

ORDINANCE NO. 1276  
AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF ARCATA  
AMENDING THE ARCATA MUNICIPAL CODE  
TITLE V - SANITATION AND HEALTH  
CHAPTER 10 - PERSONAL MEDICAL MARIJUANA USE

DRAFT #1

The City Council of the City of Arcata does ordain as follows:

Section 1: Title V, Chapter 10, of the Arcata Municipal Code, Personal Medical Marijuana Use, is added as follows:

**SEC. 5950. Findings/Purposes.**

A. On November 5, 1996, the voters of the State of California adopted by initiative the Compassionate Use Act of 1996, codified at Health and Safety Code Section 11362.5, pertaining to medical use of marijuana. As stated therein, purposes of the Compassionate Use Act of 1996 are in part to "ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief" and "to ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction." The City of Arcata supports the use of medical marijuana in accordance with the Compassionate Use Act of 1996.

B. The purposes of this ordinance are to recognize and protect the rights of qualified patients and primary caregivers through implementation as provided under the Compassionate Use Act of 1996 and to promote the safe use of and safe and affordable access to medical marijuana as permitted pursuant to said Act. In support of these purposes, the Council recognizes that the assistance of medical marijuana associations, as defined herein, may in some situations help promote the safe and lawful access to and consistent and affordable distribution of medical marijuana as permitted by said Act. In further support of the stated purposes, the Council additionally recognizes that lawful remuneration consistent with state law may occur between qualified patients and primary caregivers.

XIV-A

DRAFT #

**SEC. 5951. Definitions.**

The following words and phrases, whenever used in this Chapter, shall be construed as herein defined.

A. Primary Caregiver. "Primary caregiver" means the individual or individuals designated by a qualified patient who has consistently assumed responsibility for the housing, health or safety of that qualified patient.

B. Qualified Patient. "Qualified patient" means a person who obtains a written or oral recommendation or approval from a physician to use marijuana for personal medical purposes.

C. Marijuana. "Marijuana" means all parts of the plant *Cannabis sativa* L., 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 resin. It 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.

D. Medical Marijuana Association. "Medical marijuana association" means an affiliation or association of individuals whose collective intent is to provide education, referral or network services and to assist in the lawful acquisition and distribution of medical marijuana in a safe and affordable manner between primary caregivers and qualified patients as permitted in accordance with the Compassionate Use Act of 1996.

**SEC. 5952. Certifying Status of Patients and Caregivers.**

A. The City of Arcata shall use the following guidelines to establish qualified status for patients and their primary caregivers who wish to receive verified medical marijuana identification cards. Patients claiming qualified status may verify their identity, their Arcata residency, or for nonresidents proof of affiliation with a local primary caregivers as determined by the Chief of Police or his designee, and the identity of their physician to the Chief of Police or his designee. Primary caregivers shall verify their identity and relationship to the qualified patient and such facts to substantiate a claim of primary caregiver status to the Chief of Police or his designee. Once qualified status is certified, the City may communicate such certification status information to other California law enforcement agencies, and may issue medical marijuana identification cards. The Chief of Police or his

XIV-A

**DRAFT**

designee may require recertification as reasonably necessary to ensure the ongoing medical necessity for marijuana as recognized by a licensed physician and in accordance with the Compassionate Use Act of 1996.

B. The City will recognize verified marijuana identification cards issued by other local governmental and state agencies.

**SEC. 5953. Physician/Patient Confidentiality.**

Certification processes conducted pursuant to this ordinance shall preserve to the maximum extent possible all legal protection and privileges, consistent with reasonably certifying the qualifications of patients and primary caregivers. Disclosure of any patient information, even for those non-certified individuals who choose voluntarily to assert facts in support of a qualified status, shall not be deemed a waiver of confidentiality of those records under any provision of state law.

**SEC. 5954. Permissible Medical Marijuana Cultivation.**

A. All cultivation of marijuana for medical purposes shall be lawful when said cultivation is conducted solely for the personal medical purposes of qualified medical marijuana users, in accordance with the Compassionate Use Act of 1996. Such lawful cultivation may include the cultivation and possession of both male and female plants at all stages of growth, clones, seedlings and seeds and related cultivation equipment and supplies. Qualified patients and/or their primary caregivers may cultivate individually and/or collectively.

B. The rental, leasing or providing equipment or space utilized for cultivation, processing, or storage of marijuana used for medical purposes shall be deemed lawful.

**SEC. 5955. Transportation of Medical Marijuana.**

All activities involving the transportation of marijuana, in accordance with The Compassionate Use Act of 1996 and this ordinance, shall be lawful when conducted by qualified patients and/or authorized primary caregivers, where the quantity transported and the method, timing and distance of the transportation are reasonably related to the medical needs of the qualified patient(s).

**SEC. 5956. Prior Investigation by Law Enforcement.**

When a marijuana cultivation, processing, storage or transport is discovered by law enforcement personnel, reasonable efforts shall be made to investigate and determine whether or not the marijuana is for lawful medical purposes in accordance with the Compassionate Use Act of

**XIV**

DRAFT#

1996 prior to any seizure or arrest, whether or not medical use has been previously certified through the provisions of Section 5952 herein.

**SEC. 5957. Miscellaneous Applications of California Health and Safety Code §11362.5.**

Possession and use of the following items shall be lawful when used in accordance with the Compassionate Use Act of 1996:

A. Pipes, papers, water pipes, vaporizers and other related paraphernalia;

B. Marijuana products, such as baked goods, tinctures, infusions, oils, salves and any other marijuana derivatives.

**SEC. 5958. Violations and Penalties.**

A violation of any provision of this ordinance shall be an infraction.

Section 2: Severability. If any provision of this ordinance, or the application thereof, to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this ordinance, which can be given effect without the invalid provisions or applications, and to this end, the provisions or applications of this ordinance are severable.

Section 3: This ordinance will take effect thirty (30) days after the date of its adoption.

Dated: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk, City of Arcata

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Mayor, City of Arcata

XIV - A