

ORDINANCE NO. 7
Series 2020

September 1, 2020: Introduced as Council Bill 7, Series 2020 by Mayor Pro Tem Brown, seconded by Councilor Al Blum and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

September 15, 2020: Considered in full text on second reading. Passed by a vote of 5 yes and 0 no.

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING SECTION 7-1-30, SECTION 7-1-40, AND SECTION 18-11-60
OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE
RELATING TO NOISE NUISANCE AND CONSTRUCTION TIMES
AND AMENDING SECTION 7-3-10 TO CORRECT A CLERICAL ERROR**

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 the Home Rule Charter of the City of Cherry Hills Village ("Charter"); and

WHEREAS, pursuant to its home rule authority, the City has broad authority to adopt and enforce police power regulations to regulate nuisances within the City for the purposes of promoting the public health, safety, convenience, and general welfare of the community; and

WHEREAS, the 2008 Cherry Hills Village Master Plan envisions the City as a safe, low-density, residential community with a historically semi-rural, pastoral, and open character, and indicates the desire of its citizens to maintain that character through the implementation of goals, strategies, and regulations; and

WHEREAS, the Chapter 7, Article 1 of the Cherry Hills Village Municipal Code ("Code") declares that it is a nuisance and unlawful for any person to make, continue, or cause to be made or continued any noise measured or registered from any source exceeding certain levels; and

WHEREAS, the table in Section 7-1-30(4) of the Code that establishes maximum noise levels by zone district does not reference the O-2 Zone District; and

WHEREAS, the use of powered machinery used in routine landscape maintenance, such as lawn mowers and leaf blowers, emits noise levels that typically ranges between 65 to 90 dB(A), and can exceed such levels; and

WHEREAS, the maximum allowed noise levels for residential uses located in residential zone districts as set forth in Section 7-1-30(4) of the Code is 55 dB(A), which effectively prohibits the operation of machinery used in routine lawn mowing and other landscape maintenance activities; and

WHEREAS, the City Council desires to create an exception to noise limits set forth in Section 7-1-30(4) for noise associated with routine lawn mowing and landscape maintenance activities conducted by private individuals and commercial operators on behalf of property owners; and

WHEREAS, Chapter 18, Article 11 of the Code restricts days and times of construction activity, which the City Council finds to be reasonable restrictions on commercial lawn mowing and landscape maintenance activity; and

WHEREAS, the City Council finds that it is reasonable to permit indoor construction activity on federal holidays in the same manner that such activity is currently permitted on Sundays, as set forth in Section 18-11-60(1) of the Code; and

WHEREAS, Section 7-3-10 of the Code incorrectly references a Board of Trustees as the governing body of the City, and should be amended to reflect that the governing body of the City is the City Council.

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

Section 1. The table set forth in Section 7-1-30(4) of the Cherry Hills Village Municipal Code is hereby amended as follows, with additions shown in underline, and portions of such

Section 7-1-30 not amended herein, including footnotes as referenced, shall remain in full force and effect.

Sec. 7-1-30. - Nuisances identified and declared.

(4) Noise: It is declared a nuisance and unlawful for any person to make, continue or cause to be made or continued any noise measured or registered in the manner provided in this Subsection from any source at a level which is in excess of the following dB(A) levels established for the time period and land uses listed below:

Uses/Zone District	Maximum Noise in dB(A)	
Residential uses within <u>Zone</u> Districts R-1, R-2, R-3, R-3A, R-4 and R-5	7:00 a.m. to 7:00 p.m. ¹	55 dB(A)
	All other times	50 dB(A)
Nonresidential uses within <u>Zone</u> Districts R-1, R-2, R-3, R-3A, R-4 and R-5	7:00 a.m. to 9:00 p.m. ²	65 dB(A)
	All other times	50 dB(A)
All uses within the C-1 Zone District	All times	70 dB(A)
All uses within the C-2 Zone District	7:00 a.m. to 7:00 p.m. ¹	60 dB(A)
	All other times	55 dB(A)
All uses within the O-1 <u>and</u> O-2 Zone Districts	<u>All times</u>	60 dB(A)

Section 2. Section 7-1-40 of the Cherry Hills Village Municipal Code is hereby amended to add a new subsection (9) as set forth below, with additions shown in underline, and portions of such Section 7-1-40 not amended herein shall remain in full force and effect.

Sec. 7-1-40. - Exceptions to nuisance.

(9) Noise associated with routine lawn mowing and landscape maintenance activities, provided that noise levels for such activities do not exceed ninety (90) decibels dB(A), and further provided that commercial operators performing routine lawn mowing and landscape maintenance activities are subject to the construction activity day and time restrictions set forth in Section 18-11-60 of this Code. For purposes of this Section 7-1-40(9), "commercial operators" shall mean persons or entities contracting to perform lawn mowing and landscape maintenance activities for monetary gain.

Section 3. Section 18-11-60(1) of the Cherry Hills Village Municipal Code is hereby amended as set forth below, with additions shown in underline and deletions shown in ~~strike-through~~, and portions of such Section 18-11-60 not amended herein shall remain in full force and effect.

Sec. 18-11-60. - Construction times.

(1) Construction activity may be performed subject to the following restrictions:

Day	Hours
Monday through Friday	7 a.m. to 6 p.m.
Saturday	8 a.m. to 4 p.m.
<u>Sunday and federal holidays (observed): New Year's Day; Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day</u>	No outside construction activity permitted at any time. Construction activity occurring within a fully enclosed structure is permitted between the hours of 8 a.m. to 4 p.m.

Day	Hours
Federal holidays (observed): New Year's Day; Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day	No construction activity permitted.

Section 4. Section 7-3-10 of the Cherry Hills Village Municipal Code is hereby amended as set forth below, with additions shown in underline and deletions shown in ~~strikethrough~~.

Sec. 7-3-10. - Undesirable plant management advisory commission designated.

The ~~Board of Trustees~~ City Council is appointed to act as the Undesirable Plant Management Advisory Commission for the City and shall have the duties and responsibilities as provided by state statute.

Section 5. 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.

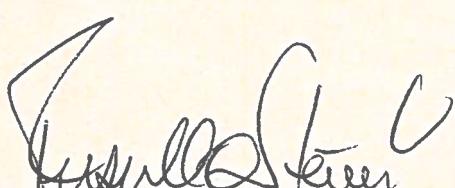
Section 6. Safety. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 7. 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 8. 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.

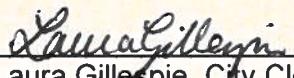
Adopted as Ordinance No. 7 Series 2020, by the City Council of the City of Cherry Hills Village, Colorado this 15th day of September, 2020.

(SEAL)

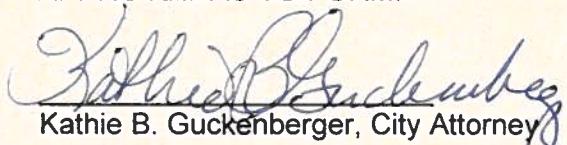


Russell O. Stewart, Mayor

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 7, SERIES 2020	
A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING SEC- TION 7-1-30, SECTION 7-1-40, AND SECTION 18-11-60 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE RELATING TO NOISE NUISANCE AND CONSTRUCTION TIMES AND AMENDING SECTION 7-3-10 TO CORRECT A CERICAL ERROR	
Copies of the Ordinances are on file at the office of the City Clerk and may be inspected during regular business hours.	
Published in The Villager Published: September 24, 2020 Legal # 9877	