

**ORDINANCE NO. 5**  
**Series 2016**

June 7, 2016: Introduced as Council Bill 5, Series 2016 by Councilor Alex Brown, seconded by Councilor Mark Griffin and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

June 19, 2016: Considered in full text on second reading. Tabled for further consideration.

August 2, 2016: 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 SECTION 16-2-40 OF CHAPER 16 OF THE MUNICIPAL CODE CONCERNING  
PROCEDURES FOR TEXT AMENDMENTS AND REZONING OF PROPERTY AND ADDING  
A DEFINITION OF TEXT AMENDMENT TO SECTION 16-1-10 OF THE MUNICIPAL CODE**

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

WHEREAS, pursuant to its Home Rule Charter and Title 31, Article 23 of the Colorado Revised Statutes, the City is authorized to adopt regulations governing the development of property within the boundaries of the City to further the health, safety and welfare of the citizens of the community; and

WHEREAS, the City Council has adopted zoning and land use regulations codified in Chapter 16 of the Cherry Hills Village Municipal Code, and has adopted an official zoning map for the City; and

WHEREAS, in accordance with Section 16-2-40 of the Municipal Code, the City Council desires to modify and update the procedures for amending the zoning map and making "text" changes to Chapter; and

WHEREAS, the Planning and Zoning Commission has considered such amendments and has recommended approval of the same to City Council; and

WHEREAS, the City Council conducted a duly noticed public hearing to consider the proposed amendments as set forth in this Ordinance.

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

**Section 1.** Section 16-2-40 of the Cherry Hills Village Municipal Code, entitled "Amendments", is hereby repealed and reenacted to read as follows:

**Sec. 16-2-40. Amendments.**

(a) Amendments to Zoning Map and Text Amendments. Amendments to this Chapter or any section thereof (a text amendment) may be initiated by the City Council or by the Planning and Zoning Commission. Amendments to the official zoning map for a specific parcel, lot or property (a rezoning) may be initiated by application from a property owner seeking to rezone such owner's property in the City or by City Council by making application therefor on such a form as the Planning and Zoning Commission may prescribe.

(1) Rezoning Application. A rezoning application shall be filed with the Community Development Department, together with payment of the applicable fee. The following application materials are required for an application for rezoning:

a. Description of the land area to be rezoned and the requested new classification, along with a sketch, to scale, showing the boundaries of the area requested to be rezoned, along with the existing zoning on all adjacent sides of the area.

b. A statement of justification for the rezoning, including discussion of such of the following conditions as are applicable:

1. Change in area conditions;
2. Error in original zoning;
3. Conformance to the Master Plan for the area; and
4. Suitability of the site to the proposed use.

c. Description and sketches, if available, of structures or uses proposed if rezoning is granted, along with a description of uses within two hundred (200) feet of the boundary of the proposed area of change, in all directions, and the effect of the proposed use upon the adjacent areas.

d. Time schedule for any contemplated new construction or uses.

(2) **Text Amendment Application.** The City Council may amend any provision of this Chapter in its sole legislative discretion, subject to the limitations of the Colorado statutes that affect home rule municipalities and the Colorado and United States Constitutions.

(b) **Referral to Planning and Zoning Commission.** All applications for text amendments shall be referred to and considered by the Planning and Zoning Commission at a duly noticed meeting. All applications for rezonings shall be referred to and considered by the Planning and Zoning Commission at a duly noticed public hearing as prescribed in Section 16-2-40(c). The Planning and Zoning Commission shall examine the rezoning proposal or text amendment and its conformity to the intent of this Chapter and to the City's master plan. A recommendation shall then be made to the City Council, along with reasons therefor.

(c) **City Council Public hearing process.**

(1) The City Council shall hold a public hearing before any rezoning or text amendment is enacted through adoption of an ordinance by the City Council. Public notice of the time and place of such public hearing shall be published at least fifteen (15) days prior thereto, in one (1) newspaper with general circulation in the City and describing generally the matters involved in the proposed text amendment or rezoning.

(2) For rezonings, in addition to newspaper publication, the applicant shall send written notices of the public hearing to all property owners located within a radius of one thousand (1,000) feet from all points on the perimeter of the subject property. Said notice must contain a typewritten identical copy of that notice required to be posted in the Village Center, and shall be mailed by certified mail and regular U.S. mail at least fifteen (15) days prior to the scheduled public hearing. In addition, any proposed rezoning must be advertised by a posted notice at least two (2) feet by three (3) feet in size and with a caption "NOTICE OF PUBLIC HEARING" or similar language, with each letter of the caption at least two (2) inches in height, containing the same data as above, posted continuously for at least fifteen (15) days prior to the hearing and located on the subject property in a conspicuous location clearly visible from an adjoining roadway, if practical.

(3) The standard for compliance with the notice provisions of this Section shall be substantial compliance. The City Manager shall determine if substantial compliance with these provisions has been demonstrated and that administrative decision shall be final and binding. In the event the City Manager determines that the notice does not meet the substantial compliance standard, such noticed hearing shall be vacated and the matter re-noticed.

(d) **Enactment.** Such an amendment to be enacted shall receive the affirmative vote of the majority of the membership of the entire City Council.

(e) **Certification of the amendment.** If an amendment should receive the required vote for adoption by the City Council, a certified copy of the amendment shall then be filed with the City Clerk. Rezonings shall be documented on the City's official zoning map.

**Section 2.** A definition of the term "text amendment" shall be added to Section 16-1-10 of the Cherry Hills Village Municipal Code, to read in its entirety as follows:

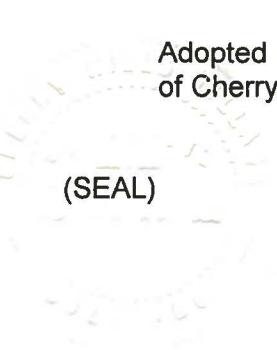
*Text amendment* means any amendment to the text of this Chapter or any section thereof initiated by the City Council or the Planning and Zoning Commission in accordance with Section 16-2-40(a) of this Chapter.

**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 would be declared invalid.

**Section 4. Effective Date.** This Ordinance shall become effective ten (10) days after publication on second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 5, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado this 2<sup>nd</sup> day of August, 2016.

(SEAL)

  
  
 Laura Christman, Mayor

ATTEST:

  
 Laura Smith, City Clerk

APPROVED AS TO FORM:

  
 Linda C. Michow, City Attorney

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**CITY OF CHERRY HILLS VILLAGE  
 ADOPTION OF ORDINANCE  
 ORDINANCE 5, SERIES 2016**

A BILL FOR AN ORDINANCE OF  
 THE CITY OF CHERRY HILLS  
 VILLAGE AMENDING SECTION  
 16-2-40 OF CHAPTER 16 OF THE  
 MUNICIPAL CODE CONCERNING  
 PROCEDURES FOR TEXT  
 AMENDMENTS AND REZONING  
 OF PROPERTY AND ADDING A  
 DEFINITION OF TEXT AMEND-  
 MENT TO SECTION 16-1-10 OF  
 THE MUNICIPAL CODE

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

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