

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER STITES
Council Bill No. 02
Ordinance No. 1476
Series 2011

**TITLE: AN ORDINANCE AMENDING CHAPTERS 11 AND 22 OF THE WHEAT
RIDGE CODE OF LAWS CONCERNING BUSINESS LICENSE
REQUIREMENTS AND TAXPAYER REMEDIES**

WHEREAS, the City of Wheat Ridge ("City") is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution and the City's home rule charter ("Charter"); and

WHEREAS, pursuant to this power, the City Council has previously adopted Chapters 11 and 22 of the City of Wheat Ridge Code of Laws ("Code") concerning business licenses and taxes, respectively; and

WHEREAS, the City Council has determined that Section 11-26 of the Code should be amended to clarify the consequences and effect of a merger on a business license issued by the City; and

WHEREAS, in order to recoup the administrative cost of issuing licenses in the City, the City Council has determined it is in the best interest of the City to amend the fees set forth in Section 11-29 of the Code, and to unify references to such fees in Section 11-226 of the Code; and

WHEREAS, the City Council has further determined that Section 22-45 of the Code should be amended to comply with recent amendments to the Colorado Revised Statutes and to clarify general provisions concerning information which the taxpayer can provide to aid in the resolution of a dispute between the City and the taxpayer.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Chapter 11, Section 11-26 (c) of the Code is hereby amended as follows:

Sec. 11-26. Licenses.

- (c) No license shall be transferred from one person, business or location to another. Any change of ownership, nature of business or location shall require a new application and license, including the applicable fees. A MERGER OF AN EXISTING LICENSED BUSINESS WITH ANY OTHER BUSINESS THAT DOES NOT NECESSITATE A MANDATORY CHANGE IN THE FEDERAL EMPLOYER IDENTIFICATION NUMBER SHALL NOT BE CONSIDERED A CHANGE OF OWNERSHIP FOR LICENSING PURPOSES. IN ADDITION TO ANY OTHER AUDIT PERMITTED PURSUANT TO CHAPTER 22 OF THIS CODE, IN THE FIRST YEAR FOLLOWING ANY MERGER, TAX DIVISION PERSONNEL SHALL

HAVE THE RIGHT TO AUDIT THE MERGED BUSINESS IN ORDER TO CONFIRM THAT THE MERGER OF THE BUSINESSES DID NOT CONSTITUTE FRAUD TO AVOID OUTSTANDING DEBTS OR LIABILITIES. A MERGER OF AN EXISTING LICENSED BUSINESS WITH ANY OTHER BUSINESS THAT NECESSITATES A MANDATORY CHANGE IN THE FEDERAL EMPLOYER IDENTIFICATION NUMBER SHALL BE CONSIDERED A CHANGE OF OWNERSHIP FOR LICENSING PURPOSES AND SHALL REQUIRE APPLICATION FOR A NEW LICENSE.

Section 2. Chapter 11, Section 11-29, subsections (b), (c), (g), (h) and (i) of the Code are hereby amended as follows:

Sec. 11-29. Fees.

~~(b) A nonrefundable application fee of five dollars (\$5.00) shall be paid at the time of filing an application.~~

~~(c) The license fee shall be paid at the time of filling an application, which fee shall be refunded in the event of denial of the license or withdrawal of the application prior to issuance of the license.~~

~~(g)(e) A fifty dollar (\$50.00) late application fee and/or fine shall be assessed, in addition to the regular application and license fees, for any application received more than thirty (30) days after the commencement of business within the city, or in the case of a renewal, any application received after January 30 of the calendar year for which the license is sought AS FOLLOWS: This late application fee shall be in addition to all other fees and penalties that may be assessed pursuant to the City Code.~~

1. \$10 FEE IF APPLIED FOR OR RENEWED MORE THAN THIRTY (30) BUT NOT MORE THAN SIXTY (60) DAYS AFTER THE COMMENCEMENT OF BUSINESS WITHIN THE CITY OR EXPIRATION OF THE PRIOR YEAR'S LICENSE.
2. \$50 FEE IF APPLIED FOR OR RENEWED MORE THAN SIXTY (60) DAYS BUT NOT MORE THAN NINETY (90) DAYS AFTER THE COMMENCEMENT OF BUSINESS WITHIN THE CITY OR EXPIRATION OF THE PRIOR YEAR'S LICENSE.
3. \$100 FEE IF APPLIED FOR OR RENEWED MORE THAN NINETY (90) DAYS AFTER THE COMMENCEMENT OF BUSINESS WITHIN THE CITY OR EXPIRATION OF THE PRIOR YEAR'S LICENSE.
4. IF A SUMMONS TO MUNICIPAL COURT IS REQUIRED TO OBTAIN LICENSING COMPLIANCE, THE MUNICIPAL COURT SHALL IMPOSE A FINE UNDER SECTIONS 1-5 AND 1-6 OF THIS CODE OF NO LESS

THAN \$5 PER DAY OF OPERATION WITHOUT A LICENSE OR WITH AN EXPIRED LICENSE IN ADDITION TO THE MAXIMUM LATE FEE.

5. LATE FEE WAIVERS SHALL BE GRANTED AT THE DISCRETION OF TAX DIVISION STAFF ONLY IN ACKNOWLEDGMENT OF PROOF OF TIMELY MAILING OR IN THE EVENT OF EXIGENT AND UNAVOIDABLE CIRCUMSTANCES SUCH AS: DEATH, CATASTROPHIC ILLNESS, OR DISASTER.

~~(h)~~(f) The city treasurer MAY NOT CHARGE A FEE FOR THE REissue OF A replacement for a lost or damaged license ~~upon payment of a five dollar (\$5.00) fee.~~

~~(i)~~(g) ALL BUSINESS/TAX LICENSING FEES MAY BE REVIEWED OCCASIONALLY BY CITY STAFF. CITY STAFF MAY THEN FORWARD RECOMMENDATIONS CONCERNING AMENDING SUCH FEES TO THE CITY COUNCIL; PROVIDED, HOWEVER, THE FEES MAY NOT BE INCREASED BY MORE THAN A PERCENTAGE EQUAL TO THE SUM OF THE DENVER-BOULDER ANNUAL CONSUMER PRICE INDICES SINCE THE LAST INCREASE, ROUNDED TO THE NEAREST DOLLAR.

Section 3. Chapter 11, Section 11-226, subsections (t), (u), (w) and (x) of the Code are hereby amended as follows:

Sec. 11-226. Nonresident vendor.

(t) *License and required fees for solicitors and peddlers:* All fees for solicitors and peddlers must be paid with cash, certified check or money order as follows:

(1) One hundred dollar (\$100.00) deposit to be applied against sales tax collections; applicant must bring in sales receipts within ten (10) days after sales to claim any refund on overpayment of sales tax deposit. Failure to provide proof of sales receipts will mean forfeiture of deposit. Sales tax collections over one hundred dollars (\$100.00) must be remitted within ~~ten (10)~~-TWENTY (20) days of sales.

(2) ~~Five dollars (\$5.00)~~ THE application fee AS SET FORTH IN ~~(section 11-249).~~

(3) ~~Ten dollars (\$10.00)~~ THE ~~G~~GENERAL business license fee AS SET FORTH IN ~~(section 11-29).~~

(4) ~~One hundred dollars (\$100.00)~~ THE site clean up deposit SET FORTH IN PARAGRAPH (q) OF THIS SECTION. SUCH FEE SHALL BE ~~R~~refundable upon ISSUANCE OF A certificate of site clean up by code enforcement or city zoning officials.

(u) *Licenses to be displayed.* The city treasurer shall issue the license. Each license shall bear the words "~~Licensed Peddler~~" or "~~Licensed Solicitor~~," and the period for which the license is issued.

(w) *Duty of enforcement personnel:* It shall be the duty of any police officer, ~~sales tax inspector~~ TAX DIVISION PERSONNEL or code enforcement officer of the city to require any person required to have a license, as provided in this chapter, to produce his license and to enforce the provisions of this chapter against any person found to be violating the same.

(x) *Treasurer shall maintain records:* The chief of police shall report to the ~~sales tax inspector~~ THE TAX DIVISION all violations of this chapter and all violations of this Code by licensees. ~~and The sales tax inspector~~ TAX DIVISION shall maintain a record for each license issued and record the SUCH reports THEREIN ~~from the chief of police.~~

Section 4. Chapter 22, Section 22-45, subsections (a) and (b) of the Code are hereby amended as follows:

Sec. 22-45. Taxpayer remedies.

(a) When the city asserts that sales or use taxes are due in an amount greater than the amount paid by a taxpayer, the city shall mail a deficiency notice to the taxpayer by first class mail. The deficiency notice shall state the additional sales and use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a hearing on the deficiency pursuant to this section. A DEFICIENCY NOTICE EXCEEDING \$500, INCLUDING PENALTIES AND INTEREST, RESULTING FROM AUDIT ACTIVITY SHALL BE DELIVERED BY A RECEIPTED OR TRACEABLE METHOD SUCH AS BUT NOT LIMITED TO CERTIFIED MAIL.

(b) In the event that the taxpayer disputes the tax liability imposed by the city either by any deficiency notice or otherwise, he shall file a written demand for an informal hearing and determination of tax liability within ~~twenty (20)~~ thirty (30) days from the date of mailing of the notice, which demand will stay the sale under any distraint warrant until the conclusion of the hearing. TO AID IN RESOLUTION OF THE DISPUTE, THE CITY REQUESTS THAT THE TAXPAYER'S WRITTEN DEMAND INCLUDE THE FOLLOWING INFORMATION: NAME, BUSINESS ADDRESS AND LICENSE NUMBER OF THE TAXPAYER, A COPY OF THE NOTICE SENT BY THE CITY, THE TAXABLE PERIODS AND THE AMOUNTS OF TAX WHICH ARE BEING DISPUTED, AND A STATEMENT OF THE GROUNDS UPON WHICH THE TAXPAYER BASES THE CLAIM.

Section 5. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

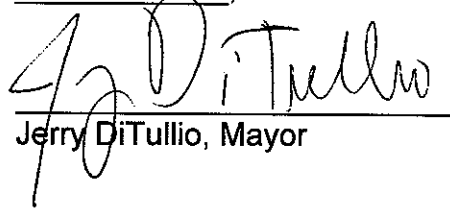
Section 6. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter; provided, however, the

tiered license renewal program set forth in Section 2, Sec. 11-29 (e) shall take effect January 1st, 2012.

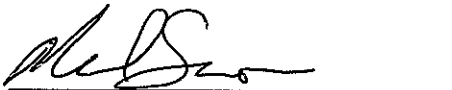
INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 24th day of January, 2011, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for February 14, 2011 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado, postponed to March 14, 2011.

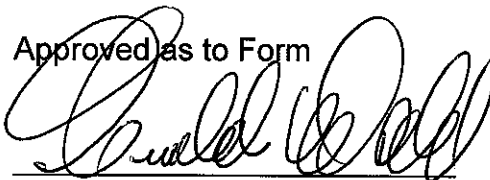
READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 6 to 0, this 14th day of March, 2011.

SIGNED by the Mayor on this 15th day of March, 2011.


Jerry DiTullio, Mayor

ATTEST:


Michael Snow, City Clerk

Approved as to Form

Gerald E. Dahl, City Attorney

First Publication: January 27, 2011, February 24, 2011
Second Publication: March 17, 2011
Wheat Ridge Transcript
Effective Date: April 1, 2011 (15 days after Publication)