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Lakewood City Council
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Issued 07/17/24

PUBLIC NOTICE – HOUSING, PLANNING & DEVELOPMENT

Housing, Planning & Development Committee will meet Monday July 22, 2024 at 7:00 p.m. in the Auditorium of Lakewood City Hall at 12650 Detroit Avenue. The meeting is open to the public.

Individuals with disabilities who require accommodations for participation in meetings must request accommodations at least 3 business days ahead of the scheduled meeting. Contact Michelle Nochta at (216) 529-5906 michelle.nochta@lakewoodoh.net.

The meeting will be livestreamed on the City's website at the following link:

www.lakewoodoh.gov/councilvideos

PUBLIC COMMENT PROTOCOL (Updated 6/21)

The public is invited to comment on agenda items in person or by submitting a written comment in advance of the meeting using the eComment platform available [HERE](#). New users must create an eComment account.

The agenda is as follows:

Approval of the minutes of the July 15, 2024 meeting of the Housing, Planning & Development Committee.

S. ORDINANCE 41-2023 - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council to amend Chapter 779 Medical Marijuana Operations of the Codified Ordinances of the City of Lakewood to provide a permitting process for both Medical and Adult Use Marijuana Dispensaries. (*1st read & referred to HPD 12/18/23; 2nd reading 1/2/24*)

Tom Bullock, Chair

Jason Shachner, Kyle Baker; Members

HOUSING, PLANNING & DEVELOPMENT COMMITTEE

ORDINANCE NO. 41-2023

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Chapter 779 Medical Marijuana Operations of the Codified Ordinances of the City of Lakewood to provide a marijuana community impact fee for Adult Use Marijuana Dispensaries.

WHEREAS, adult use marijuana became legal in the State of Ohio by ballot initiative adopted November 2023; and

WHEREAS, the initiative includes a 10% tax levied on the sales of adult use marijuana “for the purpose of . . . providing funding for host communities who have adult use dispensaries in their jurisdiction to support these communities. . .”; and

WHEREAS, the initiative also created the host community fund and mandates that 3.6% of the State tax levied will be paid to host communities; and

WHEREAS, some debate has occurred in the state legislature regarding a potential reallocation of anticipated host community fund dollars for other purposes; and

WHEREAS, it is important to preserve this local funding; and

WHEREAS, as many neighboring communities to Lakewood have sought to prohibit adult use dispensaries in their communities and Lakewood will likely experience an outsized local community impact from the increased patronage of Lakewood’s adult use dispensaries; and

WHEREAS, the increased patronage of Lakewood’s adult use dispensaries will likely create the need for additional city services over and above a typical business operating in a commercially zoned parcel; and

WHEREAS, Lakewood wants all businesses seeking to open an adult use dispensary in the City to understand the fact that the community will expect that a community impact fee of 3.6 percent of the adult use dispensary’s gross annual sales regardless of whether or not that fee is assessed by the State of Ohio or the City; and

WHEREAS, Lakewood wants all businesses seeking to open an adult use dispensary in the City to understand the fact that the community will expect that a community impact fee of 3.6 percent of the adult use dispensary’s gross annual sales be rendered regardless of whether or not that fee is assessed by the State of Ohio or the City; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in ~~regulating marijuana dispensaries should be adopted as soon as possible~~that adult use marijuana is now legal in Ohio and adult use dispensary licenses are anticipated to be issued in June 2024; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. That Chapter 779 Medical Marijuana Operations of the Lakewood Codified Ordinances is retitled Marijuana Operations.

Section 2. That Section 779.01 Purpose₂ of the Lakewood Codified Ordinances, currently reading as follows:

779.01 PURPOSE.

The purposes of this chapter are to establish limitations on medical marijuana operations within the City and to establish reasonable and uniform regulations to minimize and control the negative secondary effects of medical marijuana dispensaries within the City, all in order to promote the health, safety, and welfare of the citizens of the City.

is hereby repealed.

Section 3. That new Section 779.01 Purpose₂ is hereby enacted to read as follows:

779.01 PURPOSE₂

The purpose of this chapter ~~are is~~ to ~~establish limitations on medical marijuana operations within the City and to establish reasonable and uniform regulations to minimize and control the negative secondary effects of medical marijuana dispensaries within the City, all in order to promote the health, safety, and welfare of the citizens of the City;~~ address the impact of Adult Use Marijuana dispensary sales ~~on the community and to create a reasonable Community Impact Fee for operation of adult use dispensaries pursuant to O.R.C. Chapter 3780, Adult Use Cannabis Control.~~

Section 4. That Section 779.02 Definitions of the Lakewood Codified Ordinances, currently reading as follows:

779.02 DEFINITIONS

For purposes of this chapter,

- (a) "Medical marijuana" shall have the same meaning as in R.C. 3796.01.
- (b) "School," "church," "public library," "public playground," and "public park" shall have the same meanings as in R.C. 3796.30.
- (c) "Disqualifying offense," "cultivator," "processor" and "dispensary" shall have the same meanings as in Ohio Admin. Code 3796:1-1-01 or subsequent similar regulations.
- (d) "Licensee" means, with respect to a medical marijuana dispensary license issued under this chapter, a person in whose name a license to operate a medical marijuana dispensary has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the medical marijuana dispensary.
- (e) "Operate" means to control or hold primary responsibility for the operation of a medical marijuana dispensary, either as a business entity, as an individual, or as part of a group of individuals

with shared responsibility. "Operate" or "cause to be operated" shall mean to cause to function or to put or keep in operation. Operator means any persons on the premises of a medical marijuana dispensary who is authorized to exercise overall operational control or hold primary responsibility for the operation of a medical marijuana dispensary or who causes to function or who puts or keeps in operation the business. A person may be found to be operation or causing to be operated a medical marijuana dispensary whether or not that person is an owner, part owner, or licensee of the business.

(f) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(g) "Transfer of ownership or control" of a medical marijuana dispensary shall mean any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(h) "Director" shall mean the Director of Public Safety, "Commissioner" shall mean the Building Commissioner, and "Chief" shall mean the Chief of Police of the City.

is hereby repealed.

Section 5. That new section 779.02 Definitions, of the Lakewood Codified Ordinances, is hereby enacted as follows:

(a) "Adult use dispensary" means a person or entity licensed pursuant to section 3780.15 of the Ohio Revised Code, Chapter 3780, and any rules promulgated thereunder to sell adult use marijuana as authorized. Adult use dispensaries shall include dispensaries that are licensed by the state to sell both adult use and medical marijuana.

Section 6. That Section 779.03 Applicability, of the Lakewood Codified Ordinances, currently reading as follows:

779.03 APPLICABILITY.

Businesses subject to this chapter are medical marijuana cultivators, processors and dispensaries.

is hereby repealed.

Section 7. That new Section 779.03 Applicability, of the Lakewood Codified Ordinances, is hereby enacted as follows:

779.03 APPLICABILITY.

Businesses subject to this chapter are adult use ~~cultivators, processors and~~ dispensaries, but only to the extent that the Host Community Cannabis Fund created by O.R.C. §3780.23 is repealed or reduced by the state legislature to eliminate or reduce funding to local host communities of adult use dispensaries.

Section 8. That Section 779.04 Prohibition on Certain Medical Marijuana operations of the Lakewood Codified Ordinances, currently reading as follows:

779.04 PROHIBITION ON CERTAIN MEDICAL MARIJUANA OPERATIONS.

- (a) No person shall operate a medical marijuana cultivator or processor in the City.
- (b) Any person who violates this section shall be guilty of a misdemeanor of the first degree.

is hereby repealed.

Section 9. That new section 779.04 Adult Use Marijuana Dispensary Community Impact Fee, of the Lakewood Codified Ordinances, is hereby enacted to read as follows:

779.04 ADULT USE MARIJUANA DISPENSARY COMMUNITY IMPACT FEE.

Each Adult Use Marijuana Dispensary operating within the City of Lakewood shall pay to the City an amount equaling 3.6 percent of the dispensary's gross annual sales, which the dispensary shall calculate annually using sales figures from state-mandated reporting or recordkeeping forms, and which the dispensary shall pay to the City no later than March 1st of each year.

If the Host Community Cannabis Fund created by O.R.C. § 3780.23 is reduced by the state legislature to an amount less than 3.6 percent of the dispensary's gross annual sales but not completely repealed, the Community Impact Fee under this Section shall be the difference between the reduced Host Community Cannabis Fund amount and 3.6 percent. For example, if the Host Community Cannabis is effectively reduced to 1.5 percent of the dispensary's gross annual sales, the Community Impact Fee under this Section would be 2.1 percent of the dispensary's gross annual sales.

Section 10. That Section 779.05 Medical Marijuana Dispensary License Required, of the Lakewood Codified Ordinances, currently reading as follows:

779.05 MEDICAL MARIJUANA DISPENSARY LICENSE REQUIRED.

- (a) No person shall operate a medical marijuana dispensary without a valid medical marijuana dispensary license issued by the City pursuant to this chapter.
- (b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor of the first degree.

is hereby repealed.

Section 11. That Section 779.06 Medical Marijuana Dispensary License Application, of the Lakewood Codified Ordinances, currently reading as follows:

779.06 MEDICAL MARIJUANA DISPENSARY LICENSE APPLICATION.

- (a) An application for a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter.
- (b) An application for a medical marijuana dispensary license shall identify and be signed by the following persons:
 - (1) If the business entity is owned by an individual, that individual.
 - (2) If the business entity is owned by a corporation, each officer or director of the corporation, any individual owning or controlling more than 50 percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed medical marijuana dispensary or greater ownership interest in the corporation.
 - (3) If the business entity is owned by a limited liability company, each member of the limited liability company, and any person who will be principally responsible for the operation of the proposed medical marijuana dispensary on behalf of the limited liability company.

(4) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed medical marijuana dispensary.

(c) An application for a medical marijuana dispensary license must designate one or more individuals to be principally responsible for the operation of the proposed medical marijuana dispensary, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed medical marijuana dispensary on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this chapter, and shall be considered a licensee if a license is granted.

(d) An application for a medical marijuana dispensary license shall be completed according to the instructions of the application form, which shall require the following:

(1) If the applicant is:

A. An individual, state the legal name and any aliases of such individual;

B. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or

C. A joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or

D. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacity of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.

E. A limited liability company, state the complete name of the limited liability company and the date of its organization, provide evidence that the company is in good standing under the laws of its state of organization, and state the names of all members, the name of the registered statutory agent, and the address of the registered office for service of process.

(2) If the applicant intends to operate the medical marijuana dispensary under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.

(3) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, has been convicted of a disqualifying offense, and if so, the specified offense and the date, place, and jurisdiction of each such conviction.

(4) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, has had a previous license under this chapter or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the medical marijuana dispensary for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, director or 10 percent or greater owner of a corporation licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.

(6) State the location of the proposed medical marijuana dispensary, including a legal description of the property, street address, and telephone number(s), if any.

(7) State the mailing address and residential address of each applicant and each person signing the application.

(8) Submit a current, valid retail dispensary license or provisional dispensary license issued to the applicant by the state board of pharmacy under the provisions of R.C. Chapter 3796 and the regulations promulgated thereunder, or evidence that the applicant has made application for such a license or provisional license to the state board of pharmacy.

(9) Submit a security plan for review and approval by the Chief. The security plan shall be on a form or in a manner prescribed by the Chief and shall include, at a minimum, a lighting plan that identifies how the interior, façade, adjoining sidewalks, parking areas and immediate surrounding areas of the dispensary will be illuminated and how the lighting will deflect light away from adjacent properties; and an identification of operable cameras, alarms, security guards and other security measures to be present on the premises whether during or outside business hours. The security plan should address the applicant's use of off-street parking and proposed use of armed security guards, video surveillance and door, building and parking lot security as appropriate. The applicant shall supply all additional information requested by the Chief necessary for the Chief to evaluate the security plan.

(10) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.

(11) Submit proof that each applicant who is a natural person is at least 18 years old.

(12) Submit a sketch or diagram showing the configuration of the premises of the medical marijuana dispensary. The diagram shall also designate the place at which the dispensary license will be conspicuously posted, if issued. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

is hereby repealed.

Section 12. Section 779.07 Issuance of Medical Marijuana Dispensary License of the Lakewood Codified Ordinances, currently reading as follows:

779.07 ISSUANCE OF MEDICAL MARIJUANA DISPENSARY LICENSE.

(a) Within five days of receipt of an application for a medical marijuana dispensary license, the Director shall notify the Commissioner and the Chief of such application. In making such notification, the Director shall request that the Chief promptly investigate the information provided in the application and shall request that the Chief and Commissioner promptly inspect the premises for which the medical marijuana dispensary license is sought in order to assess compliance with the regulations under their respective jurisdictions.

(b) The Chief and the Commissioner shall begin their respective investigations and inspections promptly upon receipt of notice of an application from the Director. The Chief and Commissioner shall provide the results of their investigations, including written certifications of whether the premises and applicants are in compliance with the laws and regulations under their respective jurisdictions, to the Director, in writing, within 60 days of receipt of notice of the application.

(c) The Commissioner's inspection of the premises for which a medical marijuana dispensary license is sought shall include an investigation as to whether the premises are in compliance with the Ohio Basic Building Code, the Lakewood Zoning Code, the Lakewood Property Maintenance Code, and the provisions of this chapter related to physical characteristics of the premises.

(d) Within 90 days after receipt of a completed medical marijuana dispensary license application, the Director shall approve or deny the issuance of a license. The Director shall approve the issuance of a license to an applicant unless he or she determines that one or more of the following findings is true:

(1) An applicant who is a natural person is under 18 years of age.

(2) An applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has falsely answered a question or request for information on the application form.

(3) No person identified in the application pursuant to Section 779.06(b) or Section 779.06(c) of this chapter has been denied a license to operate a medical marijuana dispensary or has had a license to operate a medical marijuana dispensary revoked within the preceding 12 months by any jurisdiction.

(4) No person identified in the application pursuant to Section 779.06(b) or Section 779.06(c) of this chapter has been convicted of a disqualifying offense.

(5) The proposed medical marijuana dispensary would violate or fail to be in compliance with any provisions of the Lakewood Zoning Code, Property Maintenance Code or General Offenses Code, or state statute or regulation.

(6) The application and investigation fee or a prior license fee required by this chapter has not been paid in full.

(7) An applicant is in violation of or in not in compliance with any provision of this chapter, except as provided in subsection (e)(1) of this section.

(e) If the Director determines that one or both of the following findings is true, the license issued pursuant to subsection (d) of this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

(1) The results of inspections of the premises by the Chief or the Commissioner indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions, including the provisions of this chapter related to characteristics of the physical premises. This subsection shall not apply to premises that are in violation of any law or regulation that is identified or referenced in subsections (d)(1) through (d)(7) hereof.

(2) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(f) If the Director determines that no other grounds for denial of a license exist under subsection (d) hereof, the Director shall not delay approval of the application past the end of the 90-day period provided in this section solely because the Chief has not provided the Director with the results of his inspection of the premises; the results of the Commissioner's inspection of the premises are not available; or the Chief has not completed his investigation of the criminal background of the applicant(s). If, after approving the issuance of a license, the Director receives information from his investigation which he determines constitutes grounds for denial of a license under subsection (d) hereof, then the medical marijuana dispensary license issued pursuant to this subsection (f) hereof shall be immediately revoked. If after approving the issuance of a license, the Director receives information concerning the results of inspections of the premises by the Chief, or the Commissioner's inspection, which the Director determines constitutes grounds for the issuance of a license subject to a requirement to correct deficiencies under subsection (e) hereof, then a requirement shall be added to the terms of the medical marijuana dispensary licenses issued pursuant to this subsection (f) hereof to correct all deficiencies noted within 120 days of the date such requirement is added.

(g) A medical marijuana dispensary license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the licensed medical marijuana dispensary. All medical marijuana dispensary licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(h) The Director shall advise the applicant in writing of the reasons for any license denial.

is hereby repealed.

Section 13. Section 779.08 Fees, of the Lakewood Codified Ordinances, currently reading as follows:

779.08 FEES.

(a) Every application for a new medical marijuana dispensary license shall be accompanied by a \$350.00 non-refundable application and investigation fee.

(b) Every application for renewal of a medical marijuana dispensary license shall be accompanied by a \$250.00 non-refundable application and investigation fee.

(c) In addition to the application and investigation fee required in subsection (a) or (b) hereof, every applicant that is granted a medical marijuana dispensary license (new or renewal) shall pay to the City an annual, non-prorated license fee in the amount of \$25,000.00 upon license issuance or renewal, plus an amount equaling 1.5 percent of the licensee's gross annual sales above the amount of \$1,250,000.00, which the licensee shall calculate at the expiration of the license or renewal term using sales figures from the licensee's state-mandated reporting or recordkeeping forms, and which

the licensee shall pay to the City within 60 days of the expiration of any term (new or renewal) of the license. The initial license fee may be refunded only if the applicant does not receive a license issued by the state board of pharmacy for a period covering any portion of the term of the license issued by the City. The licensee shall give the Director or his or her designee(s) an opportunity to review the data and basis upon which the licensee has calculated fees due under this section.

is hereby repealed.

Section 14. Section 779.09 Inspection, of the Lakewood Codified Ordinances, currently reading as follows:

779.09 INSPECTION.

(a) The Division of Police and Commissioner shall, from time to time, inspect each medical marijuana dispensary licensed under the provisions of this chapter that is open to the public in order to assess compliance with the provisions of this chapter.

(b) An applicant or licensee shall permit the Commissioner or designees and the Chief or designees, as well as representatives of other city departments and divisions, to inspect a medical marijuana dispensary that is open to the public for the purpose of insuring compliance with the law, during times that it is occupied or open for business.

(c) An applicant or licensee shall subject the application to denial or the license to revocation if he or she refuses to permit such lawful inspection of the premises.

is hereby repealed.

Section 15. That Section 779.10 Expiration and Renewal of License, of the Lakewood Codified Ordinances, currently reading as follows:

779.10 EXPIRATION AND RENEWAL OF LICENSE.

(a) Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than 90 days and no fewer than 30 days before the expiration date. If application is made fewer than 30 days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(b) An application for renewal of a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to Section 779.06 of this chapter. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions.

Sketches or diagrams and security plans submitted with an initial medical marijuana dispensary license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram and security plan still depict the premises and plan accurately.

(c) The Director shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses under Section 779.07 of this chapter.

(d) The Director shall advise the applicant in writing of the reason(s) for any denial of a license renewal.

(e) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. If the City finds, subsequent to denial, that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the denial was issued.

is hereby repealed.

Section 16. That Section 779.11 License Suspension, of the Lakewood Codified Ordinances, currently reading as follows:

779.11 LICENSE SUSPENSION.

(a) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee:

- (1) Has violated or is not in compliance with any section of this chapter; or
- (2) Has authorized or approved an employee's violation of or failure to comply with any section of this chapter, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary has allowed an employee to violate or fail to comply with any section of this chapter.

(b) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee or his employee or agent has refused to allow an inspection of the licensed medical marijuana dispensary premises as authorized by this chapter.

(c) The Director shall advise the licensee in writing of the reason(s) for any suspension.

is hereby repealed.

Section 17. That Section 779.12 License Revocation, of the Lakewood Codified Ordinances, currently reading as follows:

779.12 LICENSE REVOCATION.

(a) The City shall revoke a medical marijuana dispensary license if a cause of suspension under Section 779.11 of this chapter occurs and the license has been suspended two times within the preceding 12 months.

(b) The City shall revoke a medical marijuana dispensary license if it determines that:

- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) The licensee(s) failed to comply with any requirement stated in the license, pursuant to Section 779.07(g) of this chapter, to correct specified deficiencies within 120 days;
- (3) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed, possession, use, or sale of controlled substances (except medical marijuana) on the premises;
- (4) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed the commission of a felony on the premises;
- (5) A licensee operated the medical marijuana dispensary during a period of time when the licensee knew or reasonably should have known that the licensee's license was suspended, or when the licensee no longer maintained a dispensary license issued by the state board of pharmacy;
- (6) A licensee has been convicted of a specified criminal activity, as defined in Section 779.02 of this chapter, during the term of the license; or
- (7) A licensee is delinquent in payment to the City, County, or State for any taxes or fees past due that were assessed or imposed in relation to any business.

(c) The Director shall advise the licensee in writing of the reason(s) for any revocation.

(d) When the City revokes a license, the licensee shall not be issued another license for one year from the date the revocation became effective. If the City finds, subsequent to revocation, that the

basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

is hereby repealed.

Section 18. That Section 779.13 Appeal Rights, of the Lakewood Codified Ordinances, currently reading as follows:

779.13 APPEAL RIGHTS.

(a) Any denial, suspension, or revocation of a new or renewal license under this chapter may be appealed to the City of Lakewood Board of Zoning Appeals by written notice within 10 days of such denial, suspension or revocation. Unless the applicant requests a longer period, the Board of Zoning Appeals must hold a hearing on the appeal within 30 days and must issue a decision affirming or reversing the denial, suspension, or revocation within five days after the hearing.

(b) Any decision by the Board of Zoning Appeals shall be a final appealable order and the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction pursuant to general law.

(c) Any licensee lawfully operating a medical marijuana dispensary prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to operate said business during the pendency of an appeal of a decision rendered under this chapter to the Board of Zoning Appeals or to a court.

(d) In the event that an applicant for a new medical marijuana dispensary license seeks judicial review of the denial of a new license, there shall be no automatic stay of the denial.

is hereby repealed.

Section 19. That Section 779.14 Transfer of License, of the Lakewood Codified Ordinances, currently reading as follows:

779.14 TRANSFER OF LICENSE.

A medical marijuana dispensary license is not transferable from one licensee to another or from one location to another without the express written permission of the Director. Any purported transfer of a medical marijuana dispensary license without the express written permission of the Director shall automatically and immediately revoke that license. Notwithstanding anything in this chapter to the contrary, a license transferee shall assume all responsibilities of the license transferor under this chapter and all applicable code.

is hereby repealed.

Section 20. That Section 779.15 Regulations Pertaining to the Operation of Medical Marijuana Dispensaries, of the Lakewood Codified Ordinances, currently reading as follows:

779.15 REGULATIONS PERTAINING TO THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES.

(a) No person may operate or cause to be operated a medical marijuana dispensary without complying with the following requirements:

(1) The medical marijuana dispensary shall be operated in accordance with all applicable laws, rules and regulations promulgated by the state.

(2) The parcel upon which the dispensary is operated shall not at the time the original dispensary license is issued be located within 500 feet from any parcel on which sits a school, church, public library, public playground or public park.

(3) Consultations by medical professionals shall not be a permitted at a dispensary, unless the patron already has a recommendation for medical marijuana prior to entering the dispensary.

(4) Signs shall be posted on the outside of the dispensary and shall only contain the name of the business, limited to two colors.

(5) The dispensary shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

(6) The use of any vending machine which allows access to medical marijuana is prohibited. For purposes of this subsection (a)(6), a vending machine is any device which allows access to medical marijuana without a human intermediary.

(7) The premises of every medical marijuana dispensary shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level of not less than five foot-candles as measured at floor level.

(8) No medical marijuana dispensary shall be operated in any manner that permits the observation from outside the premises of any image depicting or describing a marijuana leaf or the combustion of plant material, whether by means of display, decoration, sign, window or any other means.

(9) Any material change to information provided in the licensee's application including, but not limited to, changes to the security plan must be promptly communicated, in writing, to the Director.

(10) If, at any time, the licensee is subject to any enforcement action by the state, the licensee shall immediately notify the Director and shall provide any relevant information or documentation requested by the Director.

(11) If, at any time, the licensee has a reasonable belief that an actual loss, theft or diversion of medical marijuana or currency worth or amounting to more than \$100.00 has occurred, the licensee shall immediately notify the Director, and in any event such notification shall be provided no later than 24 hours after discovery of the loss, theft or diversion.

(b) Except as otherwise provided in this paragraph, any person who violates subsection (a) hereof, or any person who operates a medical marijuana dispensary and permits a violation of subsection (a) hereof on the premises, shall be guilty of a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of subsection (a) hereof, a violation of subsection (a) of this section will be considered a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of subsection (a) of this section, a violation of subsection (a) hereof will be considered a misdemeanor of the first degree.

is hereby repealed.

Section 21. That Section 779.16 Loitering and Exterior Lighting and Monitoring Requirements, of the Lakewood Codified Ordinances, currently reading as follows:

779.16 LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

(a) It shall be the duty of the operator of a medical marijuana dispensary to:

(1) Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the medical marijuana dispensary is located;

(2) Post conspicuous signs stating that no loitering is permitted on such property;

(3) Monitor the activities of persons on such property by visually inspecting such property or inspecting such property by use of video cameras and monitors; and

(4) Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring and to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

is hereby repealed.

Section 22. That Section 779.17 Injunction, of the Lakewood Codified Ordinances, currently reading as follows:

779.17 INJUNCTION.

Any person who operates or causes to be operated a medical marijuana dispensary in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations under the Codified Ordinances of the City.

is hereby repealed.

Section 23. Section 779.19 Change in Information, of the Lakewood Codified Ordinances, currently reading as follows:

779.19 CHANGE IN INFORMATION.

During the pendency of any application for, or during the term of, any medical marijuana dispensary license, the applicant or licensee shall promptly notify the Director in writing of any change in any material information given by the applicant or licensee in the application for such license, including specifically, but without limitation, any change in managers of the medical marijuana dispensary establishment or in the individuals identified in the application pursuant to this chapter; or if any of the events constituting grounds for suspension or revocation pursuant to this chapter occur.

is hereby repealed.

Section 24. That Section 779.99 Penalty, of the Lakewood Codified Ordinances, currently reading as follows:

779.99 PENALTY.

(a) Violations of this chapter for which no penalty is specified shall be unclassified misdemeanor offenses punishable by fine or imprisonment, as provided in Section 501.99 of the Codified Ordinances of the City of Lakewood.

(b) Each day that a medical marijuana dispensary operates in violation of this chapter is a separate offense or violation.

is hereby repealed.

Section 25. That new Section 779.99 Penalty, of the Lakewood Codified Ordinances is hereby enacted as follows:

779.99 PENALTY.

(a) Violations of this chapter for which no penalty is specified shall be unclassified misdemeanor offenses punishable by fine or imprisonment, as provided in Section 501.99 of the Codified Ordinances of the City of Lakewood.

(b) Each day that a ~~medical~~ marijuana dispensary operates in violation of this chapter is a separate offense or violation.

Section 26. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 27. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least two thirds of members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

Sarah Kepple, President of Council

Maureen M. Bach, Clerk of Council

Approved: _____

Meghan F. George, Mayor