

**ORDINANCE NO. 6**  
**Series 2009**

May 5, 2009: Introduced as Council Bill 7, Series 2009 by Councilmember Scott Roswell, seconded by Councilmember Mark Griffin, and considered by the title only on first reading. Passed by a vote of 6 yes and 0 no.

June 2, 2009: 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 16-16-130 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE,**  
**CONCERNING WIRELESS COMMUNICATIONS FACILITIES,**  
**BY AMENDING SUBSECTIONS 16-16-130(e)(2) AND (3),**  
**CONCERNING WIRELESS COMMUNICATIONS FACILITIES**  
**IN THE PUBLIC RIGHTS-OF-WAY**

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

WHEREAS, the demand by citizens for new wireless communications services has produced an increased need for installation of wireless antennas and wireless communication facilities to serve the public, including the citizens of the City of Cherry Hills Village; and,

WHEREAS, wireless communication facilities are supportive of the public health, safety and welfare in that they provide useful portable communication services for personal convenience, business and emergency purposes; and,

WHEREAS, the Federal Telecommunications Act of 1996 (TCA) preserves local zoning authority to reasonably regulate wireless communications facilities subject to certain limited exceptions; and

WHEREAS, the City of Cherry Hills Village addresses zoning regulations governing wireless communications facilities in Section 16-16-130 of the Cherry Hills Village Municipal Code ("Municipal Code"); and

WHEREAS, the City of Cherry Hills Village has determined that the specific provisions of the Municipal Code addressing location of wireless communications facilities on poles in the public rights-of-way may not permit certain kinds of facilities that the Village would otherwise wish to encourage, in order to minimize the need for new stand-alone facilities and meet the other goals of Section 16-16-130; and

WHEREAS, there is a need to revise Subsections 16-16-130(e)(2) and (3) of the Municipal Code to address this issue.

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

Section 1. That Subsections 16-16-130(e)(2) and (3) of the Cherry Hills Village Municipal Code, concerning the placement of wireless communications facilities in the public rights-of-way, are hereby amended to read as follows:

16-16-130.

(e) Wireless communication facilities in public rights-of-way: Subject to the City's permitting process, wireless communication facilities located solely within public rights-of-way shall be permitted by administrative action, based upon the following criteria:

(1) The facilities must be placed on existing poles, upon replacement poles of the same dimensions, or upon replacement poles of a dimension that would otherwise be permitted under existing regulations for any utility operating in the City.

(2) Any necessary wiring or cabling shall be located within the pole, or if not technically feasible, located within fully enclosed sheathing attached to the pole. Such sheathing shall be of the same color as the pole, shall be limited in size to that necessary to cover the wiring or cabling, and may not extend out from the pole more than three (3) inches.

(3) The area of the facilities on any pole other than sheathing enclosing wiring or cabling described in subsection (2) above may not exceed fifteen (15) square feet, the facilities add no more than ten (10) feet of additional height to the pole, and do not project outward in any direction a distance of more than twenty-four (24) inches.

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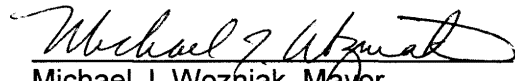
(4) Any ground equipment shall be buried or screened by landscaping approved by the City. The owner of the facilities shall maintain such landscaping.

(5) Notwithstanding the administrative approval set forth in this Subsection, if an applicant is proposing to add to the total number of poles located in the area impacted by its application, or if the request does not otherwise meet the criteria contained in this Subsection, the request shall require a conditional use permit.

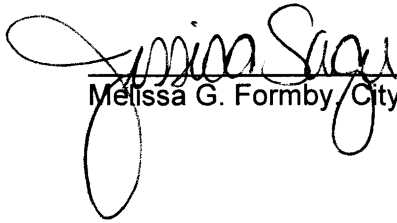
Section 2. Effective date. This Ordinance shall become effective ten (10) days after publication on second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

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.

Adopted as Ordinance No. 6 Series 2009, by the City Council of the City of Cherry Hills Village, Colorado this 2<sup>nd</sup> day of June, 2009.

  
Michael J. Wozniak, Mayor

ATTEST:

  
Melissa G. Formby, City Clerk

APPROVED AS TO FORM:

  
Kenneth S. Fellman, City Attorney

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Legal # 2315

**CITY OF CHERRY HILLS VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 06, SERIES 2009**

A BILL FOR AN ORDINANCE AMENDING SECTION 16-16-130 OF THE MUNICIPAL CODE CONCERNING WIRELESS COMMUNICATION FACILITIES, BY AMENDING SUBSECTION (E)(2) AND (3), CONCERNING WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY

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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