

ORDINANCE NO. 04
Series 2007

January 16, 2007: Introduced as Council Bill 01, Series 2007 by Councilmember Doug Tisdale, seconded by Councilmember Bonnie Blum, and considered by the title only on first reading. Passed unanimously.

February 20, 2007: Considered in full text on second reading. Passed unanimously.

A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING CHAPTER 7 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE,
CONCERNING HEALTH, SANITATION & ANIMALS,
BY AMENDING SECTION 7-1-30(4), CONCERNING NOISE

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 City of Cherry Hills Village is authorized to regulate land uses for property within the boundaries of the City and to regulate the creation of noise, all in support of the health, safety and welfare of the citizens of the City of Cherry Hills Village; and

WHEREAS, Section 7-1-30 of the City of Cherry Hills Village Municipal Code identifies and declares certain conditions, events or circumstances that are declared a nuisance; and

WHEREAS, subsection (4) of said Code section identifies and declares those certain conditions, events or circumstances that create a noise nuisance; and

WHEREAS, the City Council has determined that the legal enforcement of noise nuisances is most appropriately accomplished through the regulation of dB(A) levels.

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

Section 1. That Section 7-1-30(4) of the City of Cherry Hills Village Municipal Code is hereby amended as follows:

Section 7-1-30. Nuisances identified and declared.

(4) Noise:

~~a. It shall be a nuisance and unlawful for any person to make, continue or cause to be made or continued any unreasonable noise within the City created by any. For purposes of this Subsection, an unreasonable noise shall include, but not be limited to, the following:~~

~~1. Any continuous or repetitious noise from any source or cause that disturbs or disrupts the peace and quiet of two (2) or more persons residing at separate households.~~

~~2. Any bell, chime or other device for the production or reproduction of the sounds of bells or chimes between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day.~~

~~3. Operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production or reproduction of sound in such a manner as to disturb or disrupt the peace and quiet of two (2) or more persons residing at separate households.~~

b. It is declared a nuisance and unlawful for any person to make, continue or cause to be made or continued any noise measured or registered in the manner provided in this Subsection from any source at a level which is in excess of the following dB(A) levels established for the time period and land uses listed below:

Uses/Zone District	Maximum Noise in dB(A)
Residential Uses within Districts R-1, R-2, R-3, R-3A, R-4 and R-5	7:00 a.m. to 7:00 p.m.: 55 dB(A) ¹ All Other Times: 50 dB(A)
Non-Residential Uses within Districts R-1, R-2, R-3, R-3A, R-4 or R-5	7:00 a.m. to 9:00 p.m.: 65 dB(A) ² All Other Times: 50 dB(A)
All Uses within the C-1 and C-2 Zone District	<u>All Times:</u> 70 dB(A)
<u>All Uses within the C-2 Zone District</u>	<u>7:00 a.m to 7:00 p.m.:</u> <u>60 dB(A)</u> <u>All Other Times:</u> <u>55 dB(A)</u>
All Uses within the O-1 Zone District	All Times: 60 dB(A)

¹ Between the hours of 7:00 a.m. and 7:00 p.m., the designated noise level may be increased by ten (10) decibels for a period not to exceed fifteen (15) minutes in any one-hour period.

² Between the hours of 7:00 a.m. and 9:00 p.m., the designated noise level may be increased by ten (10) decibels for a period not to exceed fifteen (15) minutes in any one-hour period.

Noise shall be measured at a height of not less than four (4) feet and not greater than seven (7) feet above ground level at or within approximately ten (10) feet of the property line of the property from which the noise is emanating. Noise shall be measured on a weighing scale on a sound level meter of standard design and quality and in accordance with the standards promulgated by the American National Standards Institute. For the purposes of this Subsection, measurements with sound level meters shall be made when a wind velocity at the time and place of such measurement is either: (1) not more than five (5) miles per hour; or (2) not more than twenty-five (25) miles per hour with a windscreen attached to the microphone.

Section 2. That Subsection 7-1-40(7) of the City of Cherry Hills Village Municipal Code is hereby amended as follows:

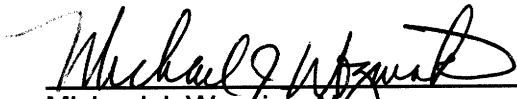
Section 7-1-40. Exceptions to nuisance.

(7) Construction Noise, meaning that noise created by construction equipment or tools at a construction or demolition site during construction times as permitted in this Code; provided, however, that there is no amplified sound, including but not limited to amplified music, emanating from the construction or demolition site, and further provided that the construction noise does not exceed ninety decibels (90 dB(A)) emanating from a lawfully permitted construction or demolition project for the period within which construction or demolition is to be completed pursuant to any applicable permit issued by the City or, if no time limitation is imposed, for a reasonable period of time for completion of the construction or demolition project.

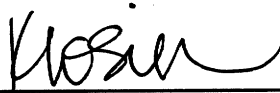
Section 3. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining 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 take effect in accordance with the City of Cherry Hills Village Home Rule Charter.


Adopted as Ordinance No. 04, Series 2007, by the City Council of the City of Cherry Hills Village, Colorado this 20th day of February, 2007.


Michael J. Wozniak, Mayor

ATTEST:


Karen Losier, City Clerk

APPROVED AS TO FORM:


Thad W. Renaud, City Attorney

Published in The Villager
Published _____
Legal # _____

ABF554

