



## **Local Medical Marijuana Cultivation & Possession Guidelines Under California State Law SB 420**

Updated 6/24/2009

NOTE: On May 22, 2008, the Second District of California Court of Appeals ruled that the state limits on medical marijuana possession and cultivation established under SB 420 are unconstitutional. That decision will be heard by the California Supreme Court. The court's reasoning would seem to apply only when the SB 420 numbers are used to limit patients' rights, but has been interpreted otherwise by police who would prefer to ignore them.

### Explanation of SB420 Guidelines

**\*\*\* Localities NOT listed below adhere to CA state default guidelines of 6 mature / 12 immature plants and 8 oz. of dried processed marijuana. Below is the latest information CaNORML has about local guidelines; check with your local government entities for updates (and please let us know if this page needs to be updated).**

#### **Arcata**

City Council passed an ordinance 11/08 allowing no more than 50 square feet for cultivation. In addition, dispensaries will be prohibited from using more than 25% of their property for cultivation when the ordinance takes effect December 19. The council may revisit the issue during the land use code revision process in six months. Those with special needs may request more grow space. The new standards apply only to areas of Arcata outside the Coastal Zone, which rings Humboldt Bay. A separate but identical ordinance covers those areas, but will not go into effect until approved by the Coastal Commission, which will take at least a year and probably longer.

#### **Berkeley**

Ordinance allows 10 plants and 2.5 lbs per patient, or up to 50 plants, 12.5 lbs for collectives.

#### **Butte Co.**

County guidelines : 6 mature or 12 immature plants, 1 pound processed material. Official Butte County policy regarding caregivers, collectives, and coops.

#### **Calaveras Co.**

In 2006 Calaveras dropped their pre-SB420 2 lb. guideline to 8 oz., and 6 mature/12 immature plants per patient.

**Del Norte Co.**

County adopted Sonoma cultivation guidelines with maximum 100 square feet cultivation area and 99 plants or fewer; one pound possession limit (approved by Board of Supervisors 4/22/02). However, as of August 8, 2008 **those limits were thrown out**, per *People v. Kelly* and a BOS action that began with the intent of reverting to state default guidelines.

**El Dorado Co.**

Sheriff & DA policy: Indoors - 10 flowering plants + 10 vegging + 1 mother; Outdoors: 20 starters or 10 mature plants, 1 - 2 lb processed marijuana depending on season of year.

**Humboldt Co.**

County guidelines allow patients 100 square feet and 3 lbs w/ no plant number limit. Cities of Eureka and Fortuna PDs and CHP enforce SB 420 limits (6 mature/12 immature plants, 1/2 lb).

**Mendocino Co.**

On December 30, 2008, Mendocino County Superior Court Judge John Behnke ruled Measure B's limits of eight ounces of dried marijuana and six mature or 12 immature plants per qualified patient (unless a doctor allows more) were now the legal limits in Mendocino County, reversing his August ruling throwing out the limits. Section 9.31.050 of Mendocino County Code makes the cultivation of more than 25 plants per parcel a public nuisance, regardless of patient status.

On April 20, 2009, the Mendo Board of Supervisors introduced an ordinance that would transfer the zip-tie program to the public health department, and institute a \$100 per day fine for not having written permission from landowners, a six-foot fence with a locked gate, or being within 1000 feet of a school or church, etc. The amended ordinance, which also includes a provision allowing for the Sheriff to seek reimbursement for costs of eradication, was delayed on May 5. On June 23, the Board voted to start selling voluntary zip-ties for \$25 on July 1 without enacting the rest of the ordinance.

Mendocino County Sheriff's Office Medical Marijuana Guidelines (issued 4/03/2009)

Local Ordinance

Mendocino Medical Marijuana Advisory Board

**Nevada Co.**

Cultivation: 6 mature female plants or 75 square feet of plant canopy (previously 10 plants not to yield more than 2 lbs). Possession: 2 lbs processed marijuana - consistent with patient's recommendation.

**Oakland**

Indoors - 72 plants in maximum 32 sq. ft growing area. Outdoors - 20 plants, no area limit. Weight limit 3 lbs dried marijuana per patient. Collective gardens limited to 3 patients. Dispensaries serving four or more patients are allowed max. 6 mature and 12 immature

plants and 1/2 pound per patient.

### **San Diego (also Chula Vista)**

City Council guidelines allow up to 1 lb of marijuana, 24 plants in 64 square feet indoors; no outdoors growing allowed except in enclosed greenhouses.

### **San Francisco**

Patients allowed up to 24 plants *or* 25 square feet of canopy; dispensary gardens capped at 99 plants in 100 square feet. Possession limit 8 oz. dried cannabis per patient.

### **Santa Cruz**

100 sq.ft. canopy and up to 99 plants is allowable under county guidelines, for a patient or a bone fide caregiver. The City of Santa Cruz is awaiting a ruling in the Kelly decision before adopting guidelines.

### **Sonoma Co.**

Guidelines permit 3 lbs for possession; maximum 100 square feet cultivation area with 30 plants or fewer (approved Sept 2006)

### **Tehama Co.**

On June 24, 2009, Tehama County Board of Supervisors delayed until July 14 their vote on an ordinance that would require fencing for medical marijuana gardens and make other restrictions. Supervisor George Russell encouraged concerned citizens to write to the board in concise, to-the-point letters.

[View the draft ordinance](#), starting on page 38.

### **Trinity Co.**

On October 28, 2008, the Trinity Board of Supervisors repealed their medical marijuana ordinance, reverting them to the state guidelines (see below).

### **State Guidelines Under SB 420 ([Health & Safety Code 11362.7](#))**

H&SC 11362.77(a). A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient.

H &SC 11362.77 (b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.

H&SC 11362.77 (c) 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).

H&SC 11362.77 (d) Only the dried mature processed flowers of female cannabis plant or the plant

conversion shall be considered when determining allowable quantities of marijuana under this section.

### **SB 420 Enforcement Guidelines**

- State law, SB 420 (Health & Safety Code 11362.7), which took effect on Jan. 1, 2004, protects Prop. 215 patients from arrest provided they cultivate no more than 6 mature or 12 immature plants and possess no more than 8 ounces of dried marijuana (H&SC 11362.77(a)).
- Counties and cities are authorized to establish higher (but not lower) limits if they wish (H&SC 11362.77(c)). Listed above are those localities that have adopted limits above the state limit.
- Patients who need more marijuana can be exempted from these limits if they obtain a physician's statement specifying that they need more (H&SC 11362.77(b)). While police are often reluctant to recognize such exemptions, they are helpful in court.
- The legality of the SB 420 limits is disputed. California NORML attorneys maintain that SB 420 cannot constitutionally limit the amount of marijuana patients can legally have insofar as Prop. 215 allows them to possess and cultivate whatever is necessary for their personal medical needs. However, this issue has not been settled by the courts. Patients who exceed the limits risk being arrested and having to defend themselves in court. Any patient who needs more than the limits is strongly advised to obtain a physician's exemption.
- On May 22, 2008, the Second District of California Court of Appeals ruled that the state limits on medical marijuana possession and cultivation established under state law SB 420 are unconstitutional. That decision is being appealed to the California Supreme Court. The court's reasoning would seem to apply only when the SB 420 numbers are used to limit patients' rights, but might be interpreted otherwise by police who would prefer to ignore it.
- Despite supposed protections of SB 420 and Prop 215, patients may still be arrested if law enforcement suspects they are outside the law, for example, by being involved in illegal sales or distribution, or growing plants with excessive yields.
- In general, the state Attorney General has given local authorities discretion in how they enforce Prop. 215, as explained in a letter to local law enforcement officials. The AG's office is expected to issue further guidelines soon.

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