

ORDINANCE NO. 3
Series 2020

February 18, 2020: Introduced as Council Bill 2, Series 2020 by Mayor Pro Tem Katy Brown, seconded by Councilor Randy Weil and considered in full text on first reading. Passed by a vote of 5 yes and 0 no.

March 3, 2020: Considered in full text on second reading. Passed by a vote of 6 yes and 0 no.

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING SECTIONS 20-2-20 AND 20-2-130 OF CHAPTER 20 OF THE CHERRY
HILLS VILLAGE MUNICIPAL CODE CONCERNING WIRELESS
TELECOMMUNICATIONS FACILITIES**

WHEREAS, the City of Cherry Hills Village ("City") is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and Article 23, Title 31 of the Colorado Revised Statutes, the City has authority to regulate the development of land within the City for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

WHEREAS, Division 2 of Chapter 20 of the Cherry Hills Village Municipal Code governs tower height and other standards related to wireless telecommunication facilities; and

WHEREAS, the City Council has determined that it is necessary to amend Chapter 20 to clarify language that requires an applicant to demonstrate the need for a wireless communication facility in its proposed location and to facilitate compliance with technical and regulatory requirements by adding limited flexibility in the current tower height limit on public property or public rights-of-way.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Section 20-2-20(b)(3) Amended. Section 20-2-20(b)(3) of the Cherry Hills Village Municipal Code is hereby amended to read as follows, with additions underlined:

(3) To the extent that the applicant provides services under a license granted by a governmental authority, demonstrate that a failure to approve the application will result in the applicant's inability to provide the minimum coverage or capacity it is required to provide pursuant to its license and any applicable law.

Section 2. Section 20-2-130 Amended. Section 20-2-130 of the Cherry Hills Village Municipal Code is hereby amended to read as follows, with additions underlined:

Towers shall not exceed 40 feet in height on private property. Towers may exceed 40 feet in height up to a maximum of 70 feet in height on public property or public rights-of-way, provided that the proposed tower is on a public parcel or public lot adjoining a state highway or is located on a publicly owned parcel or right-of-way that is within 100 feet of a state highway, and provided that the designated decision-maker finds the following criteria have been met:

- a) The proposed structure height is reasonably required to comply with state or federal regulatory changes or needed to overcome technological limitations;
- b) The structure and construction, if applicable, complies with all other standards not specifically waived by the City;

- c) The proposed structure height would have minimal effect upon adjacent properties with respect to solar access, visual access, and rights of privacy, light, and air;
- d) The proposed structure height will not interfere with the City's ability to provide public services to the site at the level currently provided to the City, or at adequate levels per existing City policies and regulations.

Section 3. **Severability.** If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion be declared invalid.

Section 4. **Safety.** This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 5. **Codification Amendments.** The codifier of the City's Municipal Code, Municode, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this ordinance within the Cherry Hills Village Municipal Code.

Section 6. **Effective Date.** This ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

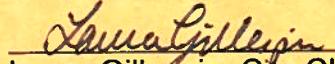
Adopted as Ordinance No. 3 Series 2020, by the City Council of the City of Cherry Hills Village, Colorado this 3rd day of March, 2020.

(SEAL)

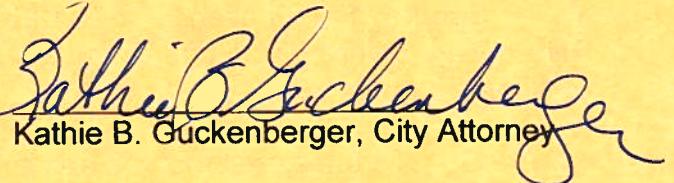


Russell O. Stewart
Russell O. Stewart, Mayor

ATTEST:


Laura Gillespie, City Clerk

APPROVED AS TO FORM:


Kathie B. Guckenberger, City Attorney

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**CITY OF CHERRY HILLS
VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 3, SERIES 2020**

A BILL FOR AN ORDINANCE OF
THE CITY OF CHERRY HILLS
VILLAGE AMENDING SECTIONS
20-2-20 AND 20-2-130 OF CHAP-
TER 20 OF THE CHERRY HILLS
VILLAGE MUNICIPAL CODE CON-
CERNING WIRELESS TELECOM-
MUNICATIONS FACILITIES

Copies of the Ordinances are on
file at the office of the City Clerk
and may be inspected during regu-
lar business hours.

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