

ORDINANCE NO. 12

Series 2023

November 21, 2023: Introduced as Council Bill 12, Series 2023 by Mayor Pro Tem Randy Weil, seconded by Councilor Robert Eber, and considered in full text on first reading. Passed by a vote of 4 yes and 0 no.

December 6, 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 REPEALING ARTICLE VII OF CHAPTER 7 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING REGULATION OF UNMANNED AIRCRAFT SYSTEMS

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, the Federal Aviation Administration ("FAA") has the exclusive authority to regulate aviation safety and the efficient use of the airspace by aircraft; and

WHEREAS, the FAA continues to integrate unmanned aircraft systems ("UAS"), commonly known as drones, into the FAA's airspace regulatory authority and system of airspace regulation; and

WHEREAS, on July 14, 2023, the FAA Office of the Chief Counsel and United States Department of Transportation Office of the General Counsel issued an updated document titled, "State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet" ("FAA Fact Sheet"); and

WHEREAS, according to the FAA's UAS regulations, the FAA Fact Sheet, and recent judicial precedent, the FAA's regulations of UAS operations preempt local government UAS regulations if the local government's regulation conflicts with a FAA regulation or attempts to regulate in a field that is entirely occupied by the FAA and further, local governments may not enforce local regulations that mimic FAA regulatory requirements; and

WHEREAS, local government regulations may affect UAS operations without being subject to preemption if the local government is not acting to regulate aviation safety or airspace efficiency and only seeks to advance other objectives, such as the exercise of the local government's police powers, without impairing the reasonable use of airspace by a UAS; and

WHEREAS, the City Council desires to repeal Article 7 of Chapter 7 of the City's Municipal Code pursuant to the FAA's exclusive authority to regulate aviation safety and the efficient use of the airspace by aircraft while reserving its right to enforce other existing local regulations and to otherwise regulate conduct related to UAS operations in accordance with federal law as may be required to protect and preserve the health, safety, and welfare of its citizens.

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

Section 1. Article VII of Chapter 7 of the Cherry Hills Village Municipal Code, entitled "Regulation of Unmanned Aircraft Systems," is hereby repealed in its entirety.

Section 2. Repeal. Existing ordinances or parts thereof covering the same matters as embraced in this ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict or inconsistent with the provisions of this ordinance are hereby repealed provided, however, that the repeal of any ordinance or parts of ordinances of the City of Cherry Hills Village shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded, and further provided that this repeal shall not affect the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.

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.

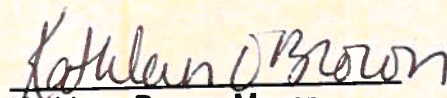
Section 4. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City of Cherry Hills Village, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 5. The codifier of the City's Municipal Code, Municode, is hereby authorized and directed to make such changes as may be necessary to the Cherry Hills Village Municipal Code to reflect the effect of this ordinance therein.

Section 6. 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. 12, Series 2023, by the City Council of the City of Cherry Hills Village, Colorado, this 6th day of December, 2023.

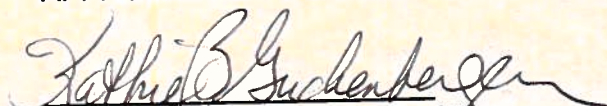
(SEAL)


Kathleen Brown, Mayor

ATTEST:


Laura Gillespie, City Clerk

APPROVED AS TO FORM:


Kathie B. Guckenberger, City Attorney

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