

**ORDINANCE NO. 1**  
**Series 2004**

December 16, 2003: Introduced as Council Bill 18 Series 2003 by Doug Tisdale, seconded Viola Lahana, and considered by the title only on first reading. Passed unanimously

January 20, 2004: Considered in full text on second reading. Passed unanimously.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE**  
**AMENDING SECTIONS 16-3-50 AND 16-3-70**  
**PERTAINING TO THE APPROVAL OF VARIANCES BY THE BOARD OF**  
**ADJUSTMENT AND APPEALS**

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 create and maintain a board of adjustment and appeals to hear applications for variances in the regulations governing land use; and

WHEREAS, the City's Board of Adjustment and Appeals (BOA) routinely hears and considers variances under specific authority promulgated by the City Council; and

WHEREAS, most variance applications seek a modification of the effect of a regulation to facilitate the construction of a specific improvement desired by the owner of property; and

WHEREAS, the City Council desires to require the submission of a site plan to the BOA describing the proposed improvement that would be authorized by a requested variance; and

WHEREAS, the City Council desires to recognize that variances approved by the BOA are, in virtually all instances, intended to be limited to authorizing only the specific improvement presented by the applicant to the BOA and no others; and

WHEREAS, the City Council desires to clarify that variances are intended to remain effective only so long as the specific improvement presented by the applicant to the BOA as justifying the requested variance exists.

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

Section 1. Subsection (7) ONLY of Section 16-3-70 of the City Code for the City of Cherry Hills Village, entitled "Applicant requirements and setting hearings" is hereby amended to read in full as follows:

~~(7) Any other information pertinent to the application which addresses issues raised during the review process, or which is deemed necessary by the applicant. Applications pursuant to Section 16-3-50 of this Chapter for a variance shall include:~~

a. A site plan showing the size, location, and use of all existing and proposed improvements on the property subject to the variance request with dimensions to property lines showing setbacks.

b. Any other information deemed sufficient by the City Manager to illustrate the location, size, and scope of the requested variance. Such information may include, but may not be limited to: (i) a survey or plat showing the net lot area, lot lines, roads, utilities, and all easements of record for the property subject to the variance request; and (ii) a general illustration of improvements upon adjacent properties that may be affected or impacted by the development authorized by any requested variance.

Section 2. Section 16-3-70 of the City Code for the City of Cherry Hills Village, entitled "Applicant requirements and setting hearings" is hereby amended to add a new subsection (8) to read in full as follows:

(8) Any other information deemed by the City Manager or Board of Adjustment and Appeals as pertinent to the application and that addresses issues raised during the review process.



Section 3. Subsection (g) ONLY of Section 16-3-50 of the City Code for the City of Cherry Hills Village, entitled "Variances" is hereby amended to read in full as follows:

~~(g) A variance shall be effective for a period of one (1) year from the date it is granted by the Board. Failure to obtain a building permit for the structure for which the variance was granted prior to the expiration of this one year period will cause a lapse of the variance. Requests for an extension of this one year time period shall be presented to the City Manager in writing at least thirty (30) days prior to the scheduled expiration date. The City Manager may authorize up to one (1) additional year if cause exists for the extension and there would be no harm to the adjacent property owners or the community in general arising from the extension. Unless otherwise expressly provided by a written resolution of the Board granting a variance, every variance shall be limited in its effect as follows:~~

(1) A variance shall only authorize the specific improvement described in the application for variance subject to such conditions affecting such improvement as may be imposed by the Board.

(2) A variance shall be initially effective for a period of one (1) year commencing upon the date the variance is granted by the Board. A variance shall expire and be void in the event that a building permit is not issued prior to the expiration of the one year time period for the improvement authorized by the variance. The City Manager may approve an extension of the initial one year time period for an additional one (1) year where the City Manager finds that: (1) the applicant requested an extension in writing prior to the initial one year expiration date and just cause exists; and (2) the extension would not adversely affect or harm adjacent property owners.

(3) Following the construction of the improvement authorized by the variance, the variance shall remain effective only during such period of time that the specific improvement described in the application for variance exists. Repairs and cosmetic alteration of the improvement shall be permitted subject to applicable requirements imposed by uniform building or safety codes provided that such repair or alteration does not increase or enlarge the improvement beyond the scope of the improvement approved by the Board. The destruction of the improvement by any cause or for any reason whatsoever other than destruction by act of God shall cause the variance to expire and be void.

Section 4. No other amendment of Sections 16-3-50 or 16-3-70 or such sections' subsections is intended by this Ordinance and all such provisions of Sections 16-3-50 and 16-3-70 shall remain valid and effective.

Section 5. 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 or unconstitutional.


Adopted as Ordinance No. 1 Series 2004, by the City Council of the City of Cherry Hills Village, Colorado this 20<sup>th</sup> day of January, 2004.

  
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Douglas Scott Mayor

ATTEST:

  
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Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:

  
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Robert C. Widner, City Attorney

ABJ053

