

**CITY OF WHEAT RIDGE, COLORADO**  
**INTRODUCED BY COUNCIL MEMBER DEMOTT**  
**Council Bill No. 06**  
**Ordinance No. 1479**  
Series 2011

**TITLE: AN ORDINANCE AMENDING CHAPTER 11 OF THE WHEAT RIDGE CODE OF LAWS BY ADDING A NEW ARTICLE XII CONCERNING MEDICAL MARIJUANA AND MAKING CERTAIN AMENDMENTS TO CHAPTER 26 (ZONING AND DEVELOPMENT) IN ASSOCIATION THEREWITH**

**WHEREAS**, in the November 2000 general election, the voters of the State of Colorado adopted Amendment 20 to the Colorado Constitution ("Amendment 20"), codified at Article XVIII Section 14, which authorizes and limits the use of medical marijuana for the treatment of debilitating medical conditions; and

**WHEREAS**, Amendment 20 provides patients and primary care-givers, as those terms are defined therein, with criminal defenses to, or exceptions from prosecution for the possession, production and use of medical marijuana; and

**WHEREAS**, in May, 2010 the Colorado General Assembly adopted the Colorado Medical Marijuana Code, §§ 12-43.3-101 *et seq.*, C.R.S., authorizing the cultivation, manufacture, distribution, and sale of medical marijuana and medical marijuana-infused products throughout the state under state and local government licensing procedures; and

**WHEREAS**, the City Council has been made aware of a proliferation of businesses seeking to cultivate, manufacture, distribute and sell medical marijuana and medical marijuana-infused products to those who qualify under state law; and

**WHEREAS**, the City has no current land use or business regulation governing the operation of businesses that cultivate, manufacture, distribute or sell medical marijuana and/or medical marijuana-infused products ("Medical Marijuana Establishments"); and

**WHEREAS**, on September 14, 2009, the City imposed a moratorium on the submission, acceptance, processing, and approval of all applications for City licenses relating to the operation of Medical Marijuana Establishments to allow the City staff and the City Council to investigate the City's ability to regulate such establishments, and to develop and implement any appropriate regulations consistent with state law; and

**WHEREAS**, because marijuana is a controlled substance under Colorado and federal law, the cultivation, manufacture, distribution and sale as contemplated by the Colorado Medical Marijuana Code has the potential for abuse and 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 and the Colorado Medical Marijuana Code, can potentially cause 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**, if Medical Marijuana Establishments operating pursuant to the Colorado Medical Marijuana Code were allowed to be established and to operate without appropriate local regulation of their location, such establishments might be established in areas that would 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.

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

**Section 1. Moratorium Concluded.** The moratorium imposed by Ordinance 1453 on September 14, 2009 shall conclude upon the effective date of this ordinance.

**Section 2.** Chapter 11 of the Wheat Ridge Code of Laws is hereby amended by the adoption of a new Article XII to read in its entirety as follows:

**Article XII. Medical Marijuana Licenses**

Division 1. Generally

Sec. 11-290. Authority  
Sec. 11-291. Definitions

Division 2. Medical Marijuana Licenses

Sec. 11-292. Local licensing authority established  
Sec. 11-293. Types of medical marijuana licenses  
Sec. 11-294. Medical marijuana license required  
Sec. 11-295. Application of Colorado Medical Marijuana Code  
Sec. 11-296. Application for license  
Sec. 11-297. Application fee  
Sec. 11-298. Standards for approval of license, no hearing required  
Sec. 11-299. Authority to recommend and impose conditions on license.  
Sec. 11-300. Denial of license.  
Sec. 11-301. Appeal of denial or conditional approval of license  
Sec. 11-302. Duration of license, renewal  
Sec. 11-303. Duties of licensee  
Sec. 11-304. Hearing, suspension, revocation of license  
Sec. 11-305. Prohibited locations  
Sec. 11-306. Signage  
Sec. 11-307. Taxes  
Sec. 11-308. Penalties, injunctive relief  
Secs. 11-309—11-319. Reserved

### Division 3. Primary Caregiver Licenses

Sec. 11-320.	Primary caregiver license required
Sec. 11-321.	Application for license
Sec. 11-322.	Application fee
Sec. 11-323.	Standards for approval of license
Sec. 11-324.	Authority to recommend and impose conditions on license
Sec. 11-325.	Denial of license.
Sec. 11-326.	Appeal of denial or conditional approval of license
Sec. 11-327.	Duration of license, renewal
Sec. 11-328.	Duties of licensee
Sec. 11-329.	Hearing, suspension, revocation of license
Sec. 11-330.	Growing of medical marijuana outdoors prohibited
Sec. 11-331.	Penalties, injunctive relief

### DIVISION 1. GENERALLY

**Sec. 11-290. Authority.** The City Council hereby finds, determines, and declares that it has the power to adopt this article pursuant to:

- (a) The Local Government Land Use Control Enabling Act, article 20 of title 29, C.R.S.;
- (b) Part 3 of article 23 of title 31, C.R.S. (concerning municipal zoning powers);
- (c) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (d) Section 31-15-401, C.R.S. (concerning municipal police powers);
- (e) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);
- (f) The authority granted to home rule municipalities by article XX of the Colorado Constitution;
- (g) Article XVIII Section 14 of the Colorado Constitution; and
- (h) The powers contained in the Wheat Ridge Home Rule Charter.

### **Sec. 11-291. Definitions.**

As used in this article the following words shall have the following meanings, unless the context clearly requires otherwise:

*Administrative hearing officer* has the meaning provided in section 2-87 of this code.

*Applicant* means any person making an application for a license under this article.

*Application* means an application for license submitted pursuant to this article.

*City Manager* shall have the meaning provided in section 2-26 of this code.

*Colorado Medical Marijuana Code* shall mean Article 43.3 of Title 12 of the Colorado Revised Statutes and any implementing administrative regulations.

*Good cause* means and includes

(1) When a licensee violates, does not meet, or fails to comply with any of the terms, conditions, or provisions of this article and any rule and regulation promulgated pursuant to this article or the Colorado Medical Marijuana Code;

(2) When the licensee or applicant has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, or that were placed on its license pursuant to an order of the local licensing authority or the Colorado Department of Revenue; or

(3) When the licensed premises have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the medical marijuana clinic is located. Evidence to support such a finding can include: (i) a pattern of disorderly conduct as defined in section 11-54(a)(1) of this code within or immediately adjacent to the premises of the licensee; (ii) a pattern of drug-related criminal conduct within the licensed premises, or in the immediate area surrounding the licensed premises; (iii) criminal conduct directly related to or arising from the operation of the medical marijuana establishment..

*License* means a license to operate a medical marijuana establishment issued pursuant to this article.

*Licensed premises* means the location in the City from which the Licensee will operate.

*Licensee* means the person to whom a license has been issued pursuant to this article and the Colorado Medical Marijuana Code to operate a business as described in section 12-43.3-402, C.R.S..

*Medical marijuana* means marijuana that is grown and sold pursuant to the provisions of the Colorado Medical Marijuana Code for a purpose authorized by section 14 of the Article XVIII of the Colorado Constitution.

*Medical marijuana center* means a premises licensed pursuant to the Colorado Medical Marijuana Code to operate a business as described in section 12-43.3-402, C.R.S.

*Medical marijuana establishment* shall mean a medical marijuana center, a medical marijuana-infused product manufacturer or an optional premises cultivation operation.

*Medical marijuana-infused product* shall mean a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, and tinctures.

*Medical marijuana-infused product manufacturer* shall mean a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business as described in section 12-43.3-404, C.R.S.

*Optional premises cultivation operation* shall mean a premises licensed pursuant to this ordinance and the Colorado Medical Marijuana Code where a business described in section 12-43.3-403, C.R.S will operate.

*Patient* has the meaning provided in section 14(a)(d) of Article XVIII of the Colorado Constitution of the Colorado Constitution as further defined and regulated in section 25-1.5-106, C.R.S. and 5 C.C.R. 1006-2.

*Person* means a natural person, partnership, association, company, corporation, limited liability company, organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

*Primary care-giver* has the meaning provided in section 14(1)(f) of Article XVIII of the Colorado Constitution as further defined and regulated in section 25-1.5-106, C.R.S. and 5 C.C.R. 1006-2.

*School* shall mean a public or private preschool or a public or private elementary, middle, junior high or high school.

(b) In addition to the definitions provided in subsection (a) of this section, the other defined terms in section 14 of Article XVIII of the Colorado Constitution are incorporated into this article by reference.

## **DIVISION 2. MEDICAL MARIJUANA LICENSES**

### **Sec. 11-292. Local licensing authority established.**

(a) There is hereby established a local licensing authority, which shall have and is vested with the authority to:

1. Grant and refuse licenses and approve and deny applications for renewal and transfer of licenses for the sale, cultivation and manufacture of medical marijuana and medical marijuana infused products;
2. Promulgate reasonable rules and regulations concerning licenses issued under this division 2;

3. Suspend and revoke licenses issued under this division 2 in the matter provided by law; and
4. Have all of the powers of the local licensing authority as provided in the Colorado Medical Marijuana Code.

(b) The Tax and Licensing Division of the City shall serve as the local licensing authority for any administrative purposes described in subsections (a)(1), (a)(2) and (a)(4) of this section. An administrative hearing officer shall serve as the local licensing authority for purposes of hearing any requests for suspension or revocation described in subsection (a)(3).

**Sec. 11-293. Types of medical marijuana licenses.** The local licensing authority may issue the following three types of medical marijuana licenses:

- (a) Medical marijuana center license;
- (b) Medical marijuana-infused products manufacturing license; and
- (c) Optional premises cultivation license.

**Sec. 11-294. Medical marijuana license required.** No person or entity shall operate a medical marijuana establishment within the City without a valid and appropriate medical marijuana license issued in accordance with this division 2. This requirement to obtain the appropriate medical marijuana license is in addition to the requirement to obtain a business license pursuant to article II of this chapter and any other license or permit required by the city. Medical marijuana establishments that are in existence as of the effective date of this section must submit an application for a medical marijuana license within 30 days of that effective date.

**Sec. 11-295. Application of Colorado Medical Marijuana Code.** Except as otherwise provided herein, the local licensing authority shall be governed by the Colorado Medical Marijuana Code now in effect or subsequently amended. In the event of a conflict between the provisions in this article and those in the Colorado Medical Marijuana Code, the more stringent provision shall apply.

**Sec. 11-296. Application for license.**

(a) A person seeking to obtain a license pursuant to this division 2 shall file an application with the local licensing authority on a form provided by the state, and shall include all additional information required by the Colorado Medical Marijuana Code.

(b) The local licensing authority is hereby authorized to request any applicant to provide information that is in addition to the requirements of the Colorado Medical Marijuana Code if it determines that such information is reasonably necessary to complete the investigation and review of the application.

**Sec. 11-297. Application fee.** An applicant shall pay to the City a non-refundable application fee when the application is filed. The purpose of the fee is to cover the

administrative costs of processing the application. The amount of the application fee shall be fixed by the City Council by motion.

**Sec. 11-298. Standards for approval of license, no hearing required.**

(a) The local licensing authority is authorized to administratively approve any license under this division 2 so long as the following conditions are met:

1. The application (including any required attachments and submissions) is complete and signed by the applicant;
2. The applicant has paid the application fee and any other fees required by this code;
3. The application does not contain a material falsehood or misrepresentation;
4. The application complies with all of the requirements of this division 2 and the Colorado Medical Marijuana Code; and
5. The licensing authority has received written approval from the City of Wheat Ridge Police Department as to the applicant's criminal background.
6. The licensing authority has received written approval from the Community Development Department that the location and zoning requirements imposed by this division 2 and Section 26-204 of the Code have been met.

(b) The local licensing authority may, but is not required to hold a hearing as permitted by section 12-43.3-302, C.R.S. prior to granting a medical marijuana license.

**Sec. 11-299. Authority to recommend and impose conditions on license.**

(a) Any City department shall have the authority to recommend reasonable terms and conditions on a license as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this division 2 and applicable law, so long as those conditions are not in conflict with the Colorado Medical Marijuana Code.

(b) The local licensing authority is authorized to approve any license issued under this division 2 subject to such reasonable conditions as required by the City.

(c) In the event an application is conditionally approved, the local licensing authority shall clearly set forth in writing the conditions of approval.

**Sec. 11-300. Denial of license.** The local licensing authority shall deny an application for a license under this division 2 when the applicant fails to meet all of the standards set forth in section 11-298 of this division 2.

**Sec. 11-301. Appeal of denial or conditional approval of license.**

(a) An applicant has the right to appeal the denial of an application or condition imposed thereon to an administrative hearing officer.

(b) The applicant must file a written notice of appeal with the local licensing authority within fifteen days after the date of mailing of the denial or conditional approval of the application.

(c) Upon notice from the local licensing authority that the applicant has satisfied the requirement in subsection (b), the City Manager shall appoint an administrative hearing officer.

(d) The applicant shall be provided with not less than ten days' prior written notice of the appeal hearing to be held by the administrative hearing officer.

(e) The burden of proof in an appeal filed under this section shall be on the applicant.

(f) If the administrative hearing officer finds by a preponderance of the evidence that the decision of the local licensing authority was correct, the administrative hearing officer shall uphold that decision. If the administrative hearing officer finds by a preponderance of the evidence that the decision of the local licensing authority was incorrect, the administrative hearing officer shall set aside the denial and issue the license. The administrative hearing officer may impose additional conditions on the license issued (if it was previously denied) or require that the conditions of approval be stricken or modified.

(g) Any decision made by the administrative hearing officer pursuant to this section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application.

**Sec. 11-302. Duration of license, renewal.**

(a) Each license issued pursuant to this division 2 shall expire on the first day of the month one year from the month of issuance, and may be renewed as provided in this section.

(b) An application for the renewal of an existing license shall be made to the local licensing authority as required by the Colorado Medical Marijuana Code. At the time of the filing of an application for the renewal of an existing license the applicant shall pay a renewal fee in an amount fixed by the City Council by motion.

**Sec. 11-303. Duties of licensee.** Each licensee shall:

(a) Post the license in a conspicuous location on the licensed premises;



- (b) Comply with all of the terms and conditions of the license;
- (c) Comply with all of the requirements of this division 2;
- (d) Comply with all other applicable City ordinances;
- (e) Comply with the Colorado Medical Marijuana Code;
- (f) Comply with all state laws and administrative regulations pertaining to the medical use of marijuana;
- (g) Comply with all applicable federal laws, rules, or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of medical marijuana;
- (h) Permit inspection of its records and operation by the local licensing authority for the purpose of determining the licensee's compliance with the terms and conditions of the license and the City's tax laws; and
- (i) Permit inspection of the premises by authorized City officials during permitted business hours for the purpose of determining compliance with this division 2.

**Sec. 11-304. Hearing, suspension, revocation of license.**

(a) A license issued pursuant to this division 2 may be suspended or revoked by the local licensing authority after a hearing for the following reasons:

1. Fraud, misrepresentation, or a false statement of material fact contained in the license application;
  2. A violation of any City ordinance, state, or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Article XVIII Section 14 of the Colorado Constitution;
  3. A violation of any of the terms and conditions of the license;
  4. A violation of any of the provisions of this article; or
  5. Good cause.
- (b) Request for suspension or revocation, notice of hearing, burden.
1. Any authorized City official may request in writing that a license issued under this article be suspended or revoked.
  2. The City Manager shall appoint an administrative hearing officer to preside over the hearing on the suspension or revocation of a license.

3. The administrative hearing officer shall

- a. Set a date and time on which to determine whether to revoke or suspend such license;
- b. Notify the licensee in writing of the date and time of the hearing at least ten (10) days prior to conducting such hearing. Such notice shall be sent by regular mail postage prepaid. Notice is deemed to have been given upon mailing;
- c. Conduct a hearing based on the allegations provided in the written request. This shall be an informal hearing where no rules of evidence shall apply. The burden shall be on the City to prove by a preponderance of the evidence that the licensee has violated the provisions in subsection 11-294 (a); and
- d. Provide a written decision to the licensee within a reasonable time after the conclusion of the hearing.

(c) In deciding whether a license should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the administrative hearing officer shall consider:

1. The nature and seriousness of the violation;
2. Corrective action, if any, taken by the licensee;
3. Prior violation(s), if any, by the licensee;
4. The likelihood of recurrence;
5. All circumstances surrounding the violation;
6. Whether the violation was willful;
7. The number of previous violations by the licensee; and
8. Previous sanctions, if any, imposed against the licensee.

(d) In connection with the suspension of a license, the administrative hearing officer may impose reasonable conditions thereon.

(e) Any decision made by the administrative hearing officer pursuant to this section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the decision.

(f) No fee previously paid by a licensee in connection with the application shall be refunded if such license is suspended or revoked.

**Sec. 11-305. Prohibited locations.**

(a) Except as provided in subsection (f) of this section, no medical marijuana establishment shall be located at a location that does not conform to the requirements of this section.

(b) No medical marijuana center shall be located within one thousand feet of a school, an alcohol or drug treatment facility, or the principal campus of a college, university, or seminary, or a residential child care facility. Medical marijuana establishments that were lawfully in existence at a specific location within the city as of the effective date of this section shall not be subject to the prohibition at that location.

(c) No medical marijuana center shall be located within three quarters ( $\frac{3}{4}$ ) of a mile of another medical marijuana center. Medical marijuana establishments that were lawfully in existence at a specific location within the city as of the effective date of this section shall not be subject to the prohibition at that location.

(d) No person shall operate an optional premises cultivation operation within the City unless the licensed premises of the person's optional premises cultivation operation are contiguous with the licensed premises of the person's medical marijuana center license and/or the person's medical marijuana-infused products manufacturing license.

(e) Each medical marijuana establishment shall be operated from a permanent location. Except as permitted by the Medical Marijuana Code, no medical marijuana establishment shall be licensed to operate from a moveable, mobile, or transitory location.

(f) The suitability of a location for a medical marijuana establishment shall be determined at the time of the issuance of the first license for such establishment. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a medical marijuana establishment under this section shall not be grounds to suspend, revoke or refuse to renew the license for such establishment so long as the license for the establishment remains in effect.

**Sec. 11-306. Signage.**

(a) All signage for a medical marijuana establishment shall comply with the requirements of chapter 26 of this code.

(b) No licensee shall display a sign for the medical marijuana 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."

**Sec. 11-307. Taxes.** Each licensee shall collect and remit sales tax on all medical marijuana, paraphernalia, and other tangible personal property sold by the licensee at the medical marijuana establishment according to the provisions of chapter 22 of this code and any regulations issued pursuant thereto.

**Sec. 11-308. Penalties, injunctive relief.**

(a) It is a misdemeanor offense for any person to violate any provision of this division 2. Any person convicted of having violated any provision of this division 2 shall be punished as set forth in section 1-5 of this code.

(b) In addition to all other remedies available to the city under this code and by law, the operation of a medical marijuana establishment without a valid license issued pursuant to this division 2 may be enjoined by the City in an action brought in a court of competent jurisdiction.

**DIVISION 3. PRIMARY CARE-GIVER LICENSE**

**Sec. 11-320. Primary caregiver license required.** No primary care-giver shall produce, offer, sell or grow medical marijuana within the City without a valid and appropriate primary care-giver license issued in accordance with this division 3.

**Sec. 11-321. Application for license.**

(a) A person seeking to obtain a primary care-giver license shall file an application with the Tax and Licensing Division.

(b) An application for a primary care-giver license shall contain the following information:

1. The applicant's name, address and telephone number;
2. The street address of the applicant's operation location;
3. If the applicant is not the owner of the proposed location, a notarized statement from the owner of such property authorizing the use of said property for the applicant's operation;
4. A statement by the applicant acknowledging that the applicant may be subject to criminal prosecution under federal law for the distribution of a controlled substance;
5. A statement by the applicant that the applicant is a state approved primary care-giver;
6. A statement by the applicant that the applicant will provide the Wheat Ridge Police Department the registry identification card number of each of his or her patients upon inquiry;

7. A statement by the applicant acknowledging that the City accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana establishment;
8. A statement by the applicant acknowledging that the provisions in chapter 26 of this code concerning home occupations applies to the activities of a primary care-giver; and
9. Any additional information that the Tax and Licensing Division reasonably determines to be necessary in connection with the investigation and review of the application.

**Sec. 11-322. Application fee.** An applicant shall pay to the City a non-refundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. The amount of the application fee shall be fixed by the City Council by motion.

**Sec. 11-323. Standards for approval of license.** The Tax and Licensing Division is authorized to approve a primary care-giver license so long as the following conditions are met:

- (a) The application (including any required attachments and submissions) is complete and signed by the applicant;
- (b) The applicant has paid the application fee; and
- (c) The application does not contain a material falsehood or misrepresentation.

**Sec. 11-324. Authority to recommend and impose conditions on license.**

(a) Any City department shall have the authority to recommend reasonable terms and conditions on a primary care-giver license as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this division 3 and applicable law.

(b) The Tax and Licensing Division is authorized to approve any primary care-giver license subject to such reasonable conditions as required by the City.

(c) In the event an application is conditionally approved, the Tax and Licensing Division shall clearly set forth in writing the conditions of approval.

**Sec. 11-325. Denial of license.** The Tax and Licensing Division shall deny an application for a primary care-giver license when the applicant fails to meet all of the standards set forth in section 11-323 of this division 3.

**Sec. 11-326. Appeal of denial or conditional approval of license.** An applicant has the right to appeal the denial of an application or condition imposed thereon to an administrative hearing officer pursuant to the provisions in code section 11-291.

**Sec. 11-327. Duration of license, renewal.**

(a) Each license issued pursuant to this division 3 shall expire on the first day of the month one year from the month of issuance, and may be renewed as provided in this section.

(b) An application for the renewal of an existing license issued under this division 3 shall be made to the Tax and Licensing Division. At the time of the filing of an application for the renewal of an existing license the applicant shall pay a renewal fee in an amount fixed by the City Council by motion.

**Sec. 11-328. Duties of licensee.** Each licensee shall:

- (a) Comply with all of the terms and conditions of the license;
- (b) Comply with all of the requirements of this division 3;
- (c) Comply with all other applicable City ordinances;
- (d) Comply with all state laws and administrative regulations pertaining to the medical use of marijuana;
- (e) Comply with all applicable federal laws, rules, or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of medical marijuana; and
- (f) Permit inspection of the licensed premises by authorized City officials at reasonable hours upon a complaint and after providing twenty-four hours written notice to the licensee. Such written notice may be posted on the licensed premises.

**Sec. 11-329. Hearing, suspension, revocation of license.** A license issued pursuant to this division 3 may be suspended or revoked by the City pursuant to the provisions in code section 11-294.

**Sec. 11-330. Growing of medical marijuana outdoors prohibited.** No primary care-giver may grow medical marijuana outdoors.

**Sec. 11-331. Penalties, injunctive relief.**

(a) It is a misdemeanor offense for any person to violate any provision of this division 3. Any person convicted of having violated any provision of this article shall be punished as set forth in code section 1-5.

(b) In addition to all other remedies available to the City under this code and by law, the growing of medical marijuana by an unlicensed primary care-giver may be enjoined by the City in an action brought in a court of competent jurisdiction.

**Section 3.** Section 26-123 of the Code, entitled Definitions, is hereby amended by the addition of the following terms:

*Medical marijuana center* has the meaning provided in Article XII of Chapter 11 of this code.

*Medical marijuana-infused products manufacturer* has the meaning provided in Article XII of Chapter 11 of this code.

*Optional premises cultivation operation* has the meaning provided in Article XII of Chapter 11 of this code.

**Section 4.** The Table of Uses for Commercial and Industrial Districts provided for in Section 26-204 of the Code is hereby amended as follows:

<i>Uses</i>	<i>Notes</i>	<i>NC</i>	<i>RC</i>	<i>C-1</i>	<i>C-2</i>	<i>I</i>
Medical and dental offices, clinics or laboratories, excluding substance abuse clinics	Pharmacies and optical stores are accessory use	P	P	P	P	P
MEDICAL MARIJUANA CENTERS				P		P
MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS				P		P
OPTIONAL PREMISES CULTIVATION OPERATION				P		P
Mini-warehouses for inside storage					P	P

**Section 5. Police Power Finding.** The City Council hereby finds, determines, and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City of Wheat Ridge and the inhabitants thereof.

**Section 6. Authority.** The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S. (concerning

municipal police powers); (v) Section 31-15-501 (concerning municipal power to regulate businesses); (vi) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vii) the powers contained in the City of Wheat Ridge, Colorado Home Rule Charter (the "Charter").

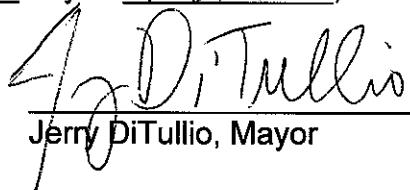
**Section 7. Severability, Conflicting Ordinances Repealed.** If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**Section 8. Effective Date.** This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

**INTRODUCED, READ, AND ADOPTED** on first reading by a vote of 7 to 0 on this 28th day of February, 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 March 14, 2011 at 7:00 p.m., in the Council Chambers, 7500 West 29<sup>th</sup> Avenue, Wheat Ridge, Colorado.

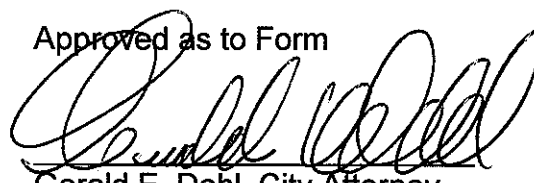
**READ, ADOPTED AND ORDERED PUBLISHED** on second and final reading by a vote of 6 to 0, this 14th day of March, 2011.

**SIGNED** by the Mayor on this 15<sup>th</sup> day of March, 2011.

  
Jerry DiTullio, Mayor

ATTEST:

  
Michael Snow, City Clerk

Approved as to Form  
  
Gerald E. Dahl, City Attorney

First Publication: March 3, 2011  
Second Publication: March 17, 2011  
Wheat Ridge Transcript  
Effective Date: April 1, 2011