

ORDINANCE NO. 3

Series 2013

January 15, 2013: Introduced as Council Bill 2, Series 2013 by Councilor Scott Roswell, seconded by Councilor Russell Stewart and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

February 5, 2013: Considered in full text on second reading. Passed by a vote of 4 yes and 0 no.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 7 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING NUISANCE DOGS

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 adopt and enforce police power regulations in furtherance of the health, safety and welfare of its citizens; and

WHEREAS, Section 7-5-20 of the City of Cherry Hills Village Municipal Code provides that the City may regulate the care and control of animals within the City; and

WHEREAS, dogs often provide important protection of the lives and property of Cherry Hills Village residents; and

WHEREAS, the City Council has determined that the following amendments to Chapter 7 of the Municipal Code are necessary to balance the nuisance dog barking in the City with the preservation of the public health, safety and welfare of the citizens of the City.

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

Section 1. Amendments. Chapter 7, Article V of the Municipal Code, Dogs and Cats: Prohibited Acts, is hereby amended as follows:

Sec. 7-5-340. Prohibited acts.

(a) Nuisance dogs. Any dog exhibiting behavior set forth in this Section is hereby declared to be a nuisance dog. It shall be unlawful, and is prohibited within the City, for any owner or keeper of a dog to allow said dog, either individually or in combination with another dog, to:

(1) Create a public disturbance by persistent or habitual continual barking, howling, yelping or other unreasonable noise lasting more than thirty (30) minutes that is clearly audible by an unaided ear from an adjacent or nearby property and that unreasonably interferes with or disturbs the peaceful and ordinary activities of a resident of this City.

a. For purposes of this Section, it shall not be a defense in prosecution that a dog's barking, howling or other ~~unreasonable~~ noise was provoked by a person's ordinary or reasonable use of public roadways, sidewalks, recreation trails or the Highline Canal Trail.

b. No summons and complaint shall be issued nor shall there be a conviction for a violation of this ~~Section~~ Subsection (1) unless:

(i) there are two (2) or more complaining witnesses from separate households both of which households are within one thousand feet (1000'), measured by straight line from property line to property line, of the property on which the alleged violation occurs and who shall each witness has signed such a complaint, or This requirement shall not apply where:

(ii) an animal control officer or police officer who has personally investigated the complaint of a single complainant and observed the nature and duration of the noise created by the dog ~~may~~ can testify to his observations ~~and such. Said~~ testimony shall satisfy the requirement for the second complaining witness. ~~or~~

~~2. A complainant presents to the animal control officer or police officer at the time of the complaint other credible corroborative evidence of the alleged violation (such as audiotape or videotape).~~

~~(2) Cause offensive or noxious odors, exhibit any other conduct or create any other condition which disturbs the peace, safety or comfort of a neighborhood.~~

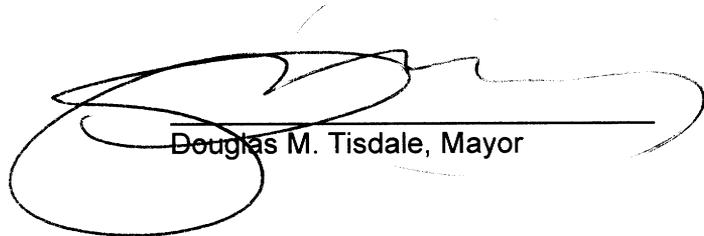
(23) Cause damage to or destruction of any shrubbery, plants, flowers, grass, lawn, fence or anything whatsoever upon any public or private premises owned or occupied by a person other than the owner or keeper of such animal.

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 of 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 the second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

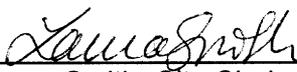
Adopted as Ordinance No. 3, Series 2013, by the City Council of the City of Cherry Hills Village, Colorado, on the 5th day of February, 2013.

(SEAL)


Douglas M. Tisdale, Mayor

ATTEST:

APPROVED AS TO FORM:



Laura Smith, City Clerk



Linda C. Michow, City Attorney

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**CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 3, SERIES 2013**

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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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