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TRACY K. BAKER
ARAPAHOE COUNTY

ORDINANCE 4
SERIES 2002

November 20, 2001: Introduced as Council Bill 21 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. 4, Series 2002.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST, IF ANY, TO A BRIDLE TRAIL PREVIOUSLY GRANTED BY EASEMENT AGREEMENT BETWEEN THE CITY AND MARCIA P. LYONS

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 public trail and easement 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, the City entered into an easement agreement with Marcia P. Lyons ("Easement Agreement") dated June 12, 1989, concerning the dedication and operation of a "Roadway Easement," "Bridle Easement," and drainage easement located adjacent to the Fairfax Street right-of-way and within Lot 1, Tamblyn Subdivision, such agreement having been recorded on or about June 15, 1989, at Book 5710, Page 544 in the office of the Clerk and Recorder for Arapahoe County, Colorado; and

WHEREAS, the Bridle Easement granted to the City by the Easement Agreement is not necessary for use by the public; and

WHEREAS, the City desires to vacate the Bridle Easement 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 Bridle Easement described below is no longer necessary for use by the public and that no land would, by such vacation of the trail, 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 Bridle Easement described herein serves the public interest of the City of Cherry Hills Village. Based

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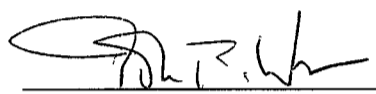
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upon such findings, the City's title to or claim to ownership of the Bridle Easement described below is hereby vacated:

The Bridle Easement granted by the easement agreement with Marcia P. Lyons ("Easement Agreement") dated June 12, 1989, located adjacent to the Fairfax Street right-of-way and within Lot 1, Tamblyn Subdivision, such Easement Agreement having been recorded on or about June 15, 1989, at Book 5710, Page 544 in the office of the Clerk and Recorder for Arapahoe County, Colorado.

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.


Adopted as Ordinance No. 4 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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