

BOARD OF SUPERVISORS

COUNTY OF _____, CALIFORNIA

ORDINANCE NO. 2004 - _____

**ORDINANCE ENACTING MEDICAL MARIJUANA GUIDELINES FOR THE
IMPLEMENTATION OF PROPOSITION 215 [HS 11362.5] AND SB 420 [HS 11362.7]**

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, also known as the Compassionate Use Act of 1996, creating Health and Safety Code 11362.5; and

WHEREAS, HS 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."; and

WHEREAS, since the 1970s, medical marijuana patients in the federal IND program have received and smoked approximately 6.5 pounds of dried cannabis per year, thereby establishing a safe and effective dosage for a chronic daily use patient to possess and consume; and

WHEREAS, some patients require more than that amount of cannabis bud per year, especially when it is eaten, used in tincture, used topically or by methods other than being smoked; and

WHEREAS, 3 pounds of dried cannabis bud per year is a reasonable compromise safe harbor amount that allows most compliant individuals to cultivate, possess and consume their medicine; and

WHEREAS, a 100 square foot canopy of mature female cannabis plants, typically will yield 3 pounds of dried and processed cannabis bud per year outdoor; regardless of the number of plants, and

WHEREAS, successful propagation, breeding and cultivation of cannabis may require large numbers of plants in various stages of growth, especially when grown in the indoor "Sea of Green" method which typically produces lower yields than outdoor gardens but affords multiple harvests per year; and

WHEREAS, in 2003, Senate Bill 420 created HS 11362.7 that, among other things, sets forth in HS 11362.77(a) an impractical default threshold for immunity from arrest at 8 ounces of dried female cannabis flowers in addition to 6 mature or 12 immature plants per qualified patient; and

WHEREAS, HS 11362.77(c) empowers this jurisdiction when it states that "Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a)"; and

WHEREAS, other counties and cities throughout the State of California have enacted or retained guidelines for the implementation and enforcement of HS 11362.5 in amounts that are significantly greater than the threshold amounts set forth in HS 11362.77(a); and

WHEREAS, failure to enact a community standard for presumed compliance with HS 11362.77 may effectively limit local patients and caregivers to the arbitrary and unreasonable amounts as set forth in HS 11362.77(a), thereby causing undue pain, suffering and legal risks; and

WHEREAS, pursuant to HS 11362.775, qualified patients and caregivers "who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes,

shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.” and

WHEREAS, law enforcement officers require a simple, reasonable and efficient guideline to use in evaluating individual and collective patient medical marijuana gardens and on-hand supplies; and

WHEREAS, this ordinance does not address the enforcement of federal law.

THEREFORE, BE IT NOW RESOLVED that this County Board of Supervisors does hereby enact the following medical marijuana guidelines for qualified patients or primary caregivers within its jurisdiction per HS 11362.77(c):

- A) A qualified patient, a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person may possess and cultivate any amount of marijuana consistent with the patient's medical needs.
- B) Possession of up to 3 pounds of dried cannabis bud or conversion per patient shall not constitute probable cause for arrest or prosecution of any person listed in (A).
- C) To obtain that amount, any person listed in (A) may also cultivate up to 99 cannabis plants per patient with not more than 100 square feet of total garden canopy, measured by the combined vegetative growth area. Gardens that are consistent with this provision shall not constitute probable cause for arrest or prosecution.
- D) Qualified patients, caregivers and providers who collectively or cooperatively cultivate marijuana for medical purposes shall not exceed the standards set forth in (B) and (C).
- E) Any person listed in (A) and having a physician's assent that this guideline is not adequate for the qualified patient's medical needs may possess and cultivate an amount of cannabis up to six pounds of bud or conversion and up to 200 square feet of canopy.
- F) As defined in HS 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." For purposes of this policy, a primary caregiver shall include any adult designated as such in writing by a qualified or card-holding patient, in the interests of their personal health and safety.
- G) For purposes of identification, such designation shall be posted at the garden site or in the possession of the caregiver, along with a copy of the physician's document.
- H) Law enforcement shall not arrest persons who are compliant with these provisions, and shall leave them, their medical marijuana supply and their garden unmolested. Amounts in excess of those above shall be preserved in usable form in case it need be returned.

PASSED AND ADOPTED this _____th day of _____, 2003 at a regular meeting of the _____ County Board of Supervisors by the following vote:

YES _____ NO _____ ABSTAIN _____ ABSENT _____