

**ORDINANCE NO. 09**  
**Series 2007**

May 1, 2007: Introduced as Council Bill 06, Series 2007 by Councilmember Doug Tisdale, seconded by Councilmember Harriet LaMair, and considered by the title only on first reading. Passed by a vote of 6 yes and 0 no.

June 5, 2007: 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 CHAPTER 11 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE,  
CONCERNING STREETS, SIDEWALKS & PUBLIC PROPERTY, BY AMENDING SECTION  
11-5-50, CONCERNING PROCEDURES FOR THE VACATION OF PUBLIC RIGHTS-OF-  
WAY, AND ADDING A NEW SECTION 11-5-55, CONCERNING PROCEDURES AND  
NOTICE FOR VACATION OF 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 City of Cherry Hills Village is authorized to regulate streets, sidewalks and public property within the boundaries of the City, all in support of the health, safety and welfare of the citizens of the City of Cherry Hills Village; and

WHEREAS, Chapter 11, Article V, of the City of Cherry Hills Village Municipal Code provides for the vacation of public rights-of-way in the City; and

WHEREAS, the City Council has determined that notice of meetings of the Planning and Zoning Commission and of the Parks, Trails and Recreation Commission at which the vacation of public rights-of-way are to be considered should be provided to property owners.

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

Section 1. That Section 11-5-50 of the City of Cherry Hills Village Municipal Code, is hereby amended to read as follows:

**Sec. 11-5-50. Procedure**

(a) ~~Following~~ After the City's receipt of ~~receives~~ a complete formal petition for vacation of a right-of-way, the City Manager shall schedule ~~a public meeting~~ the petition for administrative consideration by before the Planning and Zoning Commission to consider the petition. The Planning and Zoning Commission shall provide recommendations to the City Council for action on the a recommendation concerning the proposed vacation, including, and include, where appropriate, ~~recommendations for the imposition of any~~ conditions necessary or desirable to protect the public health, safety and welfare. Petitioner shall give notice of the public meeting.

(b) ~~When~~ If a right-of-way proposed for vacation ~~involves~~ affects a pedestrian or trail easement, the Planning and Zoning Commission shall obtain a recommendations from the ~~Parks and Trails Committee~~ Parks, Trails and Recreation Commission ~~prior to rendering a~~ before making recommendations to the City Council. The City Manager shall schedule a public meeting before the Parks, Trails and Recreation Commission to consider the petition. Petitioner shall give notice of the public meeting.

(bc) ~~Following~~ After the Planning and Zoning Commission's ~~consideration~~ of ~~considers~~ the petition, the City Attorney shall prepare an ordinance to vacate the right-of-way. ~~Where~~ If the Planning and Zoning Commission recommends approval or conditional approval of the petition, the ordinance shall be in a form consistent with the Planning and Zoning Commission's recommendations.

(ed) ~~Following the issuance of a recommendation by~~ After the Planning and Zoning Commission has acted on a petition, the City Manager shall schedule the ordinance for first reading before the City Council. If approved on first reading, the ordinance, together with the petition, shall be scheduled for second reading and consideration at a public hearing before the City Council. Petitioner shall give notice of the public hearing. Notice of the public hearing shall be made by the posting of at least one (1) notice in a conspicuous location within or near the

~~right of way described in the petition for vacation not less than fifteen (15) days prior to the date of the hearing. The posted notice shall bear a caption "NOTICE OF PUBLIC HEARING" or similar language, with each letter of the caption at least two (2) inches in height, and shall also include the date, time and place of the public hearing, together with a general description or illustration of the right of way proposed for vacation. A notice of the public hearing shall also be deposited by the petitioner in the U.S. mail, certified with return receipt requested, not less than twenty (20) days prior to the date of the hearing, addressed to all owners of property within five hundred (500) feet of the right of way proposed for vacation as their names and addresses appear upon the list of owners submitted to the City by the petitioner as part of the petition for vacation. All mailed notices shall identify, at a minimum, the date, time and place of the hearing, together with a statement that the petitioner has requested the City's vacation of a right of way and a brief description or general illustration of the segment of right of way subject to the petition for vacation. The petitioner shall deliver all returned postal receipt cards to the City prior to the hearing.~~

~~(de) Following the conclusion of After the public hearing, the City Council shall either reject the ordinance, or approve the ordinance with amendments or approve the ordinance, as it may be amended by the City Council. The City Council may, in its discretion, continue the public hearing and/or postpone a the final decision as necessary to ensure that sufficient information is prepared and made available to the City Council regarding the proposed vacation and the vacation's impact upon the City if it determines that additional information would assist in its deliberations.~~

(ef) No ordinance vacating a right-of-way shall be approved unless the City Council finds, ~~at a minimum,~~ the following:

- (1) For the vacation of any right-of-way, that the vacation serves the public interest; and
- (2) For the vacation of a right-of-way that provides vehicular access to property, that the vacation will not leave ~~such~~ any property without an established public road or private access easement connecting ~~such property~~ with another established public road.

Section 2. That a new Section 11-5-55 of the City of Cherry Hills Village Municipal Code is hereby added to read as follows:

**Sec. 11-5-55. Notice.**

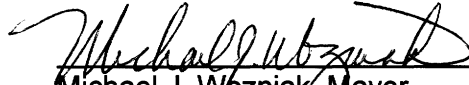
(a) Petitioner shall provide notice of any public meeting required by this Article by depositing letters in certified United States mail, at least twenty (20) days before the date of the meeting, addressed to all owners of property identified under section 11-5-40(g). The letter shall state that the petitioner is requesting the vacation of a right-of-way, the date, time and place of the meeting, and describe or illustrate the right-of-way proposed for vacation. The petitioner shall deliver to the City, prior to the public meeting, evidence from the United States Postal Service of the certified mailing of the notice letters.

(b) Petitioner shall provide notice of any public hearing required by this Article by the posting of one (1) notice sign in a conspicuous location within the right-of-way described in the petition for vacation at least twenty (20) days before the date of the hearing. The notice sign shall be provided by the City and bear a caption "NOTICE OF PUBLIC HEARING," with each letter of the caption at least two (2) inches in height, shall state the date, time and place of the public hearing, shall state that the petitioner is requesting the City's vacation of a right of way, and shall describe or illustrate the right-of-way proposed for vacation. The petitioner shall also provide notice of the public hearing by depositing letters in certified United States mail, at least twenty (20) days before the date of the hearing, addressed to all owners of property identified under section 11-5-40(g). The letter shall state that the petitioner is requesting the vacation of a right-of-way, the date, time and place of the hearing, and describe or illustrate the right-of-way proposed for vacation. The petitioner shall deliver to the City, prior to the public hearing, evidence from the United States Postal Service of the certified mailing of the notice letters.


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. 09, Series 2007, by the City Council of the City of Cherry Hills Village, Colorado this 5<sup>th</sup> day of June, 2007.

  
Michael J. Wozniak, Mayor

ATTEST:

  
Karen C. Losier, City Clerk

APPROVED AS TO FORM:

  
Thad W. Renaud, City Attorney

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Legal # 9406

**CITY OF CHERRY HILLS VILLAGE  
PUBLIC NOTICE**

The following Ordinance was passed on second reading by the City Council of Cherry Hills Village, Colorado on Tuesday, June 5, 2007:

ORDINANCE NO. 09, Series 2007

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 11 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING STREETS, SIDEWALKS & PUBLIC PROPERTY, BY AMENDING SECTION 11-5-50, CONCERNING PROCEDURES FOR THE VACATION OF PUBLIC RIGHTS-OF-WAY, AND ADDING A NEW SECTION 11-5-55, CONCERNING PROCEDURES AND NOTICE FOR VACATION OF PUBLIC RIGHTS-OF-WAY

The full text of the ordinance is available for inspection and acquisition at the office of the City Clerk during regular business hours.

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