

TITLE V - HEALTH & SAFETY

DIVISION 8

MEDICAL MARIJUANA

Chapter 1 - Medical Marijuana

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CHAPTER 1

GUIDELINES FOR THE IMPLEMENTATION OF PROPOSITION 215 [California Health and Safety Code section 11361.5 et. seq.] AND CALIFORNIA SENATE BILL 420 [California Health and Safety Code section 11362.7 et seq.]. (Ord. 2328, § 1, 08/17/2004)

581-1. FINDINGS AND PURPOSE.

(a) In 1996, the voters of the State of California approved Proposition 215, also known as the Compassionate Use Act of 1996, creating California Health and Safety Code section 11362.5. (Ord. 2328, § 1, 08/17/2004)

(b) California Health and Safety Code section 11362.5(d) states: "Section 11357, relating to the possession of marijuana [cannabis], and section 11358, relating to the cultivation of marijuana, shall not apply to a patient or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician." (Ord. 2328, § 1, 08/17/2004)

(c) For the purposes of this ordinance, the Humboldt County Board of Supervisors determines that three (3) pounds of dried cannabis bud per year is a reasonable amount for medical marijuana patients to cultivate, possess and consume their medicine, absent a demonstrated medically prescribed need for a greater amount than three (3) pounds. (Ord. 2328, § 1, 08/17/2004)

(d) For the purposes of this ordinance, the Humboldt County Board of Supervisors determines that a one-hundred (100) square foot canopy of mature female cannabis plants, typically will yield three(3) pounds of dried and processed cannabis bud per year, outdoor, regardless of the number of marijuana plants. (Ord. 2328, § 1, 08/17/2004)

(e) The Humboldt County Board of Supervisors through this ordinance exercises its authority under California Health and Safety Code section 11362.77(c) to enact medical marijuana guidelines which allow qualified medical marijuana patients or their primary caregivers to exceed the default threshold of the State of California of eight (8) ounces of dried female cannabis flowers in addition to six (6) mature or twelve (12) immature plants per qualified patient. (Ord. 2328, § 1, 08/17/2004)

(f) The Humboldt County Board of Supervisors through this ordinance set a simple, reasonable and efficient guideline for law enforcement officers to use in evaluating individual and collective patient medical marijuana gardens and on-hand supplies. (Ord. 2328, § 1, 08/17/2004)

(g) This ordinance does not prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest who has an identification card, to use marijuana for medical purposes under circumstances that will not endanger the health or safety of other prisoners or security of the facility. (Ord. 2328, § 1, 08/17/2004)

This ordinance does not require any accomodation of any medical use of marijuana on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained. (Ord. 2328, § 1, 08/17/2004)

(h) This ordinance does not address the enforcement of federal law. (Ord. 2328, § 1, 08/17/2004)

(i) This ordinance does not address, nor is it intended to limit or restrict, the enforcement of any law, ordinance, or regulation (1) within the boundaries of any Indian reservation or incorporated city, (2) on any property owned or leased by either the federal or state government, or (3) by any federal, state, tribal, or city officers or employees. (Ord. 2328, § 1, 08/17/2004)

(j) This ordinance does not address, nor is it intended to limit or restrict, the enforcement of any state or federal law or ordinance, policy, regulation, or rule adopted by any school, community college district, university or any other local public agency whose governing body is not the Humboldt County Board of Supervisors. (Ord. 2328, § 1, 08/17/2004)

(k) This ordinance does not address, nor is it intended to require, any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of employment. (Ord. 2328, § 1, 08/17/2004)

(l) This ordinance does not authorize a qualified patient or person with an identification card to engage in the possession of medical marijuana under any of the following circumstances: (Ord. 2328, § 1, 08/17/2004)

1. In any place where smoking is prohibited by law. (Ord. 2328, § 1, 08/17/2004)

2. In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence. (Ord. 2328, § 1, 08/17/2004)

3. On a school bus. (Ord. 2328, § 1, 08/17/2004)

4. While in a motor vehicle that is being operated. (Ord. 2328, § 1, 08/17/2004)

5. While operating a boat. (Ord. 2328, § 1, 08/17/2004)

581-2. DEFINITIONS.

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who as taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who had conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana which exceeds the amount contained in sections A. and B. of section 3 of this Chapter is indicated. (Ord. 2328, § 1, 08/17/2004)

(b) As defined in California Health and Safety Code, section 11362.5, "Primary caregiver means the individual designated by the person exempted under this act that has consistently assumed responsibility for the housing, health or safety of that person." (Ord. 2328, § 1, 08/17/2004)

(c) The definitions contained in California Health and Safety Code section 11362.7 shall apply to this Chapter of the Humboldt County Code. (Ord. 2328, § 1, 08/17/2004)

581-3. APPLICATION.

(a) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana up to three (3) pounds of dried cannabis bud or conversion per medical marijuana patient. (Ord. 2328, § 1, 08/17/2004)

(b) To produce three (3) pounds of dried cannabis bud or conversion per medical marijuana patient, such persons may cultivate cannabis in an amount per qualified patient not to exceed more than 100 square feet of total garden canopy, as measured by the combined vegetative growth area. (Ord. 2328, § 1, 08/17/2004)

(c) Qualified medical marijuana patients, and caregivers who collectively or cooperatively cultivate marijuana for medical purposes shall not exceed the standards set forth in Section 3., Subsections A and B or this Chapter. (Ord. 2328, § 1, 08/17/2004)

(d) If a qualified medical marijuana patient or primary caregiver has an attending physician's written, dated, and signed recommendation that the quality described in Section three, subdivision A. and B. Of this Chapter are not sufficient to meet the medical marijuana patient's needs, said patient or caregiver may possess an amount of marijuana consistent with the attending physician's written recommendation. (Ord. 2328, § 1, 08/17/2004)

(e) A primary caregiver shall include a competent adult, over the age of 18, designated as such in writing by a qualified or card-holding, medical marijuana patient, in the interests of their personal health and safety, subject to the rebuttal by credible evidence to the contrary. (Ord. 2328, § 1, 08/17/2004)

(f) The primary caregiver's designation shall be posted at the garden site or be in the possession of the caregiver. The primary caregiver must also have in their possession a copy of the attending physician's document concerning the medical marijuana patient they are caregiving for. (Ord. 2328, § 1, 08/17/2004)

581-4. SUGGESTED IMPLEMENTATION.

(a) The Humboldt County Board of Supervisors desires that law enforcement personnel not arrest and leave unmolested qualified patients, persons holding a valid identification card, the designated primary caregiver, and any compliant gardens and supplies of medical marijuana in the amounts set forth in subdivisions A. and B. of Section 3 of this Chapter, unless a court of competent jurisdiction has issued an order contrary to this position. (Ord. 2328, § 1, 08/17/2004)

(b) The Humboldt County Board of Supervisors further desires that law enforcement personnel compensate person(s) qualified under this ordinance for any amount of medical marijuana which is seized, and then subsequently ordered returned by a court of competent jurisdiction. (Ord. 2328, § 1, 08/17/2004)

581-5. SEVERABILITY.

If any provisions of this Chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provision or application; and to this end, the provisions or application of this Chapter are severable. (Ord. 2328, § 1, 08/17/2004)