

ORDINANCE NO. 5

Series 2023

June 6, 2023: Introduced as Council Bill 5, Series 2023 by Mayor Pro Tem Randy Weil, seconded by Councilor Earl Hoellen and considered in full text on first reading. Passed by a vote of 5 yes and 0 no.

June 20, 2023: 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, COLORADO REPEALING AND REPLACING SECTION 4-4-30 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING LOCAL RETAIL SALES TAX LICENSES

WHEREAS, the City of Cherry Hills Village, Colorado ("City") is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales taxes is clearly within the constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City; and

WHEREAS, pursuant to such authority, the City has adopted and enacted a Sales Tax Code (the "Code"), under which the City imposes a sales tax for the privilege of selling tangible personal property at retail upon every vendor engaged in business in the City, unless prohibited, under the Constitution or laws of the United States or as set forth in Chapter 4, Article IV of the Cherry Hills Village Municipal Code ("Municipal Code"); and

WHEREAS, pursuant to Senate Bill 22-032, and as a matter of statewide concern, the Colorado General Assembly prohibited local taxing jurisdictions from requiring retailers to apply separately for a local license to make retail sales in such jurisdictions if such retailers have a state standard retail license and either do not have physical presence or have only incidental physical presence within the local taxing jurisdiction, effective July 1, 2023, as set forth in C.R.S. Section 39-26-802.9; and

WHEREAS, the City Council has determined that modifying the sales tax licensing provisions in the Municipal Code to conform to Senate Bill 22-032 is in the City's best interest.

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

Section 1. Recitals Incorporated. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. Section 4-4-30 Repealed and Replaced. Section 4-4-30 of the Cherry Hills Village Municipal Code, entitled "License Required," is hereby repealed and replaced to read as follows:

Sec. 4-4-30. - License required.

(a) It is unlawful for any person Engaged in Business in the City to sell Tangible Personal Property at retail without first having obtained a License therefor.

(b) Such License shall be granted upon the occurrence of one of the following:

1. For Vendors that have physical presence in the City, as defined in Title 39, Article 26 of the Colorado Revised Statutes, as amended, the City's receipt of a Sales Tax License Application stating the name and address of the Vendor desiring such a License, the name and location of the Business within the City, and such other facts as the City may require pursuant to Section 4-4-20 of this Code, together with payment of a fee in the amount, if any, established by City Council resolution.

2. For Vendors that have been issued a state standard retail license and that either do not have a physical presence within the City or that only have incidental physical presence in the City as defined in Title 39, Article 26 of the Colorado Revised Statutes, as amended, the City's receipt of information from the Colorado Department of Revenue deemed sufficient by the Finance Director pursuant to Section 4-4-20 of this Code. The

City may, in its sole discretion, decide not to grant such a License to a Vendor if the City has previously revoked such a License due to the Vendor's violation of this Code. The City will not require any application fee for Licenses issued pursuant to this sub-section (b)(2).

(c) Such License shall be granted and issued by the City and shall be in force and effect until such License is revoked or cancelled pursuant to this Article.

(d) Licenses issued pursuant to this Article IV shall contain information required by the Finance Director pursuant to Section 4-4-20 of this Code. If Business is transacted at two (2) or more separate premises within the City by one (1) Vendor, a single License setting forth the Vendor's places of Business within the City shall be sufficient. No License shall be transferable.

(e) Vendors Engaged in Business in the City solely pursuant to Section 4-4-210 (j) or 4-4-210 (k) are exempt from the requirements of this Section 4-4-30.

(f) Any person Engaged in Business in the City and selling Tangible Personal Property at retail in the City, without having secured a License therefor, except as specifically provided herein, shall be guilty of an offense.

(g) The Finance Director may cancel any License upon written notice from the Vendor that the Vendor is no longer Engaged in Business in the City. The Finance Director may, after giving reasonable notice and after hearing, revoke the License of any person found by the City to have violated any provisions of this Article.

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.

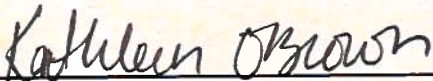
Section 4. Safety. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

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.

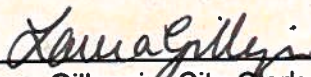
Section 7. Effective Date. This ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 5 Series 2023, by the City Council of the City of Cherry Hills Village, Colorado this 20th day of June, 2023.

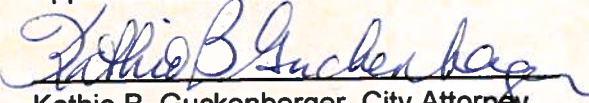
(SEAL)


Kathleen Brown, 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 5, SERIES 2023

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OF THE CITY OF CHERRY
HILLS VILLAGE, COLORADO,
REPEALING AND REPLACING
SECTION 4-4-30 OF THE
CHERRY HILLS VILLAGE
MUNICIPAL CODE CONCERNING
LOCAL RETAIL SALES TAX
LICENSES

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

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