ORDINANCE NO. 7
Series 2016

October 4, 2016: Introduced as Council Bill 7, Series 2016 by Councilor Alex Brown, seconded by Councilor Klasina VanderWerf and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

October 18, 2016: 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 10-5-40 OF CHAPER 10 OF THE MUNICIPAL CODE
CONCERNING LOITERING

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, pursuant to Title 31, Article 15 of the Colorado Revised Statutes and its general police powers, the City Council has the authority to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of the community; and

WHEREAS, the City Council also has the authority pursuant to Title 31, Article 15, Section 401 of the Colorado Revised Statutes to restrain and punish loiterers; and

WHEREAS, the City Council has previously adopted certain regulations concerning loitering as codified in Chapter 10-5-40; and

WHEREAS, the City Council wishes to amend the loitering offenses punishable under the Cherry Hills Village Municipal Code ("Municipal Code") to remove certain provisions that have been successfully challenged in federal and state courts on constitutional grounds; and

WHEREAS, it is in the best interest of the people of the City to update the Municipal Code in order to comply with free speech protections afforded individuals under the First Amendment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, THAT:

Section 1. Section 10-5-40 of the Cherry Hills Village Municipal Code, entitled "Loitering", is hereby amended to read in full as follows:

Sec. 10-5-40. – Loitering.

(a) The word *loiter* means to be dilatory, to stand idly around, to linger, delay, or wander about, or to remain, abide, or tarry in a public place.

(b) It is unlawful to:

(1) Loiter for the purpose of unlawful gambling;

(2) Loiter for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;

(3) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiter in or about a school building or grounds, or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there, and not having written permission from a school administrator or having been asked to leave by a school administrator or his representative or by a peace officer; or

(4) Loiter with one (1) or more persons for the purpose of unlawfully using or possessing a narcotic or dangerous drug.

(c) It is an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as a part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise.

(d) In all cases of arrest under the terms of this Section, the violators may be kept or caused to be kept in custody by the arresting officers, unless lawfully released on bond, until trial.

Section 2. 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 3. 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.

Adopted as Ordinance No. 7, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado this 18th day of October, 2016.

(SEAL)

Laura Christman, Mayor

ATTEST:

Laura Smith, City Clerk

APPROVED AS TO FORM:

Linda C. Michow, City Attorney

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CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 7, SERIES 2016

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING SECTION 10-5-40 OF CHAPTER 10 OF THE MUNICIPAL CODE CONCERNING LOITERING

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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