

ORDINANCE NO. 10

Series 2013

May 21, 2013: Introduced as Council Bill 9, Series 2013 by Councilor Katy Brown, seconded by Councilor Klasina VanderWerf and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

June 4, 2013: 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 PROVISIONS OF THE MUNICIPAL CODE TO INCREASE THE
MAXIMUM FINE FOR MUNICIPAL ORDINANCE VIOLATIONS TO THE AMOUNT
AUTHORIZED BY SECTION 13-10-113, C.R.S., AS AMENDED**

WHEREAS, the City of Cherry Hills Village is a home rule municipal corporation created and organized pursuant to Article 20 of the Colorado Constitution and the Home Rule Charter of the City of Cherry Hills Village; and

WHEREAS, by virtue of Section 7.1 of the City's Home Rule Charter ("Charter") and Article IV of Chapter 2 of the Municipal Code, the City has established a municipal court of record to hear all alleged violations arising under the Charter or the ordinances of the City; and

WHEREAS, pursuant to Section 7.1(c) of the Charter, the City Council has authority to provide for the enforcement of its ordinances by fine, imprisonment, or both, within the limits set by State law; and

WHEREAS, by adoption of House Bill 13-1060, the State has recently amended Section 13-10-113, C.R.S., to increase the maximum fine amount which a municipal court may impose for violation of a municipal ordinance; and

WHEREAS, the previous maximum authorized penalty which the municipal court could impose for violation of the ordinances of the City was one thousand dollars (\$1,000.00); and

WHEREAS, the City desires to increase the maximum penalty which the municipal court may impose, in its discretion, to conform to State law, as is contemplated by the Charter; and

WHEREAS, the maximum fine limit is set forth in numerous sections of the Municipal Code, all of which are amended as set forth herein.

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

Section 1. Section 1-4-20(a) of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in all caps and deletions shown in strike-through:

(a) Any person who violates or fails to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding ~~one thousand dollars (\$1,000.00)~~ TWO THOUSAND SIX HUNDRED FIFTY DOLLARS (\$2,650.00), AS SHALL BE ADJUSTED FOR INFLATION ON JANUARY 1, 2014, AND ON JANUARY 1 OF EACH YEAR THEREAFTER BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX, or by imprisonment for a period of not more than one (1) year, or by both such fine and imprisonment, except as provided by Section 1-4-30 below.

Section 2. Section 1-4-30(a) of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in all caps and deletions shown in strike-through:

(a) Notwithstanding any provision of this Code to the contrary, any person who is at least ten years of age but under the age of eighteen (18) years of age as of the date of the violation shall be punished by a fine NOT EXCEEDING THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~of not more than one thousand dollars (\$1,000.00)~~ per violation or count and shall not be subject to imprisonment in a jail, lock-up or other place used for the confinement of adult offenders, but may be held in a juvenile detention facility operated or contracted by the DIVISION OF YOUTH CORRECTIONS ~~Department of Institutions~~ or a temporary holding facility operated by or under contract with the City, which shall receive and provide care for such child, unless such imprisonment is for failure to comply with the lawful order of the court or for contempt of court.

Section 3. Section 7-1-90(c)(2) of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in all caps and deletions shown in strike-through:

(2) Fine the defendant for each violation an amount not less than two hundred fifty dollars (\$250.00) nor more than THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~one thousand dollars (\$1,000.00)~~ for the first violation, not less than four hundred dollars (\$400.00) nor more than THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~one thousand dollars (\$1,000.00)~~ for the second violation, and not less than five hundred dollars (\$500.00) nor more than THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~one thousand dollars (\$1,000.00)~~ for the third and for each subsequent violation for the same nuisance. No portion of any minimum fine may be suspended or held in abeyance by the Court;

Section 4. Section 7-5-610(b) is amended to amend the second sentence only to read as follows with additions shown in all caps and deletions shown in strike-through:

(b) The maximum fine shall not exceed THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~one thousand dollars (\$1,000.00)~~ for any one (1) offense, each day constituting a separate offense.

Section 5. Section 10-11-30(b)(4) of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in all caps and deletions shown in strike-through:

(4) In addition to any other penalties that may exist under state, federal and local laws, violation of this Section shall be punishable by a fine not exceeding THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~one thousand dollars (\$1,000.00)~~, or by imprisonment not exceeding one (1) year, or both such fine and imprisonment, as set forth in Section 1-4-20 of this Code.

Section 6. Subsection (1) of Section 18-9-20 of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in all caps and deletions shown in strike-through:

(1) A fine of not more than THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~one thousand dollars (\$1,000.00)~~ for any one (1) offense, each day after a ticket is given constituting a separate offense, or

Section 7. Section 19-1-140(c) of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in all caps and deletions shown in strike-through:

(c) Any person who knowingly makes, authorizes, solicits, aids, or attempts to make any false statement, representation or certification in any hearing, or in any permit application, record, report, plan or other document filed or required to be maintained pursuant to this Chapter, or who falsifies, tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing method, or testing samples permitted or required under this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed THE MAXIMUM FINE AUTHORIZED IN SECTION 1-4-20 OF THIS CODE ~~one thousand dollars (\$1,000.00)~~ per day for each violation and/or imprisonment not to exceed one (1) year or both.

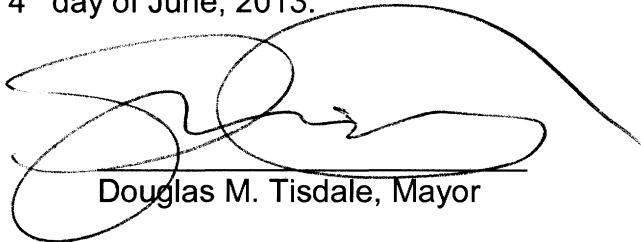
Section 8. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining 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 9. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 10. 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. 10 Series 2013, by the City Council of the City of Cherry Hills Village, Colorado this 4th day of June, 2013.

(SEAL)



Douglas M. Tisdale, Mayor

ATTEST:

Laura Smith
Laura Smith, City Clerk

APPROVED AS TO FORM:

Linda Michow
Linda Michow, City Attorney

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CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 10, SERIES 2013

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CITY OF CHERRY HILLS VILLAGE
AMENDING PROVISIONS OF THE
MUNICIPAL CODE TO INCREASE
THE MAXIMUM FINE FOR MUNICIPAL
ORDINANCE VIOLATIONS TO THE
AMOUNT AUTHORIZED BY SECTION
13-10-113, C.R.S., AS AMENDED

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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