

**CITY OF SAN DIEGO LAW ENFORCEMENT GUIDELINES
REGARDING POSSESSION OF MEDICINAL CANNABIS**

I. LAW ENFORCEMENT GUIDELINES FOR PERSONS MEETING CERTAIN CONDITIONS

- a. These policy guidelines are not intended to and shall not be interpreted to override an officer's judgment and discretion based on a case-by-case evaluation of the totality of the circumstances, or to interfere with the officer's sworn duty to enforce applicable law.
- b. Persons who come in contact with law enforcement will not be cited, detained longer than necessary to verify their status, or arrested, and cannabis in their possession will not be seized or destroyed, if all of the following conditions are met. However, nothing in these guidelines is intended to shield anyone who is breaking the law and officer's have the ultimate discretion to make such determination, nor are these guidelines intended to abrogate or expand any rights created by state law.
- c. A patient whose physician has recommended use of medicinal cannabis in amounts greater than those contained in this section may be issued a Medicinal Cannabis Voluntary Verification Card; however, possession of medicinal cannabis in amounts which exceed those stated in Section I will be handled by the San Diego Police Department [SDPD] in accordance with the provisions of Section II of these guidelines.
- d. The following are the conditions which must be met in order to qualify for "safe harbor" treatment by the SDPD.

E. STATUS AS CAREGIVER OR PATIENT

- 1. The person must be eighteen years or older , and in lawful possession of a current valid City of San Diego Voluntary Medicinal Cannabis Verification Program card identifying him or her as a verified patient or primary caregiver. To obtain this card, the patient must obtain a written recommendation for medicinal cannabis from a physician practicing within San Diego County.
- 2. A primary caregiver means the individual designated by a patient who has consistently assumed responsibility for the housing, health, or safety of that person. Please note that this is written in the disjunctive, meaning that a caregiver need only assume responsibility for one of the listed concerns: housing or health or safety of the patient.
- 3. A primary caregiver may be a person whose only responsibility for the patient's health care is the provision of medicinal cannabis so long as the relationship between them is consistent, that is, the primary caregiver is the patient's sole

provider of medicinal cannabis.

4. A caregiver may care for more than one patient so long as the caregiver is the sole and consistent supplier for each patient. In accordance with San Diego Municipal Code section 42.1306(b)(3)(B) (Verification Card Ordinance), caregivers wishing to obtain verification cards are limited to no more than four patients.
5. A caregiver may be reimbursed by a patient for his or her services. A primary caregiver shall only charge the amount necessary to reimburse the primary caregiver for the direct and actual costs of growing marijuana for qualified medical cannabis patients.
6. Caregiver status shall not be conferred upon any individual on parole or probation, or who has a criminal record of a serious or violent felonies as defined in the penal code, or a felony conviction for selling any illegal drug.
7. Caregiver status shall not be conferred upon a minor.
8. Caregiver shall be required to receive training and instruction in the correct implementation of these guidelines from the City or its designated implementing agency.

B. AMOUNT OF CANNIBIS

The following are permissible amounts of medicinal cannabis, representing a “safe harbor” from arrest or long term detention by the San Diego Police Department for persons possessing a current and valid verification card.

1. Processed Marijuana

- (a) If a patient, an individual may possess the total amount of processed marijuana, regardless of growing method, recommended by his or her physician for the length of time recommended by the physician, not to exceed one pound, or an amount consistent with a doctor’s recommendation, whichever is less.
- (b) If a caregiver, an individual may possess no more than the amount specified above for each patient for whom the individual serves as a verified caregiver as defined in Section A, not to exceed two pounds, or an amount consistent with the doctor’s recommendation, whichever is less.

2. Plants

Patients and caregivers are permitted to cultivate marijuana plants in amounts

consistent with the physician-recommended needs of the patient(s).

(a) **Indoor Plants**

- (i) A patient may possess a maximum of twenty-four unharvested plants growing in an area of no more than 64 square feet, or an amount consistent with the doctor's recommended need of the patient(s), whichever is less.
- (ii) A caregiver may possess no more than the amount specified above, growing in the space specified above, for each patient for whom the individual serves as a verified caregiver as defined in Section A, not to exceed a total of forty-eight plants in a growing area not to exceed 94 square feet, or an amount consistent with the doctor's recommended needs of the patient(s), whichever is less.

(b) **Outdoor Growing Prohibited**

- (i) No outdoor marijuana cultivation shall be permitted. Growing marijuana shall only be permitted in a fully enclosed greenhouse or structure that must be locked and contained. The amount of marijuana grown in the enclosed greenhouses or structures that are locked and contained will be limited by the indoor plant guidelines.

C. **PUBLIC SMOKING**

Smoking cannabis in any public place or in any place open to the public is punishable as an infraction.

II. **LAW ENFORCEMENT GUIDELINES FOR PERSONS NOT MEETING THESE CONDITIONS**

- a. Nothing in these guidelines is intended to reduce or expand the rights of a patient or primary caregiver otherwise authorized by Health and Safety Code §11362.5(d). Under state law, it is possible that physicians may recommend, and patients may possess, amounts of marijuana greater than the amounts specified in these guidelines, depending upon the circumstances of each case. Further, state and local law does not require patients or caregivers to possess voluntary verification cards in order to exercise their rights to use or provide medicinal marijuana.
- b. All instances of possession of marijuana greater than the amounts detailed in Section IB

of these guidelines in which medical necessity or caregiver status is asserted will be evaluated by the San Diego Police Department on a case by case basis, taking into account facts such as whether the person is in possession of a current valid Medicinal Cannabis Voluntary Verification Card and whether the amount possessed is consistent with a physician's recommendation. In instances of possession of marijuana by a person not possessing a MCVVC program card, but in which medical necessity or caregiver status is asserted, officers will utilize reasonable discretion, taking into account the totality of the circumstances.

c. **PROTECTION AGAINST CIVIL LIABILITY**

Direct the City Attorney to include language in the proposed Ordinance that will protect against civil liability of the City by passage of these guidelines.

d. **PILOT PROGRAM**

These guidelines are enacted as a two-year pilot program to commence at the start of the Medicinal Cannabis Voluntary Verification Card Program. A mid-term report will be provided to Public Safety and Neighborhood Services [PS&NS] Committee. In addition, a six- and eighteen-month written report will be provided by the City Manager to the Mayor and Council describing the progress of the program. PS&NS will review the Medicinal Cannabis Voluntary Verification Card Program at the conclusion of its two-year pilot time period.

LAF
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