

## ORDINANCE NO. 3

### Series 2022

January 4, 2022: Introduced as Council Bill 1, Series 2022 by Mayor Pro Tem Katy Brown, seconded by Councilor Al Blum and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

February 1, 2022: 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 ARTICLES II, VII, AND IX OF CHAPTER 16 OF THE CHERRY  
HILLS VILLAGE MUNICIPAL CODE CONCERNING ZONING REGULATIONS  
PERTAINING TO SHORT-TERM RENTALS, DISCRETIONARY APPROVALS,  
PUBLIC NOTICE REQUIREMENTS FOR DEVELOPMENT AND SUBDIVISION  
APPLICATIONS, DEFINITIONS IN THE ZONING CODE, AND CORRECTING A  
SCRIVENER'S 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

**WHEREAS**, pursuant to its home rule authority and Article 23, Title 31 of the Colorado Revised Statutes, the City is authorized 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**, pursuant to the authority outlined herein, the City Council established zoning regulations codified in Chapter 16 of the Cherry Hills Village Municipal Code ("Municipal Code"); and

**WHEREAS**, pursuant to Ordinance 7, Series 2019, the City Council repealed and replaced Chapter 16 of the Municipal Code to modernize that chapter, resolve internal inconsistencies, make the chapter more accessible, and resolve potential misunderstandings regarding its application; and

**WHEREAS**, pursuant to Section 16-7-40(b)(11) of the Municipal Code, after reviewing and applying the new Chapter 16, the Community Development Director ("Director") has identified and recommends the amendments proposed herein to provide additional clarity, precision, and consistency in the application of that chapter; and

**WHEREAS**, pursuant to Section 16-7-40(b)(11) of the Municipal Code, the Director further recommends revisions to the public notice requirements for the review of development and subdivision applications to simplify such requirements; and

**WHEREAS**, at a meeting held on December 14, 2021, pursuant to Section 16-7-130 of the Municipal Code, P&Z recommended that City Council approve the amendments proposed by the Director with certain modifications, which are reflected in this Ordinance; and

**WHEREAS**, pursuant to Section 16-7-10(d)(1)b. of the Municipal Code, and in consideration of the health, safety, and welfare of the public, the City Council desires to amend Chapter 16 of the Municipal Code as set forth herein.

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

Section 1. Section 16-2-740 of the Municipal Code, entitled *Short-term rentals*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

**Sec. 16-2-740. – Short-term rentals.**

Short-term rentals (terms of less than thirty (30) days) of a single-family dwelling units or ~~accessory dwelling units~~ a guest house ~~is~~ are prohibited. Solicitation, advertising, or rental of a single-family dwelling unit or ~~accessory dwelling unit~~ a guest house for the purpose of holding a



party, special event, social gathering, wedding, or similar use shall be considered a commercial use of the property and is also prohibited.

Section 2. Sub-section (a) of Section 16-7-130 of the Municipal Code, entitled *Discretionary approvals*, is hereby amended to read as follows, with additions shown in underline:

**Sec. 16-7-130. – Discretionary approvals.**

(a) Generally. Discretionary approvals and permits are issued by the City after compliance with applicable requirements of this Chapter is demonstrated to the decision-maker(s) at a hearing. Discretionary approvals from City Council shall be by resolution.

Section 3. Sub-sections (c), (d), (e), and (f) of Section 16-7-255 of the Municipal Code, entitled *Public Notice*, including Table 16-7-255C, entitled *Types of Public Notice*, and Table 16-7-255D, entitled *Required Public Notice by Application Type*, are hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~, and with the remainder of Section 16-7-255 to remain intact:

**Sec. 16-7-255. – Public notice.**

(c) Types of Public Notice. Table 16-7-255C, *Types of Public Notice*, sets out standardized requirements for publication, posting, and mail notice that are used for different application types and different phases of the application process. The types of notice that are set out in the table are used to establish notice requirements for each type of application in Table 16-7-255D, *Required Public Notice by Application Type*. Applicant shall pay all costs associated with notice.

Table 16-7-255C Types of Public Notice			
Type of Notice	When Required	Frequency or Duration	Other Requirements
Publication (PUB)			
PUB.4	At least 15 <u>calendar</u> days before public hearing	1 publication	NA
<del>PUB.2</del>	<del>At least 7 days before</del> public hearing	<del>1 publication</del>	NA
Posting (PO)			
PO.4	At least 15 <u>calendar</u> days before public hearing	Post until public hearing commences	NA
Mail (ML)			
<del>ML.1</del>	<del>At least 10 days before</del> public hearing	<del>1 mailing</del>	<del>Mail notice must be sent to all adjacent property owners and property owners directly across streets, alleys, trails, or ditches from the subject property.</del>
ML.2	At least 15 <u>calendar</u> days before public hearing	1 mailing	Mail notice must be sent to all property owners within 1,0 <u>5</u> 00 feet of the boundaries of the subject property.

(d) Type of Public Notice Required by Application Type. Table 16-7-255D, *Required Public Notice by Application Type*, sets out the notices that are required at each state of processing for each type of application for which notice is required.

Table 16-7-255D Required Public Notice by Application Type			
Application Type	Form of Required Public Notice for		
	Director or Floodplain Director Review	Board or Commission Review	Council Review (Where Applicable)
Land Use/Zoning			
Conditional Use Permit	N/A	PUB.4; PO.4; ML.2	PUB.4; PO.4; ML.2



Rezoning	N/A	PUB.-4; PO.-4; ML. 2	PUB.-4; PO.-4; ML.-2
Major Special Event Permit	N/A	PUB.-4; PO.-4; ML. 2	PUB.-4; PO.-4; ML.-2
Site Development			
Site Plan or Site Plan Amendment	N/A	<u>PUB., PO., ML.</u>	<u>PUB., PO., ML.</u>
Development Agreement	N/A	By type of approval associated with the development agreement; As provided in Sec. 16-7-430. <i>Special Notice Requirements</i> , if vested rights are requested	
Floodplain Development Permit	See Sec. 16-7-360. <i>Floodplain Development Permit</i>	N/A	See Sec. 16-7-360. <i>Floodplain Development Permit.</i>
Vacation/Abandonment			
Vacation of Easement or Right- of-Way	N/A	See Sec. 11-5-55, <i>Notice. Cherry Hills Village Municipal Code</i>	<u>See Sec. 11-5-55, Notice.</u>
Amendments			
Text Amendment to Chapter 16	N/A	N/A	N/A
Master Plan Amendment	N/A	PUB.-4	PUB.-4
Relief			
Administrative Modification to Bulk Plane Requirement	See Sec. 16-7-510, <i>Administrative Modification to Bulk Plane Requirement</i>	N/A	N/A
Variance	N/A	PO.-4; ML.-4	N/A
Floodplain Variance	N/A	<u>PUB., PO., ML.</u>	<u>PUB., PO., ML.</u>
Administrative Appeal	N/A	PO.-4; ML.-4	N/A
Subdivision			
<u>Sketch Plat</u>	<u>N/A</u>	<u>See Sec. 17-3-40, Sketch Plat and Submittal</u>	<u>N/A</u>
<u>Preliminary Plat</u>	<u>N/A</u>	<u>PO., PUB., ML</u>	<u>PO., PUB., ML</u>
<u>Final Plat</u>	<u>N/A</u>	<u>N/A</u>	<u>PO., PUB., ML</u>
<u>Minor Subdivisions and Amended Plats</u>	<u>N/A</u>	<u>PO., PUB., ML</u>	<u>PO., PUB., ML</u>
<u>Subdivision Renaming</u>	<u>N/A</u>	<u>PO., PUB., ML</u>	<u>PO., PUB., ML</u>
<u>Lot Consolidation and Minor Lot Adjustment</u>	<u>See Sec. 17-6-60, Director's decision and appeal</u>	<u>N/A</u>	<u>N/A</u>
Vested Rights			
Vested rights	N/A	As provided in <u>See Sec. 16-7-430, Special Notice Requirements.</u>	

(e) Standards for Required Notices.

(1) Publication. Published notice shall be printed in a newspaper of general circulation in the City of Cherry Hills Village and provided on the City of Cherry Hills Village website.

(2) Posting. Posted notice shall be on a sign in a form approved by the City and installed by the applicant.

(3) Mail. Mailed notice shall be delivered via first class U.S. Mail and sent by the applicant.

(f) Optional Notices.

(1) Electronic Mail. Electronic mail notice may be delivered to an opt-in distribution list that is created for the purpose of notifying people about applications for approvals and permits in the City. Electronic mail notice shall include the subject line "PUBLIC NOTICE OF PROPOSED DEVELOPMENT," and the statement in the body of the e-mail that "Electronic mail notice is provided as a courtesy to opt-in subscribers.



Failure of an e-mail communication to reach a subscriber does not constitute failure of public notice."

(2) ~~Reserved. Internet. Internet notice may be posted on the official web site of the City, on a page or pages that are designated for such notices. However, internet notice is also provided as a courtesy and is not official notice. Therefore, failure of internet notice shall not constitute a failure of public notice.~~

Section 4. Sub-section (c)(1) of Section 16-7-360 of the Municipal Code, entitled *Floodplain development permit*, is hereby amended to read as follows, with deletions shown in strikethrough:

**Sec. 16-7-360. – Floodplain development permit.**

(c)(1) The bank stabilization design and/or description of dredging procedures (as applicable) shall follow all applicable regulations of the Arapahoe County Stormwater Management Manual ("ACSM") and Urban Drainage and Flood Control District ("UDFCD") criteria, and, with regard to dredging of ponds and lakes, the state dam safety requirements, as each of them may be amended from time to time.

Section 5. Section 16-9-130 of the Municipal Code, entitled *Definitions*, is hereby amended to read as follows, with additions shown in underline and deletions shown in strikethrough:

**Sec. 16-9-130. - Definitions.**

*Accessory structure* means a detached subordinate structure located on the same lot as a principal building ~~structure~~, the use of which is customary and incidental to the use of the principal building ~~structure~~. Examples of accessory structures include, but are not limited to, gazebos, pergolas, and agricultural or livestock structures, where permitted. Swimming pools, and tennis courts (when not enclosed), detached patios (when not enclosed), and built-in fireplaces and barbeque grills shall not be considered accessory structures, except for setback requirements. The phrase "accessory structure" does not include the phrase "landscape feature."

*Principal structure* means the one structure that facilitates the primary use of the property. Examples of a principal structure include, but are not limited to, a single-family home, a church, a clubhouse, or a school.

*Short-term rental* means the renting or leasing of a single-family detached dwelling unit for a term of less than ~~ninety (90)~~ thirty (30) consecutive days, other than a house exchange for which there is no payment. The phrase "short-term rental" does not include month-to-month tenancies that immediately follow lease terms of ~~ninety (90)~~ thirty (30) days or more.

Section 6. 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 7. Safety. This Ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

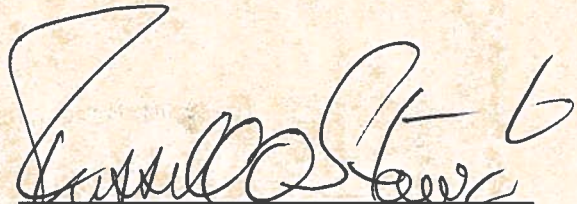
Section 8. Codification Amendments. The codifier of the City's Municipal Code, Municode, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Cherry Hills Village Municipal Code.

Section 9. 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 2022, by the City Council of the City of Cherry Hills Village, Colorado this 1<sup>st</sup> day of February, 2022.




(SEAL)

  
Russell O. Stewart, Mayor

ATTEST:

  
Laura Gillespie, City Clerk

Approved as to form:

  
Kathie B. Guckenberger, City Attorney

Published in the Villager

Published: 2-10-22

Legal #: 10625

**CITY OF CHERRY HILLS  
VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 3, SERIES 2022**

**A BILL FOR AN ORDINANCE OF  
THE CITY OF CHERRY HILLS  
VILLAGE AMENDING ARTICLES  
II, III, VII, AND IX OF CHAPTER  
16 OF THE CHERRY HILLS  
VILLAGE MUNICIPAL CODE  
CONCERNING ZONING REGULA-  
TIONS PERTAINING TO HORSES  
AND EQUESTRIAN FACILITIES,  
SHORT-TERM RETALS, AC-  
CESSORY BUILDINGS AND  
STRUCTURES, DISTRECTIONARY  
APPROVALS, PUBLIC NOTICE  
REQUIREMENTS FOR DEVEL-  
OPMENT AND SUBDIVISION  
APPLICATIONS, DEFINITIONS  
IN THE ZONING CODE, AND  
CORRECTING A SCRIVENER'S  
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: February 10, 2022  
Legal # 10625