

ORDINANCE NO. 12
SERIES 2002

August 6, 2002: Introduced as Council Bill No. 7, Series 2002 by Doug Tisdale, seconded by Bonnie Blum, and considered by the title only on first reading. Passed unanimously.

August 20, 2002: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 12, Series 2002.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE
REPEALING AND RE-ENACTING SECTION 9-2-7 OF THE CITY CODE
CONCERNING DOOR-TO-DOOR SOLICITATION**

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 has an interest in protecting its citizens' right to privacy in their own homes, in preserving the public peace and order, and in protecting the public safety and welfare; and

WHEREAS, the City of Cherry Hills Village is a largely residential community whose residents value the peace and quiet enjoyment of their private property; and

WHEREAS, the City Council finds that unregulated door-to-door solicitation within the City would degrade and adversely impact the peace and quiet enjoyment of private property; and

WHEREAS, a significant percentage of the reported criminal activity with the City of Cherry Hills Village during 2000 and 2001 involved uninvited access to private property, including theft, burglary, criminal mischief, and trespass; and

WHEREAS, some persons are known to pose as door-to-door solicitors in an effort to engage in criminal activity and illegal entry onto private property; and

WHEREAS, criminal activity on private property oftentimes occurs during nighttime hours; and

WHEREAS, the City of Cherry Hills Village does not maintain a public street lighting system and has little or no public street lighting within the residential areas of the City; and

WHEREAS, the City Council finds and determines that unregulated door-to-door solicitation within the City would present a danger to City residents and their private property, especially where residents are alone or are absent when persons gain or seek to gain entrance onto their property or into their homes; and

WHEREAS, in *May v. People*, 636 P.2d 672 (Colo. 1981), the Colorado Supreme Court upheld a municipal ordinance prohibiting all commercial door-to-door solicitation because such ordinance directly and reasonably advanced the governmental interest of protecting individuals' right to privacy, preserving the public peace and order, and reducing crime; and

WHEREAS, the City Council recognizes and affirms that the door-to-door dissemination of religious, political, and other non-commercial ideas and beliefs constitutes speech protected by the First Amendment of the Constitution of the United States; and



WHEREAS, the United States Supreme Court recently held that local governments may not prohibit non-commercial door-to-door solicitation (e.g., the door-to-door dissemination of political and religious ideas and information); and

WHEREAS, the federal and state courts recognize the right of local governments to reasonably regulate the time, place, and manner of speech; and

WHEREAS, the City Council finds and determines that the interests of the City and of the public are accommodated by a regulatory scheme that permits non-commercial door-to-door solicitation during reasonable daytime and evening hours but prohibits commercial door-to-door solicitation; and

WHEREAS, the City Council finds that the door-to-door distribution of printed materials without attempting to personally contact the owner or occupant provides a reasonable balance between the need to protect the privacy and safety of the public and commercial business interests; and

WHEREAS, the City Council desires to adopt a regulatory program in furtherance of these interests, purposes, and goals.

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

Section 1. Section 9-2-7 of the City Code for the City of Cherry Hills Village is hereby repealed and re-enacted to read in its entirety as follows:

9-2-7: DOOR TO DOOR SOLICITATION

- A. It shall be unlawful for any person to engage in door-to-door solicitation within the City of Cherry Hills Village after the earlier of sunset or eight o'clock (8:00) P.M. and before nine o'clock (9:00) A.M. For purposes of this section, "sunset" shall mean the time of day published by the *Denver Post* newspaper as the time of sunset for such day.
- B. It shall be unlawful for any person to engage in commercial door-to-door solicitation within the City of Cherry Hills Village at any time.
- C. It shall be unlawful for any person to engage in door-to-door solicitation within the City of Cherry Hills Village at a private residence where it is displayed at the primary entrance of such residence a sign reading "No Solicitation" in legible print not smaller than one and one-half (1½) inches in height.
- D. It shall be unlawful for any person, organization, corporation, or business entity to instruct, direct, command, order, organize, or otherwise arrange for any person to engage in door-to-door solicitation in violation of subsections (A), (B), or (C) of this section.
- E. For purposes of this section, the following terms and phrases shall have the meaning indicated:
 - 1. *Commercial door-to-door solicitation* shall mean the act of going in or upon private properties or private residences, without the consent of the owners or occupants, for the purpose of advertising, offering, promoting, selling, explaining, or soliciting the sale, rental, lease, or other form of conveyance or transfer of any product, goods, wares, merchandise or services. Commercial door-to-door solicitation does not include: (a) the solicitation or acceptance of donations incidental to and associated with the




discussion, advocacy, explanation, or promotion of ideas or beliefs of a non-commercial nature; or (b) the distribution of printed material at the primary entrance of a private property or residence without attempting to personally contact the owner or occupant.

- 2. *Door-to-door solicitation* shall mean the act of going in or upon private properties or private residences, without the consent of the owners or occupants, for the purpose of personally contacting the owners or occupants. Door-to-door solicitation includes: (a) the solicitation or acceptance of donations incidental to and associated with the discussion, advocacy, explanation, or promotion of ideas or beliefs of a non-commercial nature; and (b) the distribution of printed material at the primary entrance of a private property or residence without attempting to personally contact the owner or occupant.

- F. Any person convicted of a violation of this section shall be subject to the penalties set forth in Section 1-4-1 of this Code.

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. 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. 12 Series 2002, by the City Council of the City of Cherry Hills Village, Colorado this 20th day of August, 2002.



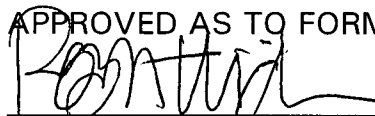
Douglas C. Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Robert C. Widner, City Attorney

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