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TRACY K. BAKER
ARAPAHOE COUNTY

ORDINANCE 3
SERIES 2002

November 20, 2001: Introduced as Council Bill 20 Series of 2001 by Jan Steiert, seconded by John Love, and considered by the title only on first reading. Passed unanimously.

January 15, 2002: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 3, Series 2002.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST IN A NON-MOTORIZED RECREATIONAL TRAIL EASEMENT

WHEREAS, pursuant to its Home Rule Charter, the City Council of the City of Cherry Hills Village is expressly authorized to own, possess, and hold real property and to sell and dispose of such real property; and

WHEREAS, state law at Title 43, article 2, part 3, C.R.S., generally authorizes every municipal governing body to divest the municipality's interest in platted or designated public streets, alleys, lanes, parkways, roads, and other public ways in accordance with the municipality's charter and laws; and

WHEREAS, the vacation and disposition of municipal interests in public rights-of-way and other public property is identified by the appellate courts of the State of Colorado as a legislative and discretionary function of the local governing body; and

WHEREAS, pursuant to its Home Rule Charter and state law, the City Council holds the power and authority to specify the terms and conditions under which the City will consider and dispose of public interests in rights-of-way and other property; and

WHEREAS, the City is authorized to exercise its legislative power to vacate all or any portion of a right-of-way in accordance with Chapter 4 of Title 8 of the City Code for the City of Cherry Hills Village; and

WHEREAS, the City Council determines that neither a preliminary nor formal petition for vacation is necessary for this vacation and the vacation may be processed without conformance with the application requirements of Chapter 4 of Title 8 of the City Code for the City of Cherry Hills Village; and

WHEREAS, by virtue of a "Non-motorized Recreational Trail Easement" agreement dated September 21, 1997, and recorded at Reception No. A7133308 in the records of Arapahoe County, Colorado, the City acquired a 300 foot by 16 foot public trail easement (the "Original Trail Easement") within Lot 2 of the Klikoff Subdivision and Tract 36, Section 7, T5S, R67W, Clark Colony Plat, County of Arapahoe, State of Colorado; and

WHEREAS, as the result of a subsequent conveyance of another non-motorized recreational trail easement to the City by Merle C. Chambers within Lot 2 of the Klikoff Subdivision and Tract 36, Section 7, T5S, R67W, Clark Colony Plat, the City finds that the Original Trail Easement is not necessary for use by the public; and

WHEREAS, the City desires to vacate the Original Trail Easement granted by and described in the "Non-motorized Recreational Trail Easement" agreement dated September 21, 1997, and recorded at Reception No. A7133308 in the records of Arapahoe County, Colorado in accordance with Chapter 4 of Title 8 of the City Code and Part 3, Article 2, Title 43, C.R.S.

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

Section 1. The City Council finds that the easement described below is no longer necessary for use by the public and that no land would, by such vacation of right-of-way, be left without access (via public or private drive or thoroughfare) to an established public road. The Council further finds that the vacation of the trail easement described below serves the public interest of the City of Cherry Hills Village. Based upon such findings, the City's title to or claim to ownership of the trail easement described as follows is hereby vacated:

A 300 foot by 16 foot non-motorized recreational trail easement as described in an agreement titled "Non-motorized Recreational Trail Easement" dated September 21, 1997, and recorded at Reception No. A7133308 in the records of Arapahoe County, Colorado.

Section 2. The vacation described in this Ordinance is intended to only vacate the interest described in the "Non-motorized Recreational Trail Easement" dated September 21, 1997, and recorded at Reception No. A7133308 in the records of Arapahoe County, Colorado. Other than the vacation specifically described in this Ordinance, nothing in this Ordinance is intended to vacate or otherwise affect any other interest(s) in property held or owned by the City of Cherry Hills Village, including but not limited

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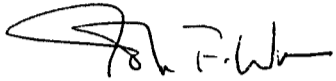
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to any other non-motorized recreational trail easement granted by any other instrument to the City of Cherry Hills Village by Merle C. Chambers.

Section 3. Pursuant to Section 8-4-6 of the City Code for the City of Cherry Hills Village, the ownership of the City's vacated interest in the trail easement shall vest with the current owner(s) of the underlying fee simple estate, as their ownership interest(s) may appear.

Section 4. 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.

Adopted as Ordinance No. 3 Series 2002,
by the City Council of the City of Cherry Hills Village,
Colorado this 15th day of January, 2002.



John F. Welborn, Mayor

ATTEST:


Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Robert C. Widner, City Attorney

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