returns or payments, in any twelve-month period, without curing the failure or delinquency within 60 days of the original due date after written notice from the treasurer-tax collector of the failure or delinquency. Failure to remit the anticipated tax within sixty (60) days of the notice of assessment shall be grounds for revocation of the county permit associated with the subject cannabis business.

(Ord. No. 6241 , § II(C), 8-28-2018; Ord. No. 6188 , § 11, 12-13-2016)

### **Sec. 35-12. Waiver of penalties and interest.**

The treasurer-tax collector may waive interest accrued, and the first and second penalties of ten percent (10%) each imposed upon any person if:

The person provides evidence satisfactory to the treasurer-tax collector that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax owed the county prior to applying to the treasurer-tax collector for a waiver. A waiver may be granted only once during any twenty-four-month period.

( Ord. No. 6374 , § II, 4-19-2022)

Ord. No. 6374 , § II, adopted April 19, 2022, amended § 35-12 in its entirety to read as herein set out. Former § 35-12 pertained to waiver of penalties and derived from Ord. No. 6241 , § II(D), adopted Aug. 28, 2018; and Ord. No. 6188 , § 12, adopted Dec. 13, 2016.

### **Sec. 35-13. Refunds and credits.**

- (a) No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 35-14.
- (b) No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

(Ord. No. 6188 , § 13, 12-13-2016)

### **Sec. 35-14. Refunds and procedures.**

- (a) Whenever the amount of any commercial cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the county under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the treasurer-tax collector within one (1) year of the date the tax was originally due and payable.
- (b) The treasurer-tax collector, his or her deputies or any other county officer charged with the administration of this chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the treasurer-tax collector to do so. The treasurer-tax collector may collect a fee adopted by the board of

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supervisors to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the treasurer-tax collector to make a determination on the claim for refund.

- (c) In the event that the commercial cannabis business tax was erroneously paid and the error is attributable to the county, the county shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.

(Ord. No. 6188 , § 14, 12-13-2016)

### **Sec. 35-15. Exemptions from the tax.**

- (a) The provisions of this chapter shall not apply to personal cannabis cultivation.
- (b) The provisions of this chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

(Ord. No. 6188 , § 15, 12-13-2016)

### **Sec. 35-16. Administration of the tax.**

- (a) It shall be the duty of the treasurer-tax collector to collect the taxes, penalties, fees, and perform the duties required by this chapter.
- (b) For purposes of administration and enforcement of this chapter generally, the treasurer-tax collector may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and express terms of this chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.
- (c) The treasurer-tax collector may take such administrative actions as needed to administer the tax, including but not limited to:
  - (1) Provide to all commercial cannabis business taxpayers forms for the reporting of the tax;
  - (2) Increase tax rates in accordance with this chapter;
  - (3) Provide information to any taxpayer concerning the provisions of this chapter;
  - (4) Receive and record all taxes remitted to the county as provided in this chapter;
  - (5) Maintain records of taxpayer reports and taxes collected pursuant to this chapter;
  - (6) Assess penalties and interest to taxpayers pursuant to this chapter;
  - (7) Determine amounts owed and enforce collection pursuant to this chapter.

(Ord. No. 6188 , § 16, 12-13-2016)

### **Sec. 35-17. Enforcement—Action to collect.**

- (a) Any taxes, penalties, interest and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the county. Any person owing money to the county under the provisions of this chapter shall be liable in an action brought in the name of the county for the recovery of such debt. The provisions of this section shall not be deemed a limitation upon the right of the county to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties, interest and/or fees imposed by this chapter or the failure to comply with any of the provisions of this chapter.

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- (b) In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the county under this chapter is not paid when due, the treasurer-tax collector may, within three (3) years after the amount is due record a certificate of lien specifying the amount of taxes, fees, penalties, and interest due, and the name and address of the person as it appears on the records of treasurer-tax collector. The lien shall also specify that the treasurer-tax collector has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties and interest thereon, constitutes a lien upon all real property in the county owned by the person, or subsequently acquired by the person before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from the filing of the certificate unless sooner released or otherwise discharged. A fee may be adopted by the board of supervisors and collected by the treasurer-tax collector to pay for the cost of recording and administering the lien.
- (c) At any time within three (3) years after any person is delinquent in the payment of any amount herein required to be paid or within three (3) years after the last recording of a certificate of lien under subsection (b) of this section, the treasurer-tax collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the county under this chapter. The warrant shall be directed to the Sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy and sale pursuant to a writ of execution. The treasurer-tax collector may pay or advance to the Sheriff, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The treasurer-tax collector may approve the fees for publication in the newspaper.
- (d) At any time within three (3) years after recording a lien against any person, if the lien is not discharged and released in full, the treasurer-tax collector may forthwith seize any asset or property, real or personal (including bank account), of the person and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the person subject to seizure and sale subject to this chapter shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

(Ord. No. 6241 , § II(E), 8-28-2018; Ord. No. 6188 , § 17, 12-13-2016)

### **Sec. 35-18. Apportionment.**

If a person subject to the tax is operating both within and outside the unincorporated county, it is the intent of the county to apply the commercial cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the county. For purposes of apportionment as may be required by law, the treasurer-tax collector may promulgate administrative procedures for apportionment in accordance with state law.

(Ord. No. 6188 , § 18, 12-13-2016)

### **Sec. 35-19. Constitutionality and legality.**

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law.

(Ord. No. 6188 , § 19, 12-13-2016)

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## **Sec. 35-20. Audit and examination of records and equipment.**

- (a) The treasurer-tax collector, and his or her designees and agents, shall have the power to audit and examine all books and records of persons engaged in cannabis businesses, including both state and federal income tax returns, California sales tax returns, bank statements, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and, where necessary, all equipment, of any person engaged in cannabis businesses in the county, for the purpose of ascertaining the amount of commercial cannabis tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this chapter. If such person, after written demand by the treasurer-tax collector, refuses to make available for audit, examination or verification such books, records or equipment as the administrator requests, the treasurer-tax collector may, after full consideration of all information within his or her knowledge concerning the cannabis business and activities of the person so refusing, make an assessment in the manner provided in Sections 35-25 and 35-26 of any taxes estimated to be due. The treasurer-tax collector may collect a fee adopted by the board of supervisors to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the treasurer-tax collector to make a determination of tax due.
- (b) It shall be the duty of every person liable for the collection and payment to the county of any tax imposed by this chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the county, which records the treasurer-tax collector or his/her designee shall have the right to inspect at all reasonable times.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6188 , § 20, 12-13-2016)

## **Sec. 35-21. Other licenses, permits, taxes, fees, or charges.**

Nothing contained in this chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the county, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the county. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

(Ord. No. 6188 , § 21, 12-13-2016)

## **Sec. 35-22. Change of ownership.**

- (a) In the event that there is a change in ownership of any cannabis business, the new owner is required to submit an updated registration form to the treasurer-tax collector.
- (b) Unless otherwise provided by law, upon the sale of any cannabis business:
  - (1) It is the joint and several liability of both the seller and buyer to remit any tax due up until the date of sale; and
  - (2) A Certificate of Delinquent Cannabis Business Tax Lien may be filed against both the seller and/or buyer in an amount determined by the treasurer-tax collector.

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- (c) Following any change of ownership, the new owner is subject to an audit by the treasurer-tax collector or his or her designee.
  - (d) Any owner of a cannabis business required to collect or pay the cannabis business tax may apply for and receive, within ninety (90) days of application, a Tax Clearance Certificate, provided that the taxes and any penalties are paid in full for the time period specified.

(Ord. No. 6188 , § 22, 12-13-2016)

#### **Sec. 35-23. Payment of tax does not authorize unlawful business.**

- (a) The payment of a commercial cannabis business tax required by this chapter, and its acceptance by the county, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable state laws.
- (b) No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

(Ord. No. 6188 , § 23, 12-13-2016)

#### **Sec. 35-24. Deficiency determinations.**

If the treasurer-tax collector is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 35-25 and 35-26.

(Ord. No. 6188 , § 24, 12-13-2016)

#### **Sec. 35-25. Failure to report—Nonpayment, fraud.**

- (a) Under any of the following circumstances, the treasurer-tax collector may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:
  - (1) If the person has not filed a complete statement required under the provisions of this chapter;
  - (2) If the person has not paid the tax due under the provisions of this chapter;
  - (3) If the person has not, after demand by the treasurer-tax collector, filed a corrected statement, or furnished to the treasurer-tax collector adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter; or
  - (4) If the treasurer-tax collector determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter and any other penalties allowed by law.

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- (b) The notice of assessment shall separately set forth the amount of any tax known by the treasurer-tax collector to be due or estimated by the treasurer-tax collector, after consideration of all information within the treasurer-tax collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

(Ord. No. 6188 , § 25, 12-13-2016)

### **Sec. 35-26. Notice of tax assessment—Notice requirements.**

The notice of tax assessment, if necessary per Section 35-25, shall be served upon the person by personal delivery, or electronic mail addressed to the person at the electronic mail address he or she shall register with the treasurer-tax collector for the purpose of receiving notices provided under this chapter, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the treasurer-tax collector for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the treasurer-tax collector for such purpose, then to such person's last known address or electronic mail address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail. For purposes of this section, a service by electronic mail is complete at the time of transmission of the electronic mail.

( Ord. No. 6374 , § II, 4-19-2022)

Ord. No. 6374 , § II, adopted April 19, 2022, amended § 35-26 in its entirety to read as herein set out. Former § 35-26 pertained to tax assessment notice requirements and derived from Ord. No. 6241 , § II(F), adopted Aug. 28, 2018; and Ord. No. 6188 , § 26, adopted Dec. 13, 2016.

### **Sec. 35-27. Tax assessment—~~Hearing~~Review, application, and determination.**

Within ten (10) business days after the date of service of the notice of assessment, the person may apply in writing to the treasurer- tax collector for a ~~hearing~~review on the assessment. If application for ~~a hearing before the county~~review of the assessment is not made within the time herein prescribed, the tax assessed by the treasurer-tax collector shall become final and conclusive. At the time of such request for a review on the assessment, or at a date agreed upon by the person and the treasurer-tax collector, the person may submit any written evidence or argument and supporting documentation as to why the tax, including any penalties and interest, as assessed should not be confirmed and fixed as the tax due. All written evidence and arguments shall be signed under penalty of perjury. Within thirty-fourty-five (3045) business days of the receipt of any such application for hearing~~the written evidence or argument, the treasurer-tax collector shall review the proffered evidence and cause the matter to be set for hearing before him or her not later than thirty-five (35) business days after the receipt of the application, unless a later date is agreed to by the treasurer tax collector and the person requesting the hearing. Notice of such hearing shall be given by the treasurer tax collector to the person requesting such hearing not later than five (5) business days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the treasurer tax collector should not be confirmed and fixed as the tax due. After such hearing the treasurer tax collector shall determine either confirm the amount of tax due or and reassess the proper tax to be charged. The treasurer-tax collector and shall give written notice to the person of the determination~~in the manner prescribed in Section 35-26 for giving notice of assessment. The amount determined to be due shall be payable within thirty (30) calendar days of written notice unless it is appealed to the board of supervisors.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6241 , § II(G), 8-28-2018; Ord. No. 6188 , § 27, 12-13-2016)



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### **Sec. 35-28. Appeal from treasurer-tax collector determination—Filing.**

Any taxpayer aggrieved by any decision of the treasurer-tax collector with respect to the amount of tax, interest, penalties and fees, if any, due under this chapter may appeal to the board of supervisors by filing a request for appeal in writing within ten (10) business days of the serving or mailing by the treasurer-tax collector of the determination of tax due.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6241 , § II(H), 8-28-2018)

Editor's note(s)—Ord. No. 6241 , § II(H), adopted Aug. 28, 2018, amended § 35-28 in its entirety to read as herein set out. Former § 35-28 pertained to appeal procedure and derived from Ord. No. 6188, § 28, adopted Dec. 13, 2016.

### **Sec. 35-29. Appeal hearing—Notice.**

Upon the filing of a notice of appeal, the treasurer-tax collector shall fix a time and place for hearing such appeal, and shall give notice in writing to such taxpayer in the manner prescribed in Section 35-26.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6241 , § II(H), 8-28-2018)

### **Sec. 35-30. Appeal hearing—Appointment of ~~referee~~Hearing Officer.**

The board of supervisors may appoint ~~a referee~~the County Hearing Officer to hear the appeal as ~~take testimony at the hearing provided for in Section 35-28 of this chapter, and to report his findings and recommendations to the board~~which shall be governed by the Sonoma County Rules and Procedures for Administrative Hearings. ~~Neither the treasurer-tax collector nor any officer or employee in the office of the treasurer-tax collector may be appointed referee.~~

(Ord. No. 6241 , § II(H), 8-28-2018)

### **Sec. ~~35-31~~ Appeal hearing—Compensation of referee.**

~~If the board of supervisors appoints a county officer or county employee to act as referee, he shall serve as such without any additional compensation. All time spent as a referee shall be considered as time spent by such officer or employee in performing the duties of his position.~~

(Ord. No. 6241 , § II(H), 8-28-2018)

### **Sec. 35-~~32~~31. Appeal hearing—Conduct.**

At the time set for the hearing, ~~or at the date to which the hearing may be continued by the board of supervisors or referee~~, the board of supervisors or ~~referee~~Hearing Officer shall hear the appellant and any other competent witnesses and decide whether the determination of the treasurer-tax collector was correct or not, and if not what tax, fees, interest or penalties, if any, are due to the county from the appellant. The board of ~~supervisors or referee~~Hearing Officer may place any witnesses, including the appellant, under oath. The board of supervisors or ~~referee~~Hearing Officer may impose reasonable time limits on each party's presentation.

(Ord. No. 6241 , § II(H), 8-28-2018)

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**Sec. 35-~~33~~32. Appeal hearing—Final determination.**

The board of supervisors or Hearing Officer shall determine from the evidence ~~or from a report of the referee,~~ what tax, fees, interest or penalties, if any, are due to the county from the appellant. The decision shall be final and conclusive and in writing. The treasurer tax-collector shall serve a copy of the decision upon the appellant as provided in Section 35-26. Any amount shall be immediately due and payable upon the service of the said notice.

( Ord. No. 6374 , § II, 4-19-2022; Ord. No. 6241 , § II(H), 8-28-2018)

**Sec. 35-~~34~~33. Conviction for chapter violation—Taxes not waived.**

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

(Ord. No. 6241 , § II(H), 8-28-2018; Ord. No. 6188 , § 29, 12-13-2016)

Editor's note(s)—Ord. No. 6241 , § II(H), adopted Aug. 28, 2018, redesignated § 35-29 as a new § 35-34 to read as herein set out.

**Sec. 35-~~35~~34. Violation deemed misdemeanor.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable therefore as provided by Chapter 1, Section 7 of the Sonoma County Code.

(Ord. No. 6241 , § II(H), 8-28-2018; Ord. No. 6188 , § 30, 12-13-2016)

Editor's note(s)—Ord. No. 6241 , § II(H), adopted Aug. 28, 2018, redesignated § 35-30 as a new § 35-35 to read as herein set out.