

DRAFT – FOR DISCUSSION PURPOSES ONLY

O-2009-

AN ORDINANCE

AMENDING ARTICLE 5 OF THE LAKEWOOD MUNICIPAL CODE BY ADDING A NEW CHAPTER 5.51 CONCERNING MEDICAL MARIJUANA CARE-GIVER FACILITIES AND AMENDING TITLE 17, ARTICLES 2, 5, 9, 13, 19, AND 22 OF THE LAKEWOOD ZONING ORDINANCE RELATING TO THE LOCATION OF CARE-GIVER FACILITIES

WHEREAS, in the November 2000 general election, the voters of the State of Colorado adopted Amendment 20 to the Colorado Constitution ("Amendment 20") which authorizes and limits the sale of medical marijuana for use in the treatment of debilitating medical conditions. Amendment 20 added Section 14 to Article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20; and

WHEREAS, federal and state law prohibit the possession and sale of marijuana generally, and marijuana sales have never been specifically addressed in the Lakewood Municipal Code; and

WHEREAS, notwithstanding the adoption of Amendment 20, marijuana is still a controlled substance under Colorado and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use, or distribute marijuana, even for medical use as contemplated by Amendment 20, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible; and

WHEREAS, if not closely monitored and regulated, the presence of marijuana, even for the purposes legally permitted by Amendment 20, can potentially lead to an increase in illegal activities within the City affecting the health, safety, order, comfort, convenience and general welfare of the residents of the City; and

WHEREAS, marijuana is a valuable controlled substance and the possession, cultivation, or distribution of marijuana for medical purposes and the storage of large volumes of marijuana is reasonably likely to lead to robberies, burglaries, and other related crimes; and

WHEREAS, in fact several instances of aggravated robbery, burglary, and theft related to the sale of medical marijuana have recently occurred within the City; and

WHEREAS, the City Council has been made aware of a proliferation of businesses wishing to dispense medical marijuana and/or provide it to those who qualify under state law; and

WHEREAS, the City has no current land use or business regulations governing the cultivation, distribution, or use of medical marijuana; and

WHEREAS, if businesses wishing to dispense medical marijuana pursuant to Amendment 20 were allowed to be established and to operate without appropriate local regulation, such establishments might conflict with the City's comprehensive land use plan, be inconsistent with surrounding uses, or otherwise be detrimental to the public health, safety and welfare; and

WHEREAS, the concentration of one type of business is not conducive to the need for a diversity of businesses to create a balanced neighborhood and an invigorated economy; and

WHEREAS, the City Council of the City of Lakewood finds and determines that it is necessary to enact an ordinance to provide for the licensing and location of Care-giver Facilities.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. A new Chapter 5.51 is hereby added to the Lakewood Municipal Code to read as follows:

Chapter 5.51 Medical Marijuana

5.51.010 Purpose.

A. It is the purpose of this Chapter to:

1. Impose specific requirements and limitations for those individuals acting as a "Primary Care-giver" as that term is defined in Amendment 20 and the statutes and administrative regulations implementing Amendment 20;

2. Require that any business dispensing medical marijuana pursuant to Amendment 20 ("Care-giver Facility") be operated in a safe manner that does not endanger the public welfare;

3. Mitigate potential negative impacts that Care-giver Facilities might cause on surrounding properties and persons;

4. Regulate the conduct of patients using medical marijuana in order to protect the public health, safety and welfare; and

5. Establish a non-discriminatory mechanism by which the City can control, through appropriate regulation, the location and operation of Care-giver Facilities within the City.

- B. Nothing in this Chapter allows a person to:
1. Engage in conduct that endangers others or causes a public nuisance;
 2. Possess, cultivate, grow, use, or distribute marijuana that is otherwise illegal under applicable law; or
 3. Engage in any activity related to the possession, cultivation, growing, use, or distribution of marijuana that is not otherwise permitted under the laws of the City or the State of Colorado.

5.51.020 Definitions.

A. As used in this Chapter, the following words and terms shall be defined as follows:

“Amendment 20” means the voter-initiated amendment to the Colorado Constitution adopted November 7, 2000 which added Section 14 of Article 18 to the Colorado Constitution.

“Applicant” means and includes an individual who is a Primary Care-giver and who is making an application for a license under this Chapter.

“Care-giver Facility” means the use by a Primary Care-giver of any property or structure within the City to cultivate, process, prepare, distribute, transmit, dispense, or otherwise provide marijuana in any manner or form to patients in accordance with Amendment 20 and the implementing state statutes and administrative regulations.

“City Manager” means the City Manager of the City of Lakewood or his/her designee.

“License” means a license to operate a Care-giver Facility issued by the City pursuant to this Chapter to a Primary Care-giver.

“Licensee” means the person to whom a license has been issued pursuant to this Chapter. A Licensee is an individual who is a Primary Care-giver authorized to distribute, transmit, dispense, or otherwise provide marijuana to patients only in an approved Care-giver Facility or by delivery from a Care-giver Facility.

“Patient” has the meaning provided in Amendment 20 and the implementing state statutes and administrative regulations.

“Primary Care-giver” has the meaning provided in Amendment 20 and the implementing state statutes and administrative regulations.

B. In addition to the definitions provided in Subsection A of this Section, the other defined terms in Amendment 20 are incorporated by reference into this Chapter as if those terms were defined herein.

5.51.030 License Required to Operate a Care-giver Facility. No person shall operate or cause or permit the operation of a Care-giver Facility within the City without having first obtained a valid Care-giver Facility license pursuant to the terms of this Chapter. The requirement to obtain a Care-giver Facility license is in addition to the requirement to obtain a sales tax license and any other license required by the City. No sales tax license may be issued for a Care-giver Facility until a license has been issued pursuant to this Chapter.

5.51.040 Location of Care-giver Facility.

A. It is unlawful to operate or to cause or permit the operation of a Care-giver Facility in any location except as provided in the Lakewood Zoning Ordinance.

B. It is unlawful to operate, or to cause or permit the operation, of a Care-giver Facility within one-half (1/2) mile of any other licensed Care-giver Facility. For the purposes of this Section, the minimum distance shall be measured in a straight line, without regard to intervening structures, from the nearest property line of one Care-giver Facility to the nearest property line on which the structure of another Care-giver Facility is located.

C. It is unlawful to operate, or to cause or permit the operation, of a Care-giver Facility from a moveable, mobile or transitory location. A Care-giver Facility shall be permitted to operate only from a fixed location.

5.51.050 Application.

A. All applicants for a Care-giver Facility shall file a completed application for such license with the City Clerk on forms to be provided by the City Clerk. Each applicant, and each partner of a partnership, officer or director of a corporation, and manager of a limited liability company applying for a license for a Care-giver Facility shall be named in each application form and each such individual shall be photographed and fingerprinted by the Lakewood Police Department. The applicant shall pay all fees for the photographs and fingerprints.

B. Each application for a Care-giver Facility shall be accompanied by a current state driver's license or government-issued photo identification card showing proof that the applicant is at least eighteen (18) years of age, or other proof of lawful presence in the United States, and shall contain the following information verified by oath or affirmation of the applicant:

1. The application shall include:

- a. The applicant's name or any other names or aliases used by the individual;
- b. The applicant's date of birth, place of birth, height, weight, color of eyes and hair;
- c. The current residential and business addresses and telephone number of the applicant;
- d. Every residential and business address of the applicant for the five (5) years immediately preceding the date of the application, and the dates the applicant resided and/or conducted business at such address;
- e. The applicant's business, occupation and employment history for the five (5) years immediately preceding the date of application; and
- f. A statement by the applicant that the applicant is a Primary Care-giver and a listing of the current registry identification numbers of the Primary Care-giver's patients;

2. If the applicant is a partner in a partnership, the applicant shall state the partnership's complete name, the names of all partners and whether the partnership is general or limited, and shall provide a copy of the partnership agreement, if any;

3. If the applicant is an officer, director or shareholder of a corporation, the applicant shall state the corporation's complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State of Colorado, the names and capacities of all officers and directors, and the name of the registered corporate agent and the address of the registered office for service of process;

4. If the applicant is a member of a limited liability company, the applicant shall state the company's complete name and the date of its formation, and shall submit evidence that the company is in good standing under the statutes of the State of Colorado, or in the case of a foreign company, evidence that it is currently authorized to do business in the State of Colorado, and the name of all the members and the manager and registered agent and the address of the registered office for service of process.

C. Each license application for a Care-giver Facility shall contain the following information verified by oath or affirmation of any individual applicant, and of any of the other individuals set forth in Subsections B. 2, 3, and 4 of this Section 5.51.050:

1. The license or permit history for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had

any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. The applicant shall list any licenses or permits previously or currently held from any other jurisdiction, and if so, the name and jurisdiction that issued such other license or permit;

2. Whether the applicant has been arrested for any criminal act, the date of the arrest, and the location of the offense;

3. The street address of the proposed Care-giver Facility;

4. If the applicant is not the owner of the proposed location of the Care-giver Facility establishment, a notarized statement from the owner of such property authorizing the submission of the application;

5. A description of any cultivation activities including;

a. Where plants are grown;

b. The expected number of plants that will be grown on site; and

c. A description of the ventilation system for the premises;

D. Each applicant for a license to operate a Care-giver Facility license shall submit written verification from the City that the location requirements imposed by this Chapter and the Lakewood Zoning Ordinance have been met.

E. The Police Department may require each applicant for a Care-giver Facility license to submit a copy of the applicant's criminal history and those of any individuals set forth above in Subsections B. 2, 3 and 4 of this Section 5.51.050 from additional states as warranted.

F. The City Clerk shall not accept any application that is not complete in every detail. If the City Clerk discovers an omission or error, the application shall be rejected and returned to the applicant for completion or correction without further action by the City Clerk. All fees shall be returned with the application. For the purposes of this Chapter, the date the City Clerk accepts an application that is complete in every detail, including the receipt of the criminal history from the Colorado Bureau of Investigations, shall be considered the filing date.

G. Each individual applicant shall pay an application processing fee of three thousand dollars (\$3,000) at the time of submitting any application to the City Clerk. In the future, all fees required by this Chapter will be set by City Council resolution. Such application fee shall be nonrefundable, unless the application is returned for being incomplete.

H. Each applicant shall pay an application investigation fee in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated as required by this Chapter.

5.51.060 Investigation of Application.

When a complete application for a license has been accepted for filing, the required individuals have been fingerprinted and photographed, and the license fee has been paid, the City Clerk shall transmit the application to the Lakewood Police Department for the following:

A. Investigate the background of each individual applicant and each of the other individuals required to be listed in the license application, and to investigate the accuracy of all the information submitted as a part of the application. The investigation required by this section should be completed within ninety (90) days from the date the application is submitted to the Police Department. Failure to complete the investigation within ninety (90) days shall not constitute approval of the application. The Police Department shall promptly forward the application and its completed investigation to the City Clerk for administrative review; and

B. Conduct a Crime Prevention through Environmental Design (CPTED) evaluation to address any security concerns regarding the exterior of the facility. A police agent trained in conducting CPTED evaluations shall conduct the review. The purpose of the CPTED review is to create an environment that impedes criminal activity by improving lighting, mitigating obstructions caused by such things as trees, bushes, fences, and dumpsters that create blind spots or hiding spots, and using security cameras to monitor the property. The Police Department shall promptly forward the results and recommendations of the CPTED evaluation to the City Clerk for administrative review.

5.51.070 Approval or Denial of Application

A. An application with completed background investigation shall be administratively approved or denied by the City Clerk. The requirements set forth below shall apply to the applicant and any individuals set forth above in Subsections 2, 3 and 4 of Section 5.51.060. An application shall be approved and a license shall be issued unless the City Clerk or his/her designee finds that one or more of the following is true:

1. That the applicant knowingly made a false statement or knowingly gave false information in connection with the application;
2. That the applicant is under eighteen (18) years of age;
3. That the applicant has been convicted of a crime of moral turpitude or a felony offense;

4. That the Care-giver Facility is to be operated as a business prohibited by local or state law, statute, rule or regulation;

5. That the applicant has had a Care-giver Facility license, care-giver certificate, or similar local or state license or approval revoked or suspended within five (5) years of the date of the current application; or

6. That the applicant has failed to comply with the results of the CPTED evaluation unless the City Clerk finds good cause to grant the applicant additional time to implement CPTED requirements; or

7. That the application does not comply with the provisions of this Chapter.

B. The applicant and any individuals set forth above in Subsections 2, 3, and 4 of Section 5.51.050 may present written documentation to the City Clerk regarding his/her criminal history, including but not limited to evidence of mitigating factors, rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

5.51.080 Appeal of Application Denial.

A. **Written Findings.** In the event that the City Clerk denies a license application, the City Clerk shall prepare written findings of fact stating the reasons or basis for the denial. A copy of the City Clerk's findings shall be sent by certified mail, return receipt requested, to the address of the applicant as shown in the application within ten (10) days after the date of the City Clerk's denial. The City Clerk's decision to deny a license application shall become a final administrative decision of the City on the fourteenth (14th) day following the date of the denial unless the applicant files a timely request for appeal to the City Manager as provided in this section.

B. **Appeal Hearing.** In the event that the City Clerk denies a license application, an applicant shall have the right to a quasi-judicial hearing before the City Manager for the purpose of appealing the City Clerk's administrative decision. Any request for a hearing must be made in writing to the City Manager within ten (10) days of the date of the mailing of the City Clerk's written findings and denial of the license application. The hearing shall be conducted within fourteen (14) days of the City Manager's receipt of the written request for a hearing unless the applicant requests a later date.

C. **Scheduling.** Upon receipt of a timely request for a hearing, the City Manager shall schedule a hearing and notify the applicant of the date, time, and place of the hearing. The City may make such notification by telephone provided that a written notice shall also be mailed or delivered to the applicant at the applicant's address shown in the application. An attorney or other representative may represent an applicant at the hearing. An applicant or the City may request a continuation or postponement of the hearing date.

D. Subpoenas. The City Manager shall have the power to administer oaths, issue subpoenas to require the presence of persons, and when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing which the City Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City Manager. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the City Attorney or the applicant may:

1. Petition any judge of the Municipal Court of the City, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, requesting that the court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court; or

2. Petition the District Court in and for Jefferson County, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, requesting that the court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court.

E. Conduct of Hearing. At the hearing, the City Manager shall hear and consider such evidence and testimony presented by the City, the applicant, or any other witnesses called by the City or the applicant which evidence is relevant to the stated reason and basis for the City Clerk's denial of the license application. The City Manager shall conduct the hearing in accordance with quasi-judicial proceedings and shall permit the relevant testimony of witnesses, cross-examination, and presentation of relevant documents and other evidence. The hearing shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall pay the reasonable cost of preparing the record.

F. Written Order. Not less than fourteen (14) days following the conclusion of the hearing, the City Manager shall send a written order by delivery confirmation, to the applicant at the address as shown on the application. The order shall include findings of fact and a final decision concerning the approval or denial of the application. In the event that the City Manager concludes that the application is approved, such approval shall constitute approval by the City Clerk, and the applicant may seek issuance of a license in accordance with this Chapter.

G. Appeal of Order. The order of the City Manager made pursuant to this section shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). For purposes of any appeal, the City Manager's decision shall be final upon the earlier of the date of the applicant's receipt of the order or four (4) days following the date of mailing.

5.51.090 License Fee. The annual license fee for any license issued pursuant to this Chapter shall be payable to the City Clerk at the time an initial license application is filed or at the time a renewal application is filed. The license fee is in addition to any application fee required by this Chapter. The license fee shall be nonrefundable unless an application is denied. The fee shall be two thousand five hundred dollars (\$2,500.00). In the future, all fees required by this Chapter will be set by City Council resolution.

5.51.100 Term of the License. A Care-giver Facility license shall be valid for a period of one year from date of issuance, unless revoked or suspended.

5.51.110 Renewal.

A. As a prerequisite to renewal of an existing license issued pursuant to this Chapter, the applicant must pay the annual license fee and file a completed renewal application with the City Clerk not less than forty-five (45) days prior to the date of the license expiration. The City Clerk may waive the timely filing requirement where the licensee demonstrates in writing that the failure to timely file is not solely the result of the licensee's negligence; provided that no renewal application shall be accepted by the City Clerk from any licensee after the license for which renewal is requested has expired.

B. A license that is under suspension may be renewed in accordance with this Section provided that such renewal shall not modify, alter, terminate, or shorten the period or term of the suspension. The suspension of a license shall not extend the term of the license or otherwise relieve the licensee from timely seeking renewal of the license in accordance with this Section. The City Clerk may administratively renew a license.

5.51.120 Denial of Renewal, Suspension or Revocation of License.

A. Denial of Renewal, Suspension or Revocation. The City Manager may deny renewal of, suspend, revoke, modify, or place conditions on the continuation of a Care-giver Facility license upon a finding that the licensee:

1. Has violated any of the provisions of this Chapter;
2. Has operated the Care-giver Facility in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the Care-giver Facility is located. Evidence to support such a finding includes but is not limited to the occurrence of disturbances upon the licensed premises or upon any parking areas, sidewalks, access ways or grounds within the immediate neighborhood of the licensed premises involving a patient or customer, manager, employee, or the licensee;

3. Has violated City, state, or federal law or regulation regarding the possession, distribution, or cultivation of controlled substances, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20; or

4. Has failed to comply with the results of the CPTED evaluation regarding the exterior of the facility; or

5. Has allowed or permitted any other person to violate any of the provisions of this Chapter or engage in criminal conduct on the premises.

B. Other Enforcement Authorized. A licensee shall be entitled to a quasi-judicial hearing before the City Manager if the City seeks to deny renewal, suspend, revoke, modify, or place conditions on a license based on a violation of this Chapter.

1. When there is probable cause to believe that a licensee has violated or permitted a violation of this Chapter or other laws, the City Attorney may file a written complaint with the City Manager setting forth the circumstances of the violation.

2. The City Manager shall send a copy of the complaint by delivery confirmation to the licensee at the address as shown on the license application, together with a notice to appear before the City Manager for the purpose of a hearing to be conducted at a specified date and time and at a place designated in the notice to show cause why the licensee's license should not be suspended. Such hearing shall be held on a date not less than fourteen (14) days following the date of mailing of the complaint and notice to the licensee. A licensee may be represented at the hearing by an attorney or other representative.

C. Conduct of Hearing. At the hearing, the City Manager shall hear and consider such evidence and testimony presented by the Police Department or other enforcement officers, the City, the licensee, or any other witnesses called by the City or the licensee, which evidence is relevant to the violations alleged in the complaint. The City Manager shall conduct the hearing in conformity with quasi-judicial proceedings and shall permit the relevant testimony of witnesses, cross-examination, and presentation of relevant documents and other evidence. The hearing shall be recorded either stenographically or by electronic recording device. Any person requesting a transcript of such record shall pay the reasonable cost of preparing the record. Subpoenas may be issued in accordance with the provisions of Section 5.51.080.

D. Written Findings. The City Manager shall make written findings of fact from the statements and evidence offered and shall reach a conclusion as to whether the alleged violations occurred. Such written findings and conclusion shall be prepared and issued not less than fourteen (14) days following the conclusion of the hearing. If the City Manager determines that a violation did occur which warrants denial of renewal, suspension, revocation, modification, or conditioning of the license pursuant to this section, he or she shall also issue an order suspending, revoking, modifying, or placing

conditions on the license. A copy of the findings, conclusion, and order shall be hand delivered or mailed to the licensee by delivery confirmation, at the address as shown on the license application.

E. Appeal. The order of the City Manager shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). For purposes of any appeal to the District Court, the City Manager's decision shall be final either on the date the applicant receives the findings, conclusion, and order or four (4) days following the date of mailing of the City Manager's decision, whichever is earlier.

F. No Refund and Costs of Enforcement. In the event of suspension, revocation, modification, conditioning, or cessation of business, no portion of the license fee shall be refunded. Any person whose license is suspended, revoked, modified, or conditioned under this Section shall be required to pay the costs incurred by the City to enforce this Chapter, including but not limited to attorneys' fees, expert witness and/or consultant fees.

5.51.130 Transferability. A license issued under this Chapter shall not be transferable.

5.51.140 Unlawful acts. The following shall be unlawful:

A. Consuming, inhaling, or ingesting any marijuana or product containing marijuana on, or within, the premises of a Care-giver Facility;

B. Distributing, selling, or transferring any marijuana or any product containing marijuana at a Care-giver Facility or by way of delivery from a Care-giver Facility to anyone other than a patient or to a Primary Care-giver who is the parent of a minor patient;

C. Dispensing by a Primary Care-giver of more than the amount of medical marijuana permitted under the provisions of Amendment 20 and/or the statutes or administrative regulations implementing Amendment 20;

D. Storing or displaying any marijuana, marijuana products, accessories, and associated paraphernalia outdoors, or in a manner in which it is visible from a public sidewalk or right of way;

E. Operating a Care-giver Facility earlier than 8 a.m. or later than 9 p.m. the same day. A Care-giver Facility may be open seven (7) days a week;

F. Allowing the possession of marijuana or any product containing marijuana in a Care-giver Facility by anyone who is not a Primary Care-giver or patient;

G. Selling or consuming alcohol on the premises of a Care-giver Facility;

H. Cultivating, processing, or storing marijuana at any location other than at the Care-giver Facility; or

I. Violating any of the provisions of Amendment 20, or the statutes or administrative regulations implementing Amendment 20.

5.51.150 Ventilation. A Care-giver Facility shall be equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of the Care-giver Facility or any adjoining business, parcel, or tract of real property.

5.51.160 Security Requirements for Licensed Premise. All Care-giver Facilities shall provide adequate security on the premises, which shall include:

A. Security surveillance cameras installed to monitor the main entrance along the interior and exterior of the premises and all other entrances or exits only along the interior of the premises. Security video shall be preserved for at least one week by the licensee and shall be available to the City upon the demand;

B. Robbery and burglary alarm systems that are professionally monitored and maintained in good working condition;

C. A locking safe permanently affixed to the premises that is suitable for storage of the entire inventory of processed marijuana and any product containing marijuana except when being accessed for distribution to a patient; and

D. A secure environment for the storage of live marijuana plants.

5.51.170 Ledger Required. A licensee shall keep a ledger for at least three (3) years which shall record the following information, and which shall be made available to the City upon demand:

A. The quantity of medical marijuana dispensed in each transaction;

B. The type of medical marijuana or a description of the product containing marijuana that was dispensed;

C. The total amount paid by the patient for the transaction for all goods and services provided;

D. The patient's medical marijuana Card Number;

E. Confirmation that the licensee verified the identity of the patient receiving the medical marijuana with a governmental issued photo identification;

F. The date and time that the medical marijuana or the product containing marijuana was dispensed; and

G. The source of the medical marijuana dispensed in the Care-giver Facility.

5.51.180 Right of Entry. The application for a Care-giver Facility license shall constitute consent of the licensee and his agents or employees to permit the Lakewood Police Department or any other authorized agent of the City to conduct routine inspections, from time to time, of any licensed Care-giver Facility to ensure compliance with the requirements of this Chapter.

5.51.190 Required Warnings to be Posted. There shall be posted in a conspicuous location in each Care-giver Facility a legible sign containing the following warnings:

A. A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marijuana; and

B. A warning that possession and distribution of marijuana is a violation of federal law.

5.51.200 Duties of Licensee. Each licensee shall:

A. Post the license in a conspicuous location on the premises of the Care-giver Facility that may be readily seen by persons entering the premises;

B. Comply with all of the terms and conditions of the license;

C. Comply with all of the requirements of this Chapter;

D. Comply with all other applicable City ordinances;

E. Comply with all state laws and administrative regulations pertaining to the medical use of marijuana, including, but not limited to, Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment found at 5 CCR 1006-2, all as amended from time to time; and

F. Comply with all applicable federal laws, rules, or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20.

5.51.210 Signage. No licensee shall display a sign for the Care-giver Facility establishment that contains the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is

immediately preceded or followed by the word "medical" in substantially similar size print or font.

5.51.220 Penalty.

A. Any person violating any provision of this Chapter shall be punished pursuant to Chapter 1.16 of the Lakewood Municipal Code. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

B. All remedies and penalties provided for in this Chapter shall be cumulative and independently available to the City, and the City shall be authorized to pursue any and all remedies to the full extent allowed by law.

C. Nothing herein contained shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

5.51.230 Reasonable Procedures. The City Clerk is hereby authorized to adopt such reasonable policies and procedures as are deemed necessary to implement the provisions of this Chapter.

SECTION 2. Subsection 17-2-2 Lakewood Zoning Ordinance is hereby amended by the addition of new subsections 51, 275, 285 with subsequent subsections to be renumbered accordingly:

(51) **Care-giver Facility:** Care-giver Facility means the use by a primary care-giver of any property or structure within the City to cultivate, process, prepare, distribute, transmit, give, dispense, or otherwise provide marijuana in any manner or form to patients in accordance with Section 14 of Article 18 to the Colorado Constitution (Amendment 20) and the implementing state statutes and administrative regulations.

(275) **Patient.** Patient has the meaning provided in Section 14 of Article 18 to the Colorado Constitution (Amendment 20) and the implementing state statutes and administrative regulations.

(285) **Primary Care-giver.** Primary Care-giver has the meaning provided in Section 14 of Article 18 to the Colorado Constitution (Amendment 20) and the implementing state statutes and administrative regulations.

SECTION 3. ~~Subs~~Section 17-5-16, 1-C: Convenience Commercial District, (2)(a) of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection 17-5-16(2)(a)(4) with subsequent subsections to be renumbered accordingly:

17-5-16(2)(a)(4). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 4. ~~Subs~~Section 17-5-17, 2-C: Neighborhood Commercial District, ~~(2)(a)~~ of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection 17-5-17(2)(a)(4) with subsequent subsections to be renumbered accordingly:

17-5-17(2)(a)(4). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 5. ~~Subs~~Section 17-5-18, 3-C: Community Commercial District, ~~(2)(a)~~ of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection 17-5-18(2)(a)(8) with subsequent subsections to be renumbered accordingly:

17-5-18(2)(a)(8). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 6. ~~Subs~~Section 17-5-19, 4-C: Regional Commercial District, ~~(2)(a)~~ of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection 17-5-19(2)(a)(9) with subsequent subsections to be renumbered accordingly:

17-5-19(2)(a)(9). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 7. ~~Subs~~Section 17-5-20, 5-C: Large Lot Commercial District, ~~(2)(a)~~ of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection 17-5-20(2)(a)(11) with subsequent subsections to be renumbered accordingly:

17-5-20(2)(a)(11). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 8. ~~Subs~~Section 17-5-22, PD: Planned Development Zone District, ~~(2)~~ of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection 17-5-22(2)(c) with subsequent subsections to be renumbered accordingly:

17-5-22(2)(c). A Care-giver Facility shall ~~only not~~ be permitted in a Planned Development Zone District unless the Planned Development Zone District that explicitly names Care-giver Facilities as a permitted use and shall comply with all spacing and licensing requirements for a Care-giver Facility as specified in the Lakewood Municipal Code.

SECTION 9. Subsection 17-19-6(2)(a), Colfax Mixed Use Zone District – Community Sub-District (CMU-C) Permitted Uses - Colfax Frontage Parcels, of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection (7) with subsequent subsections to be renumbered accordingly:

17-19-6(2)(a)(7). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 10. Subsection 17-19-6(2)(b), Colfax Mixed Use Zone District – Community Sub-District (CMU-C) Permitted Uses – Non-Colfax Frontage Parcels, of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection (2) with subsequent subsections to be renumbered accordingly:

17-19-6(2)(b)(2). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 11. Subsection 17-19-6(3)(a), Colfax Mixed Use Zone District – Roadside Sub-District (CMU-R) Permitted Uses – Colfax Frontage Parcels, of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection (11) with subsequent subsections to be renumbered accordingly:

17-19-6(3)(a)(11). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 12. Subsection 17-19-6(3)(b), Colfax Mixed Use Zone District – Roadside Sub-District (CMU-R) Permitted Uses – Non-Colfax Frontage Parcels, of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection (2) with subsequent subsections to be renumbered accordingly:

17-19-6(3)(b)(2). Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 13. Subsection 17-22-6(2)(a), Transit Mixed Use Zone District – Commercial (TMU-C) Permitted Uses, of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection (4) with subsequent subsections to be renumbered accordingly:

17-22-6(2)(a)(4) Care-giver Facilities, subject to the spacing and licensing requirements established in the Lakewood Municipal Code.

SECTION 14. Subsection 17-9, (~~TABLE 9-4~~ Required Parking Ratios), of the Lakewood Zoning Ordinance is hereby amended by inserting Care-giver Facility into the table alphabetically.

USE	DESCRIPTION	RATIO
Care-giver Facility	Medical marijuana facilities	4.0 spaces/1,000 s.f. of

		gross floor area
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SECTION 1~~53~~⁶³. Section 17-13-10, Home Occupations – Specific Exclusions, of the Lakewood Zoning Ordinance is hereby amended by the addition of a new Subsection (5) ~~with subsequent subsections to be renumbered accordingly~~:

(5) Care-giver Facilities.

SECTION 1~~63~~⁶⁴. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 1~~74~~⁷⁵. This Ordinance shall take effect forty-five (45) days after final publication. All persons conducting business as a Primary Care-giver at the time of adoption of this Ordinance shall submit a completed license application to the City Clerk as required by Chapter 5.51 within thirty (30) days of the effective date of this Ordinance.

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