

## ORDINANCE NO. 14

### Series 2022

September 6, 2022: Introduced as Council Bill 13, Series 2022 by Mayor Pro Tem Katy Brown, seconded by Councilor Mike Gallagher and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

September 20, 2022: Considered in full text on second reading. Passed by a vote of 5 yes and 0 no.

#### **A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING ARTICLES II, IV, AND IX OF CHAPTER 16 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING ZONING REGULATIONS PERTAINING TO HORSES AND OTHER AGRICULTURAL ACTIVITIES**

**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 its home rule authority and Article 23, Title 31 of the Colorado Revised Statutes, the City is authorized to regulate the development of land within the City for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

**WHEREAS**, pursuant to the authority outlined herein, the City Council established zoning regulations codified in Chapter 16 of the Cherry Hills Village Municipal Code ("Municipal Code"); and

**WHEREAS**, pursuant to Ordinance 7, Series 2019, the City Council repealed and replaced Chapter 16 of the Municipal Code to modernize that chapter, resolve internal inconsistencies, make the chapter more accessible, and resolve potential misunderstandings regarding its application; and

**WHEREAS**, pursuant to Section 16-7-40(b)(11) of the Municipal Code, after reviewing and applying the new Chapter 16, the Community Development Director ("Director") has identified and recommends the amendments proposed herein to provide additional clarity, precision, and consistency in the application of that chapter; and

**WHEREAS**, at a meeting held on July 14, 2022, pursuant to Section 16-7-130 of the Municipal Code, Planning & Zoning Commission recommended that City Council approve the amendments proposed by the Director with certain modifications, which are reflected in this Ordinance; and

**WHEREAS**, pursuant to Section 16-7-10(d)(1)b. of the Municipal Code, and in consideration of the health, safety, and welfare of the public, the City Council desires to amend Chapter 16 of the Municipal Code as set forth herein.

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

Section 1. Table 16-2-120 of Section 16-2-120 of the Municipal Code, entitled *Land Use by Zoning District*, is hereby amended to eliminate the category of "Equestrian Facilities and Stables" and to rename the two Agricultural uses to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~ and with the remainder of Table 16-2-120 to remain intact:



**Table 16-2-120 – Land Use by Zoning District**

Table 16-2-120 Land Use by Zoning District										
Land Use	Zoning District									
	R-1	R-2	R-3	R-3A	R-4	R-5	O-1	O-2	C-1	C-2
<b>Community Land Uses</b>										
Equestrian Facilities and Stables	=====	=====	=====	=====	=====	=====	G	A	=====	=====
<b>Agricultural Land Uses</b>										
Agriculture (Crops) or Silviculture	A	A	A	=====	=====	=====	A	A	=====	=====
Agriculture (Livestock)	A	A	A	=====	=====	=====	C	A	=====	=====

**Section 2.** Section 16-2-250 of the Municipal Code, entitled *Agriculture land uses*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

**Sec. 16-2-250. – Agricultural land uses.**

- (a) Generally. No agricultural use shall be permitted if offensive or injurious because of odor, noise, dust, fumes, smoke, or other nuisances. However, the normal odors, noises, and other external impacts of animal keeping shall not be considered offensive or injurious unless they are also the result of violations of Chapter 7, Article V, Cherry Hills Village Municipal Code.
- (b) ~~Certain Commercial Operations Prohibited. No agricultural land use shall include on-site~~ Production of crops and livestock that is intended for offsite retail sales of its products to the general public and any on-site retail sales must be clearly subordinate and incidental to the primary use of the property as determined by the Director, except that pickup of agricultural products from a community supported agriculture ("CSA") farm by its shareholders or subscribers is allowed.
- (c) On-site slaughter and processing of meat products are prohibited.

**Section 3.** Section 16-2-730 of the Municipal Code, entitled *Limited horse boarding; equestrian training*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

**Sec. 16-2-730. – Limited horse boarding; equestrian training.**

- (a) Limited Horse Boarding. A maximum of two (2) horses that are not owned by the resident of a single-family detached dwelling unit may be boarded and stabled on the property lot on which the dwelling unit is located or on an adjacent lot owned by the same owner.
- (b) Equestrian Training. Equestrian training is allowed as an accessory use ~~to a single-family detached dwelling unit in the R-1, and R-2, and R-3 zoning districts or at a private club as regulated by Table 16-2-120.~~ to a single-family detached dwelling unit in the R-1, and R-2, and R-3 zoning districts or at a private club as regulated by Table 16-2-120. ~~, and on lots that are larger than one (1) acre in area in the R-3 and R-3A zoning districts, provided that;~~
  - (1) ~~The equestrian training does not involve more than twelve (12) horses at one (1) time;~~
  - (2) ~~Training is not provided after sunset or before sunrise, unless it is provided within a fully enclosed riding arena; and~~
  - (3) ~~All parking (including for horse trailers) is provided on-site.~~

**Section 4.** Table 16-4-10 of Section 16-4-10 of the Municipal Code, entitled *Off-Street parking requirements*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~ and with the remainder of Table 16-4-10 to remain intact:



Table 16-4-10 – Off-Street Parking Requirements

Table 16-4-10 Off-Street Parking Requirements	
Land Use	Minimum Off-Street Parking Requirement
Agricultural Land Uses	
Agriculture (Crops)	<u>NA. All parking must be located on the property</u>
Agriculture (Livestock)	<u>NA. All parking must be located on the property</u>

Section 5. Section 16-9-130 of the Municipal Code, entitled *Definitions*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~, with the remainder of Section 16-9-130 to remain intact:

**Sec. 16-9-130. – Definitions.**

*Agricultural land uses* means a general classification of ~~principal~~ land uses that includes Agriculture (Crops) and Agriculture (Livestock).

~~*Agriculture (crops)* means apiaries, aquaculture involving only plants, crop production, floriculture, horticulture, silviculture, or viticulture, operated for commercial purposes, with no on-site retail sales of agricultural products. The definition of phrase “Agriculture (Crops)” does not include the phrases: “community garden”, “intensive agriculture,” “hemp production,” or “marijuana uses cultivation,” or “personal garden,” nor does it include the treatment of wastewater or biosolids (e.g., sprayfields or land application).~~

~~*Agriculture (livestock)* means animal husbandry, aquaculture involving fish or invertebrates, raising livestock, or milking dairy cows or goats, for commercial purposes, with no on-site slaughter, processing of meat products, or retail sales of agricultural products. The phrase “Agriculture (Livestock)” does not include the phrase “intensive agriculture” or “community garden.”~~

*Commercial land uses* means a general classification of principal land uses where goods or services are exchanged for money that are not clearly subordinate and incidental to the primary use of the property as determined by the Director. that Examples includes, but are not limited to; medical or professional offices; restaurants; retail sales and services, type A; pet day care or training; veterinary offices; fueling or services stations; and vehicle washes.

*Intensive agriculture* means:

- (1) Any use where animals are tightly confined in buildings or outdoor pens or pastures ~~with more than one (1) animal equivalent unit per acre, including, but not limited to;~~ feedlots, hog farms, and poultry operations;
- (2) Concentrated animal feeding operations (“CAFOs”) of any size as defined by 40 C.F.R. § 122.23, Concentrated Animal Feeding Operations;
- (3) Concentrated aquatic animal production facilities (“CAAPs”), as defined by 40 C. F. R. § 122.24, Concentrated Aquatic Animal Production Facilities;
- (4) Fur Farms; or
- (5) Any other agricultural use that is required to obtain a discharge permit under the Federal Clean Water Act due to animal wastes.

*Livestock* means apiaries, aquaculture of animals, bovine cattle, equine, llamas, alpaca, sheep, goats, pigs, rabbits, fowl chickens, turkeys, pheasants, ducks, and other animals that are not otherwise prohibited by Chapter 7 of the Municipal Code. when raised for the purpose of commercial food or fiber production. The term “livestock” does not include bees, donkeys, horses, or mules, nor does it include animals that produce food or fiber exclusively for domestic consumption by the animals’ owners. Livestock does not include the phrase “intensive agriculture”.



Personal garden means the cultivation of fruits and vegetables in a defined space for the sole use and enjoyment of the resident of the property on which the personal garden is located.

Section 6. 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.

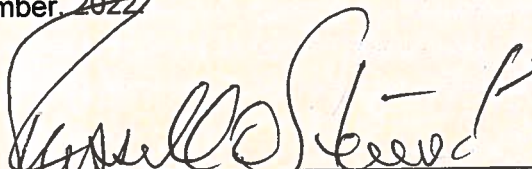
Section 7. Safety. This Ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 8. Codification Amendments. The codifier of the City's Municipal Code, Municode, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Cherry Hills Village Municipal Code.

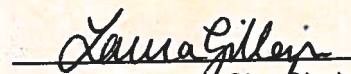
Section 9. Effective Date. This Ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 14 Series 2022, by the City Council of the City of Cherry Hills Village, Colorado this 20<sup>th</sup> day of September, 2022

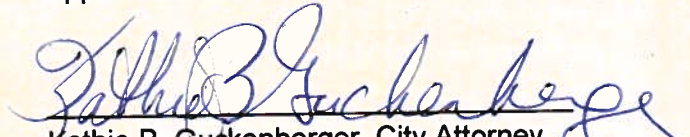
(SEAL)

  
Russell O. Stewart, Mayor

ATTEST:

  
Laura Gillespie, City Clerk

Approved as to form:

  
Kathie B. Guckenberger, City Attorney

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**CITY OF CHERRY HILLS  
VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 14, SERIES 2022**

A BILL FOR AN ORDINANCE OF  
THE CITY OF CHERRY HILLS  
VILLAGE AMENDING ARTICLES  
II, IV, AND IX OF CHAPTER 16 OF  
THE CHERRY HILLS VILLAGE  
MUNICIPAL CODE CONCERNING  
ZONING REGULATIONS  
PERTAINING TO HORSES  
AND OTHER AGRICULTURAL  
ACTIVITIES

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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